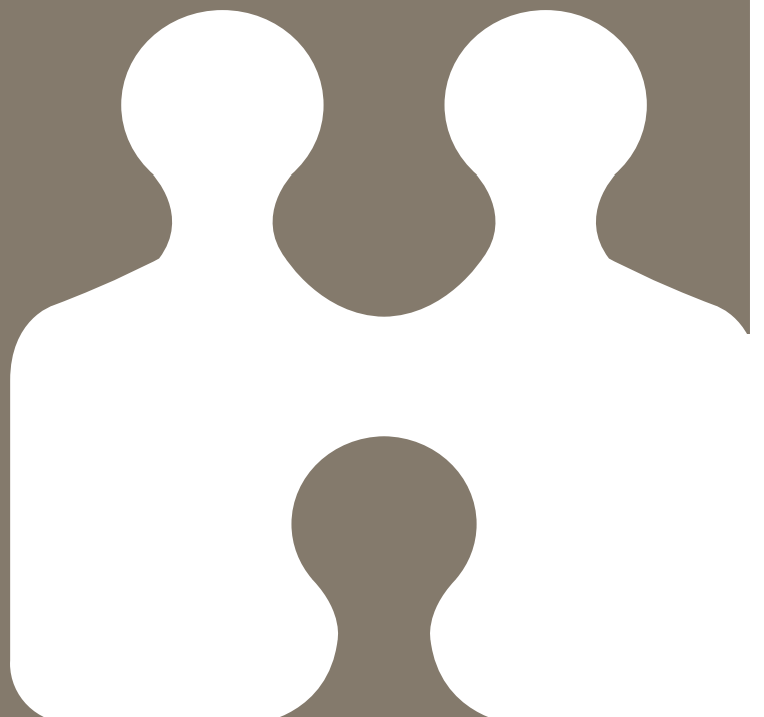


Guidance note: instruction of accountant experts to assist with tax and company valuation

Kate Hart
Roger Isaacs
James Pirrie



This Guidance was revised in September 2018. The law or procedure may have changed since that time and members should check the up-to-date position.

Guidance note: instruction of accountant experts to assist with tax and company valuation questions

Creating a firm foundation at first appointment

Contents

- 1.** This pack is divided into
 - a.** This introduction to the main themes and challenges;
 - b.** P8-10 - a running sheet of the steps and stages needed to complete the process of instruction (merely a short-form guide to the crucial FPR part 25 and the relevant annexes);
 - c.** P11-17 - the forms of enquiry to the prospective expert, to gather the information on the basis of which the court will make its order. These are (p11) where a trading company is involved and (p15) where a property development or investment company is involved;
 - d.** P15-20 the attachments to those enquiries;
 - e.** P21-25 - a draft form of order, that will be attached to the form D11, requesting the instruction of the expert
 - f.** P26-30 - the form of instructions themselves ¹;
 - g.** The relevant parts of the FPR part 25 and the associated practice directions
- The precedents are provided for working with the single joint expert (“SJE”) and will need amendment where separate experts are being instructed by the parties.

¹ Please note that further work is being undertaken with pension experts and this may well result in the upgrading of these model instructions in due course.

Aims

The aim of this document is to make more efficient the process by which initial enquiries are made of experts and by which they are instructed.

It is hoped that the precedents can become widely adopted as through familiarity these benefits will become enhanced.

However it provides guidance on the most common questions and issues that arise, but with the warning to practitioners to focus on the specific needs of each case rather than a routine adoption of what can be no more than a model.

Likely scenarios

2. So far as accountancy experts are concerned, instructions are likely to be of two main types:
 - a. ***“The trading company”*** (that may incidentally own property); and
 - b. ***“The property development/investment company”***, where progress will be impossible without recent valuations of the portfolio, likely to necessitate the instruction of a valuer in the absence of agreed values between the parties

Model letters are provided for these two main types.

Information and documents

3. Forms E are unlikely to provide all the information that the expert will need in compiling their report.
 - a. There may be occasions where the court will give directions for the production of information at first appointment (see powers at FPR 25.13);
 - b. However, usually the expert will indicate what information is required following being instructed. The model order at page 21, creates the presumption that what the SJE indicates they need will be provided promptly, within an agreed timeframe and in the event of default or delay an application can be made by the party who objects.

Conflict and co-ordination

4. The independence of experts should be clear:

- a. The Academy of Experts code of practice requires experts to not do anything which might compromise or impair their independence, impartiality, objectivity or integrity.
<https://www.academyofexperts.org/guidance/expert-witnesses/code-practice-experts/tae-code-practice-experts>
- b. Unilateral conversations (i.e. between expert and one party's solicitors should be avoided (see *Peet v Mid Kent Healthcare NHS trust* [2001] EWCA Civ 1703.
- c. Baron J in *K v K* [2005] EWHC 1070 deprecated unilateral contact with the expert saying *"When a joint valuer is appointed, then all communications should be on a joint basis (unless the parties otherwise agree in writing). Indeed, representatives from both sides (or neither) should be able to be present when valuations are undertaken (unless the parties otherwise agree in writing). If one party seeks to circumvent this simple methodology there will inevitably be a sense of unfairness, even if the resulting valuation is beyond reproach. [39] The general practice in the Family Division should be that only joint approaches are acceptable and if there is non co-operation from one side, then this cannot be circumvented by unilateral action but should be dealt with by an application."*
- d. These principles are enshrined in the FPR, see PD25D 8.1(a) & 9.1(b),(i)
- e. The expert should therefore ensure that when arranging to meet one party, including for the purposes of a site visit to the premises of a business that is to be valued, the other party is given the opportunity of attending the meeting. If the invitation is declined, a detailed attendance note should be kept of the meeting which should be made available to the non-attending party on request.
- f. The default position is that all correspondence between the expert and the parties or their advisors should be copied to the other party's solicitors. However, to avoid costs being incurred unnecessarily, there may be circumstances in which routine correspondence need not be copied to both parties, albeit that it should always be available to be disclosed upon request. Examples of such correspondence may include correspondence between the expert and:

- i. A party regarding availability to attend meetings or practical arrangements for such meetings;
 - ii. The internal or external accountant of the business owner requesting information or technical accounting information, providing that the results of such enquiries will be incorporated within any report to the extent that they are material; and
 - iii. The business owner requesting information or technical accounting information, providing that the result of such enquiries will be incorporated within any report to the extent that they are material.
- g.** Telephone conversations between the expert and any one party or its advisers should preferably be avoided in favour of correspondence that is capable of being disclosed. However if telephone conversations take place an attendance note should always be taken and this should be disclosed.

5. Solicitors:

- a.** Should adopt and protect the impartiality and independence of the expert as part of their duty to the court;
- b.** Should avoid unilateral conversations but where unavoidable, keep detailed attendance notes which can be disclosed if required.

But conversations with potential experts at the outset of some cases (perhaps on a conference call basis) may:

- i. better enable the representatives to meet their duties to help the court further to the overriding objective under FPR 1.3; and
- ii. better enable the expert to perform their fundamental duty under FPR 25.3(1) which is to help the court on matters within their expertise.

6. The experts:

- a.** The expert may need to carry out investigations involving the production of commercially sensitive information, which may raise concerns:
 - i. On the business owner's part as to the protection of that information; and

On the non-business-owner's part as to the extent to which they should be considering the material that is provided to the expert.

- b.** Where information is agreed between the parties as being commercially sensitive, generally:

- i. It will nonetheless be provided in full to the expert;
 - ii. The business owner can provide a redacted copy for the purposes of its provision to the non-business owner and for the purposes of inclusion in the expert's report;
 - iii. In the event that a dispute arises as to what has been redacted, the non-business-owner can apply to the court for release of the full data. There the court may incline towards disclosure given the protection given to the business-owner by the Contempt of Court Act 1981 and FPR 9.46 and PD9B.
- c. The new FPR 27A 5.2A.1 limits the length of experts' reports (absent court permission otherwise) to 40 pages (with the executive summary at the beginning of no more than 4 pages).
- i. Experts should indicate to instructing solicitors if permission is needed, explaining why;
 - ii. An executive summary should usually be provided so as to assist parties meet the page count of PD27A para 5.1 of 350 pages.
- d. **Duties of the expert:**
- i. The expert has a duty of confidentiality to the clients (usually the parties' solicitors).
 - ii. See <https://www.icaew.com/membership/regulations-standards-and-guidance/ethics/code-of-ethics-b/part-b-200-230>
 - iii. For this reason non-disclosure-agreements are not needed and it will generally be inappropriate for the business owner to insist on the same.

The form of the order

7. The main considerations in the preparation of the order itself are considered in the footnotes in that document.

Fees

8. Generally the expert's "client" will be the instructing solicitor; an exception to this may be where the ultimate party is resident out of the EU zone and so vat would not be chargeable if the client is billed directly. Here the accountant may

agree to being instructed by the party (provided the payment of fees are also guaranteed by the solicitor instructed).

9. Experts should:

- a.** Render fees promptly; and
- b.** Address the bill to the solicitors (save where arrangements have been made as discussed above).

10. Solicitors should:

- a.** Recognise their liability (and professional duty) to discharge fees and will ordinarily ensure they have payments on account / a loan or prior authority from the Legal Aid Agency to discharge this debt;
- b.** Remember to include the liability in their forms H and H1. This liability will include costs arising on any questions raised on the report;
- c.** Follow up on the allocation of the expert's costs at the hearing, especially where the court has provided for allocation only "in the first instance", depending on the findings made by the Judge.
- d.** Ensure that the expert's fees are discharged promptly (remembering that liability is generally joint and several, so a check will need to be made that the full charges have been discharged, not just the client's presumptive share).

Duty to report

- 11.** The solicitor has a duty to report to the expert at the end of the case and to provide a copy of the order (see FPR 25.19). Best practice will involve reminding the client of this obligation at an early stage.

Chronological checklist for lawyers instructing the SJE

Forms E exchanged. Where there are delays – consider the consequences on the rest of the process!	
Planning	
Assess (ask counsel for guidance, if necessary), as to: - the necessity of expert instruction; and if so - the questions the experts should address and any refinements in the form of their instruction; and - What information must be provided for the expert to make their report.	
Preparing for the appointment of the expert	
Tell other side of intention to seek a direction and either agree the expert or identify the expert being proposed. The o/s has 10 days to object. There is an obligation to disclose if this expert has been consulted already about this issue. Better practice would be to provide to the other party a draft of the order and the proposed instructions.	PD 25D 2.2 PD 25D 2.3
Better practice still might be to engage the expert and the other party in a 3-way discussion as to the questions on which expert assistance is needed and how the process can best be managed.	
The solicitor will want to share the form of the order with the client prior to proposing it to the other party / agreeing it, so that the various responsibilities and protections contained within the order are clear to the client and there are no surprises. Remind the client that there is joint and severable liability for experts' fees.	FPR 25.12(6)
Issue application	
An application is needed for the court to grant permission for the provision of expert evidence, so usually you will issue early on rather than waiting to see whether the other party agrees (as the court application will be required regardless of agreement); information that should accompany the application (and a more detailed form of order, if need be) can be provided later. You should issue an application in form D11 (part 18 FPR applies)	FPR 25.4 FPR 25.7 FPR 25.7(1) 25.7(2)(b)

• Include the PD 25.7 information • Attach a draft order	
Some practitioners will want to attach the form of instructions to the application so that any issues in their form can be settled at the hearing; others will rely on the relatively fast track procedure under the rules to finalise the form of instruction after the directions appointment if agreement can't be reached.	FPR 25.12(2) PD25D 6.1
Gathering information as regards expert's availability and cost	
Send out questionnaire to proposed expert(s), seek expert's guidance as to capacity to provide expert evidence on the matters involved; and the likely timescale and cost for preparation of a report. ²	FPR 25.7
Share replies with other party and seek agreement to instruction.	
Issue application (if not done already)	
The directions hearing and follow up	
Attend hearing The judge will assess whether the appointment of the expert is necessary Where permission is granted, the Judge will timetable. The Judge also has power to limit the fees charged if the expert is instructed on a joint single basis. Ideally, lawyers will consult from court if the Judge seeks to impose a budget or a faster timeframe than the expert has offered.	FPR 25.1 FPR 25.12(5)
Instructions to the expert must be filed³ and served within 5 days. They are contained in a jointly agreed letter (or settled by the court). Where the form of instructions has not been approved and can't be agreed, then they are emailed to the court for determination. Presumably this must be done within the same timeframe.	PD25D 4.1 FPR 25.12(2) FPR 25.12(2) & PD25D 6.1
The order must be served on the expert within 2 days of receipt (as must any other order that affects the expert). Best practice will be to report to the expert (copying in the other party, immediately after the hearing.	FPR 25.18

² Generally an expert will need to know

- The parties' identity for conflict checks;
- The sector and broad nature of the business activity;
- The approximate size of assets and scale of turnover;
- Whether there are any international dimensions to the case and if so what countries are involved.

³ "Filing" seems an obligation rarely adopted and is reversed in the draft order.

Considering the report	
As soon as you receive the report, identify the questions you need to raise – there is a 10 day ⁴ deadline to raise questions as of right (unless the period is extended by the order).	25.10
If not provided already, obtain invoice for services so that a proper report can be made in form H/ H1 at the next hearing and the liability is not overlooked as the litigation progresses.	
Assess, generally with counsel, the need for expert's attendance And if so: • The period of likely x-exam • A logical sequence in the case	PD25B 10.1(c) PD25B 10.2(b)
Notify expert Obtain details of the expert's availability before the trial dates are fixed	PD25B 10.1(a)
Preparation for final hearing	
Establish substantially in advance when the expert should give evidence	PD 25B 10.1
Follow up	
Report on conclusion of final hearing within 10 days	FPR 25.19

⁴ Note the deadline is 10 days and not 10 business days

Enquiry of an accountancy expert (Trading Company)

Dear

Enquiry as regards provision of a report under FPR 2010 part 25, relating to a Trading company

We act for [NAME]⁵, the Applicant/Respondent, in family financial proceedings. [NAME OF FIRM] acts for [NAME], the Respondent/Applicant. We believe that expert evidence will be needed and the court will consider whether to make orders for a report at a hearing on [**]. If you would kindly indicate your willingness to assist the court as its joint single expert as quickly as possible it will assist us. This letter and your reply will be disclosed to the court and to the solicitors for the Respondent/Applicant.

Background

The Applicant/Respondent has an interest in the following businesses:

1. **Company A Limited**, in which the Applicant/Respondent has a X% shareholding and the Respondent/Applicant has a Y% shareholding. The Applicant [and/or] Respondent [is a]/[are] director[s]. There are [NUMBER OF OTHER SHAREHOLDERS] other shareholders [all of whom are other family members].

Either {Unabbreviated⁶ financial statements for Company A Limited are enclosed herewith}

Or

{Company A has a turnover of [APPROXIMATE TURNOVER⁷]; makes annual profits of [APPROXIMATE PROFITS]; and has net assets of [APPROXIMATE NET ASSETS]. It operates in the [NAME OF SECTOR] industry and its principal activity is [NATURE OF ACTIVITY]. Its operations are in the UK and [INSERT LIST OF OVERSEAS COUNTRIES IN WHICH IT OPERATES, IF ANY]

⁵ The clients' permission should be obtained for disclosure of their identity and the identity of their businesses so that potential experts can undertake conflict checks.

⁶ If accounts are appended they need to be full accounts not abbreviated/filleted accounts.

⁷ The prospective accountant will need to know at this stage:

- the sector in which any business operates and the broad nature of its activity
- its approximate size in terms of the order of magnitude of its turnover, assets and profits (i.e. whether they are measured in tens or hundreds of thousands or some greater scale
- whether there is any international dimension to the case and if so the countries involved.

2. **Partnership X LLP**, in which in which the Applicant/Respondent is a one of [NUMBER OF PARTNERS]. The Respondent/Applicant [is/is not] also a partner. There is [no/a short/a lengthy⁸] partnership agreement.

Either {Accounts for the partnership are enclosed herewith}

Or

{The partnership has a turnover of [APPROXIMATE TURNOVER⁸]; makes annual profits of [APPROXIMATE PROFITS]; and has net assets of [APPROXIMATE NET ASSETS]. It operates in the [NAME OF SECTOR] industry and its principal activity is [NATURE OF ACTIVITY]. Its operations are in the UK and [INSERT LIST OF OVERSEAS COUNTRIES IN WHICH IT OPERATES, IF ANY] etc.

3. [INSERT DETAILS FOR OTHER BUSINESSES AS NECESSARY]

Property

{The business(es) own a number of properties and you will be provided with valuations for each of them along with details of a market rate rental charge for premises occupied by the business(es) on which you will be asked to rely.}

Scope of expert evidence

It is likely that an application will be made at a First Appointment hearing on [DATE] for the instruction of a single joint accountancy expert witness to consider the following issues in relation to the Applicant/Respondent's business interests:

1. current value, before and after tax as {as well as their value in [INSERT DATES]};
2. liquidity;
3. the sustainable level of income that can be generated for the Applicant/Respondent, before and after tax;
4. tax-efficient options for extracting funds from them;
5. [ANY OTHER CASE SPECIFIC ISSUES]

Next steps

Please advise if you consider that any of the issues set out above require clarification or whether you would consider it appropriate to discuss the

⁸ This information helps the expert to estimate the potential complexity of reviewing and addressing the partnership agreement in the valuation exercise.

parameters of instruction at this early stage e.g. by conference call with the parties' representatives.

It is anticipated that if you were to be instructed, a letter of instruction would be issued by [DATE] and that it would take a further [NUMBER OF WEEKS] weeks to provide you with the financial information that we expect you to require⁹.

Information required

For us to seek permission for your report, please:

1. Indicate whether you consider this matter to be within your area of expertise and whether you are qualified to provide an opinion on the issues listed above;
2. Provide a copy of your CV;
3. Confirm that there is no conflict of interest that would preclude you from accepting instructions as a single joint expert;
4. Provide:
 - a. your hourly charge out rate
 - b. your estimate for the total costs of providing the report
 - c. whether you are able to quote a fixed fee
 - d. the basis on which you would charge for further work such as responding to questions of clarification or attending court;
5. Indicate how long you would need
 - a. After confirmation of appointment to indicate your financial information requirements; and
 - b. After provision of that information to prepare your report;
6. Confirm whether you are able to comply with the restrictions of PD27A, namely a report of no more than 40 pages with an executive summary of no more than 5 pages (and otherwise indicate the scale of report that is likely and the reasons why it must exceed the prescribed length);
7. Identify any other experts on whom you would anticipate wishing to rely¹⁰;

⁹ This will have to include property valuations in cases in which the business own properties and the timetable will need to allow time for any such valuations to be commissioned.

8. Confirm that you would have no objection to attending court to give oral evidence if required and provide an indication as to the likely period of advance notice that you would need of trial dates¹¹; and
9. Give an indication as to broadly what information and documentation you would anticipate requiring (or confirm that you will provide this information only after being instructed);¹²
10. State whether there are any representations that you would wish to make to the court about being named or otherwise identified in any public judgment.

We enclose, marked “A” further information as regards the provision of experts’ reports under FPR 2010. We assume that there would be no charge for your work involved in providing a response to this enquiry and prior to being instructed. If the situation is otherwise then please notify us in advance of our incurring such cost.

We look forward to hearing from you.

¹⁰ This might, for example, include colleagues from within the expert’s own firm from other specialist accountancy disciplines; property or pension valuation experts; or, in international cases, accountants from overseas jurisdictions

¹¹ If proceedings have been issued, the expert should be asked for details of any dates within the trial window on which the expert would not be available to attend court.

¹² Practice will vary: some accountants will prefer to provide this information only when they are instructed.

[Enquiry of an accountancy expert \(property development/investment company\)](#)

Dear

Enquiry as regards provision of a report under FPR 2010 part 25, relating to a property development/ investment company

We act for [NAME]¹³, the Applicant/Respondent, in family financial proceedings. [NAME OF FIRM] acts for [NAME], the Respondent/Applicant. We believe that expert evidence will be needed and the court will consider whether to make orders for a report at a hearing on [**]. If you would kindly indicate your willingness to assist the court as its joint single expert as quickly as possible it will assist us. This letter and your reply will be disclosed to the court and to the solicitors for the Respondent/Applicant.

Background

The Applicant/Respondent has an interest in the following businesses:

1. **Company A Limited**, in which the Applicant/Respondent has a X% shareholding and the Respondent/Applicant has a Y% shareholding. The Applicant [and/or] Respondent [is a]/[are] director[s]. There are [NUMBER OF OTHER SHAREHOLDERS] other shareholders [all of whom are other family members]

{Unabbreviated financial statements for Company A Limited are enclosed herewith}

{The company owns X properties in the UK and [INSERT LIST OF OVERSEAS COUNTRIES]. In aggregate the properties are worth [APPROXIMATE VALUE OF PROPERTIES BY COUNTRY]}

2. **Partnership X LLP**, in which in which the Applicant/Respondent is a one of [NUMBER OF PARTNERS]. The Respondent/Applicant [is/is not] also a partner. There is [no/a short/a lengthy¹⁴] partnership agreement.

{Accounts for the partnership are enclosed herewith}

¹³ The clients' permission should be obtained for disclosure of their identity and the identity of their businesses so that potential experts can undertake conflict checks.

¹⁴ This information helps the expert to estimate the potential complexity of reviewing and addressing the partnership agreement in the valuation exercise.

{The partnership owns X properties in the UK and [INSERT LIST OF OVERSEAS COUNTRIES]. In aggregate the properties are worth [APPROXIMATE VALUE OF PROPERTIES BY COUNTRY]

3. A portfolio of [NUMBER OF PROPERTIES] properties owned [solely by the Applicant/Respondent]/[jointly by the Applicant and Respondent] worth about [VALUE] in aggregate. The properties are [all in the UK]/[located in [LIST OF COUNTRIES]]
4. [DETAILS OF OTHER PROPERTY INTERESTS]

You will be provided with agreed valuations for property on which you will be asked to rely.¹⁵

Scope of expert evidence

It is likely that an application will be made at a First Appointment hearing on [DATE] for the instruction of a single joint accountancy expert witness to consider the following issues in relation to the Applicant/Respondent's properties:

2. The value of the Applicant/Respondent's interests in the properties or property businesses before and after tax;
3. The tax-efficient options of raising capital from them, by sale, mortgage or otherwise;
4. The tax-efficient options of dividing the properties between the parties.
5. [ANY OTHER CASE SPECIFIC ISSUES]

Next steps

Please advise if you consider that any of the issues set out above require clarification or whether you would consider it appropriate to discuss the parameters of instruction at this early stage e.g. by conference call with the parties' representatives.

It is anticipated that if you were to be instructed, a letter of instruction would be issued by [DATE] and that it would take a further [NUMBER OF WEEKS] weeks to provide you with the financial information that we expect you to require¹⁶.

Information required

¹⁵ In most cases, property valuations must precede the accountant being able to make any meaningful contribution.

¹⁶ This will have to include property valuations and the timetable will need to allow time for any such valuations to be commissioned.

For us to seek permission for your report, please:

- 1.** Indicate whether you consider this matter to be within your area of expertise and whether you are qualified to provide an opinion on the issues listed above;
- 2.** Provide a copy of your CV;
- 3.** Confirm that there is no conflict of interest that would preclude you from accepting instructions as a single joint expert;
- 4.** Provide:
 - a.** your hourly charge out rate
 - b.** your estimate for the total costs of providing the report
 - c.** whether you are able to quote a fixed fee
 - d.** the basis on which you would charge for further work such as responding to questions of clarification or attending court;
- 5.** Indicate how long you would need
 - a.** After confirmation of appointment to indicate your financial information requirements; and
 - b.** After provision of that information to prepare your report;
- 6.** Confirm whether you are able to comply with the restrictions of PD27A, namely a report of no more than 40 pages with an executive summary of no more than 5 pages (and otherwise indicate the scale of report that is likely and the reasons why it must exceed the prescribed length);
- 7.** Identify any other experts on whom you would anticipate wishing to rely¹⁷;
- 8.** Confirm that you would have no objection to attending court to give oral evidence if required and provide an indication as to the likely period of advance notice that you would need of trial dates¹⁸; and
- 9.** Give an indication as to broadly what information and documentation you would anticipate requiring (or confirm that you will provide this information only after being instructed);¹⁹

¹⁷ This might, for example, include colleagues from within the expert's own firm from other specialist accountancy disciplines; property or pension valuation experts; or, in international cases, accountants from overseas jurisdictions

¹⁸ If proceedings have been issued, the expert should be asked for details of any dates within the trial window on which the expert would not be available to attend court.

- 10.** State whether there are any representations that you would wish to make to the court about being named or otherwise identified in any public judgment.

We enclose, marked “A” further information as regards the provision of experts’ reports under FPR 2010. We assume that there would be no charge for your work involved in providing a response to this enquiry and prior to being instructed. If the situation is otherwise then please notify us in advance of our incurring such cost.

We look forward to hearing from you.

¹⁹ Practice will vary: some accountants will prefer to provide this information only when they are instructed.

“A” Further steps/other matters

- a. **Copy order:** If an order is made, we will notify you within 2 days by sending you a copy of the order and you will receive any relevant copy documents that might affect your report within the same timescale.
- b. **Right to apply for directions:** You have the right to apply for further directions to enable you to carry out your function (but it will obviously be more cost-effective if we can identify those matters now and address them at the first appointment).
- c. **Reporting after the final hearing:** We have an obligation to report to you within 10 days of any final hearing as to the use made by the court of your evidence. (Though, obviously, we hope that on the back of your evidence an agreement will be reached without the need for a hearing).
- d. **Clarification questions:** Under FPR25.10, questions may be put to you about your report to clarify it (only proportionate questions and only once, within 10 days of the date of service of your report unless the court directs otherwise) and it will be helpful prior to answering the questions that you indicate to us:
 - 1. How the answering of those questions will be charged for and the estimated fee for this work
 - 2. The timetable within which you think that you will be able to provide such replies.
- e. **Further data:** if, following instruction, you require further data from the parties to enable you to provide your report, please liaise with them directly. Please ensure that both parties’ solicitors are copied in to such correspondence.
- f. **The questions we are putting to you**

It may be that the questions that we are putting to you can be refined / improved and if so we would be pleased to have your input on that aspect.
- g. **Range of expertise**

If you believe that a second expert may be required to enable you to provide the information needed, then would you:

 - 1. Please identify this
 - 2. Confirm the name and expertise of any such expert
 - 3. And answer the questions for the composite costs and indicating the timescale that will be required to complete the task.

h. Media

We do not anticipate any media attention in this case but we are required to make you aware that you are able to make representations to avoid being identified in any public judgment [PD25D 3.3(j)]

i. Administrative

1. There are no others involved in the case who are relevant to this aspect.
2. No other experts have been instructed in the matter.
3. You are instructed as a joint single expert.
4. The solicitors and the parties will have joint and several liability for your fees. Please may we be provided with an estimate of your likely fees before costs are incurred.
5. Thereafter, when the work is completed, please will you forward to each firm for settlement an invoice showing your total fees but charging 50% to each firm – may this be done as soon as possible and in any event within one calendar month of the work being carried out. We cannot be liable for fees in excess of the estimate provided (unless subsequently revised by you and accepted by us) or where an invoice is not provided within a reasonable timeframe.
6. Where fees are due for questions raised on the report please may these be invoiced to the party that raised the questions (with a copy being sent to the other party for information)?

j. Part 25 FPR 2010: You are familiar with your responsibilities under part 25. The codes are available at:

http://www.justice.gov.uk/courts/procedure-rules/family/parts/part_25

http://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-25d-financial-remedy-proceedings-and-other-family-proceedings-except-children-proceedings-the-use-of-single-joint-experts-and-the-process-leading-to-expert-evidence-being-put-before-the-court

We have also attached a shorter summary which we hope is of assistance.

k. Approach: Generally, relevant expertise, transparency, trust and neutrality are crucial and:

1. The report should give details of your qualifications and the information relied upon;
2. All communications should be copied (or, if not copied, forwarded) to both sets of solicitors who will in turn copy each other with any correspondence forwarded to you
3. There should be no informal, unrecorded discussions or correspondence with the parties or their solicitors, other than the necessary arrangements in connection with meetings/ viewings.
4. Please confirm that there is no conflict of interest of which you are aware that could affect your opinions

Order 1.1: Financial Directions Order

Use replace keys in “match case mode” to change:

- “BO” into the Applicant / Respondent, whichever is the business owner; and
- “SP” into the Respondent/ Applicant, whichever is the spouse of the business owner

Then delete this heading.



In the Family Court

No: [Case number]

Sitting at [Court name]

The Matrimonial Causes Act 1973

The Marriage / [Civil Partnership] / [Relationship] / Family] of [xx] and [yy]

After hearing [*name the advocate(s) who appeared*]

After consideration of the documents lodged by the parties

ORDER MADE BY [NAME OF JUDGE] ON [DATE] SITTING IN PRIVATE AT A FIRST DIRECTIONS APPOINTMENT

WARNING: IF YOU DO NOT COMPLY WITH THIS ORDER, YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND YOU MAY BE SENT TO PRISON, BE FINED, OR HAVE YOUR ASSETS SEIZED.

The parties

1. The Applicant is [XX]

The Respondent is [YY]

The Business Owner shall refer to the Applicant / Respondent

The Spouse shall refer to the Respondent/ Applicant ²⁰

Definitions

2. The “Business Interests” shall refer to [].

²⁰ We appreciate that some courts will require use of the term “Applicant” / “Respondent” throughout – other courts may prefer the clarity and the usability that these terms confer (and the likelihood of mistakes being avoided).

3. The “Expert” shall refer to [name] of [organisation]

Recitals

4.

Agreements

5.

Undertakings to the court

6.

Orders

IT IS ORDERED (BY CONSENT) THAT:

Appointment

7. The parties shall jointly instruct the Expert as a single joint expert to provide a report, addressing for the court

EITHER (where the instructions have been agreed) the questions set out in the instructions attached to this order ²¹

OR (where the instructions have yet to be clarified) the value of the Business Interests and the extent to which they may be relied upon as a resource by the parties or either of them

*OR (perhaps better:) the matters set out in the enquiry letter of the Applicant / Respondent addressed to the Expert and dated ***

Instructions

8. The letter of instruction [and [*insert any other documents*]] shall be sent to the expert by [*time and date*].²² It need not be filed at court²³
9. Application shall be made to the court by the Applicant / Respondent by [*** default is 5 days after the permission hearing*] in the event that the form of instructions cannot be agreed by then. The provisions of PD25D 6.1 to apply. The email address to be used is [****].

²¹ Where the instructions are amended during the hearing, the Judge may be invited to leave the amended copy on the file initialled in the event of subsequent disagreement over the terms of amendment.

²² Due within 5 business days after the permission hearing PD25D 4.1

²³ Otherwise PD25D 4.1 would require this to be done.

Information

- 10.** Absent further permission, the parties and the expert are restricted by operation of the Contempt of Court Act 1981, 1981 and FPR 9.46 and PD9B from disclosing to any third party (other than the parties to these proceedings or their advisors, the court and experts appointed by the court or as is provided by those provisions) information provided by the parties pursuant to their obligation to disclose or directions of the court. A non-disclosure agreement shall not be required by the Business Owner prior to compliance with the terms of this order.
- 11.** Henceforth, all communications to or from the Expert shall be made simultaneously with both parties, save:
 - a.** The expert may meet and correspond with the Business Owner in the absence of the Spouse (or the Spouse's representative), where, nonetheless copies of the correspondence or a note of the substance of the discussions is kept and is (subject to para ** below) made available to the Spouse's legal representative.
 - b.** The expert may meet and correspond with the Financial Director of the various companies comprising the Business Interests or their Accountant(s) in the absence of the Spouse (or the Spouse's representative), where, nonetheless copies of the correspondence or a note of the substance of the discussions is kept and is (subject to para [15] below) made available to the Spouse's legal representative.²⁴
- 12.** In any event the substance of all material information provided to the Expert shall be recorded in the Expert's report.

Further documents

- 13.** The Business Owner shall provide to the Expert [and the Spouse's legal representative] the documents set out in the schedule by no later than 4pm on [date].²⁵

²⁴ Consider whether a distinction is to be drawn between communications with the business owner and the finance director / accountants ... For example, the spouse's solicitor may want to receive contemporaneous copies of correspondence with the spouse but not with the FD or accountant. Where no distinction is drawn, these paragraphs may conflated

²⁵ See powers set out at 25.13. This provision is used where the expert has already identified requirements. Otherwise the expert will set out what they require once instructions are issued and the paragraph is likely to be removed in favour of the following paragraph.

Further assistance

- 14.** The parties shall each provide the Expert with any assistance reasonably requested by the Expert within a reasonable timeframe of a request in writing being delivered to their solicitors, (such request being simultaneously copied to the other solicitor) and in default application shall be made by the Expert or either party for further directions.
- 15.** In the event that the Business Owner shall object to the provision of information as being commercially sensitive then (in the absence of further application being made immediately) they shall nonetheless provide that information without redaction. The Expert will not produce that information to the Spouse without the Business Owner's having had reasonable opportunity to make application to this court for further directions [*further direction on form of application and whether reserved to a specific Judge if available*]

Timetable for provision of the report

- 16.** The report shall be sent to the parties simultaneously by [*time and date*]. It need not be filed with the court save as is required by FPR part 27A.

Scale of report

- 17.** Permission is given for a report of up to ** pages²⁶.

Further questions

- 18.** The parties may raise questions on that report no later than 4pm 14 days after delivery of the report [FPR 2.10] and will be acknowledged by the Expert within 2 days and answered by the Expert within a reasonable time of the delivery of such questions.²⁷

Costs²⁸

- 19.** (Without prejudice to the parties' joint and several liability to the Expert for the costs of the Expert), those costs shall be met by the [Applicant / Respondent /

²⁶ PD27A para 5.2A.1 limits reports to 40 pages and the executive summary at the front of the report to 4 pages unless directions are given to permit a longer report. Presumably the court will need reasons.

²⁷ This provision changes the timetable of 10 days otherwise provided by 25.10, which may simply be too quick. The rules also provide detail as regards the form in which questions are raised and their scope and scale. A longer period may be needed and the point should be assessed carefully.

²⁸ FPR 25.12(6) clarifies that there is joint and several liability for fees so any variance to this arrangement should be addressed in the order. A common variation is to provide that the report is paid for equally, but each party should pay for the costs of answering any questions they raise, in the first instance.

parties in equal shares] in the first instance.

- 20.** (Without prejudice to the parties' joint and several liability to the Expert for the costs of the Expert), the party raising questions shall be responsible for the costs of the Expert in answering them. A separate invoice or invoices shall be raised by the Expert for the time spent in providing replies to questions raised on the report.

Attendance

- 21.** Save as may be ordered by the court the Expert's written report and answers to the rule 24.10 questions shall be admissible as evidence without the attendance of the Expert. However, the Expert shall attend the final hearing to give oral evidence unless the parties agree that this is not needed no less than 28 days prior to the final hearing.

No other expert evidence without the court's permission

- 22.** Save as is expressly ordered by the court, no further expert evidence shall be admissible before the court.

Unavoidable delay

- 23.** In the event of unavoidable delay in the provision of the report and answering of questions by the Expert, extension of time to the timetabling may be agreed:
- a.** In writing between the parties and the Expert; and otherwise
 - b.** On application for further directions, on reasonable notice to the Expert

Dated [date]

Approved by [name]

Schedule of documents to be provided by the Business Owner under para 10

1

2

Dear [],

We write to confirm your appointment to act as the part 25 expert in this matter on a SJE basis to report to the court on [the questions set out in the letter of enquiry sent to you by us and dated **] [the following matters: ***].

Please be advised as follows:

Target date for provision of your report	
Information as regards fees	

We attach:

1. The following documents to supplement those provided with our enquiry:
 - a.

No doubt you will advise us as to what further information is required.
2. Order made by DJ ** in the form in which it was granted (and will forward the sealed copy when it is to hand)
3. You will note that by [date]. [name] should have provided you with the following:
 - a.
 - b.
Please indicate to us if these documents are not delivered by then.
4. Attachment D confirms the arrangements for the provision of your report and a checklist terms that we see existing between us.
5. Details of terms that would apply to the provision of the report, if ordered, are attached at "D".

Please advise if anything else is needed.

We are copying this note to our counter-parts **. Please may all future communications about these instructions be had with both of us simultaneously.

“B”

	Applicant	Respondent
Title		
Full name		
Any other names you have been known by		
Date of birth		
Occupation		
Nationality		
Residency for tax purposes		
Approximate annual income		
Approximate income	Basic/higher/additional rate taxpayer	Basic/higher/additional rate taxpayer
Addresses		
Telephone		
Email		
Solicitors • Names • Firm • Address/ • Telephone/ • Email		
Date of marriage	Court: Court ref no: Date of next hearing:	
Date of separation (if not agreed each party to make separate entries in the table)		

“D” Checklist for provision of report

		<u>✓</u>
PD25(B) 9.1(i)	I am aware of the requirements of Part 25 and give this report in accordance with it & the practice direction.	
PD25(B) 4.1(a)	I understand my duties and confirm that I have complied with them. My duties include helping the court in relation to matters within my expertise (I acknowledge that this duty overrides any obligation to the person from whom I have received instructions or by whom I am paid.)	
PD25(B) 4.1(b)	The contents of this report confirm to the best practice of my profession.	
PD25(B) 4.1(d)	My report is independent of the instructing parties.	
PD25(B) 4.1(e) & 8.1(b) PD25(B) 4.1(f)	The opinions I express are within my expertise , skill and experience and are confined to matters that are material to the issues in the case. I do not believe that questions engage issues which are outside my expertise and which requires the instruction of another expert other than any identified.	
PD25(B) 9.1(a) 9.1(b) PD25(B) 9.1(c), (d)	My report contains the following: a) My qualifications and experience; b) The material instructions and substance of any oral instructions received by me; c) A summary of the facts and instructions which are material to the conclusions reached d) Whether any work was carried out by a person other than the expert; and if so, the qualifications of that person. e) A summary of my conclusions and opinions. It ends with the confirmation: <i>“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. The opinions that I have expressed represent my true and complete professional opinions on the matters to which they refer.”</i>	
PD25(B) 4.1(g) & 9.1(f)	I have taken into account all of the material facts of which I am aware at the time of giving my opinion	

	I have identified the facts, literature and any other material, including research material that I have relied upon and informing on my opinion.	
	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 known knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.	
PD25(B) 9.1(f)	I have set out where relevant my own professional risk assessment process, the process of differential diagnosis – highlighting factual assumption, my deductions arising from those assumptions and any unusual contradictory or inconsistent features of the case.	
PD25(B) 9.1(f)	I have indicated if any proposition in the report is a hypothesis .	
PD25(B) 9.1(f)	I have indicated whether any opinion is provisional , stating the qualification and the reason for it and what further information would be required to give an opinion without qualification.	
PD25(B) 9.1(g)	Where I have given a range of opinion • I have summarised the range, • I have identified any unknown cause (i.e. something arising from the facts of the case or from the limits to my experience or the lack of research, peer review or support in the relevant field of expertise). • I have given reasons for any opinion expressed and where possible have adopted a balance sheet approach to the factors.	
PD25(B) 9.1(h)	I have provided a summary of my conclusions and opinions	
	The opinion is independent of the parties or of their solicitors. I have endeavoured to provide an opinion only on the material matters in accordance with my instructions.	
PD25(B) 8.1(a) 9.1(i)	I confirm I have no conflict of interest of any kind [save for and I confirm that this conflict does not impact upon my suitability as an expert witness in my view.]	
PD25(B) 4.1(h) 9.1(i)	If, prior to the conclusion of the case, I become aware of circumstances that would change the opinions I have expressed here, then I will send notification to the solicitors explaining the	

	reasons for my change of opinion.	
--	-----------------------------------	--

Signed:

Dated:

Appendix A

Part 25 Experts and Assessors

Duty to restrict expert evidence

- 25.1** Expert evidence will be restricted to that which in the opinion of the court is **necessary to assist the court to resolve the proceedings.**

Interpretation

- 25.2** (1) In this Part—

“authorised applicant” means—

- a.** the National Society for the Prevention of Cruelty to Children; or
- b.** a person authorised by an order under section 31 of the 1989 Act to bring proceedings under that section;

“children proceedings” means—

- a.** proceedings referred to in rules 12.1 and 14.1 and any other proceedings which relate wholly or mainly to the maintenance or upbringing of a minor;
- b.** applications for permission to start proceedings mentioned in paragraph (a); and
- c.** applications made in the course of proceedings mentioned in paragraph (a);

“expert” means a person who provides expert evidence for use in proceedings;

“local authority”—

- a.** in relation to England means—
 - i.** a county council;
 - ii.** a district council for an area for which there is no county council;
 - iii.** a London borough council;

- iv. the Common Council of the City of London; or
- v. the Council of the Isles of Scilly; and
- b. in relation to Wales means a county council or a county borough council; “single joint expert” means a person who provides expert evidence for use in proceedings on behalf of two or more of the parties (including the applicant) to the proceedings.

(2) References to providing expert evidence, or putting expert evidence before a court, do not include references to—

- a. the provision or giving of evidence—
 - i. by a person who is a member of the staff of a local authority or an authorised applicant;
 - ii. in proceedings to which the authority or authorised applicant is a party; and
 - iii. in the course of the person’s work for the authority or the authorised applicant;
- b. the provision or giving of evidence—
 - i. by a person within a description prescribed for the purposes of section 94(1) of the 2002 Act (suitability for adoption etc); and
 - ii. about the matters mentioned in that subsection;
- c. the provision or giving of evidence by an officer of the service, or by a Welsh family proceedings officer when acting in those capacities.

(Regulation 3 of the Restriction on the Preparation of Adoption Reports Regulations 2005 (S.I. 2005/1711) sets out which persons are within a prescribed description for the purposes of section 94(1) of the 2002 Act.)

Experts - overriding duty to the court

25.3 (1) It is the duty of experts to help the court on matters within their expertise.

(2) This duty overrides any obligation to the person from whom experts have received instructions or by whom they are paid. (Particular duties of an expert are set out in [Practice Direction 25B](#) (The Duties of an Expert, the Expert’s Report and Arrangements for an Expert to Attend Court.)

Court’s power to restrict expert evidence

- 25.4** (1) In any proceedings, **a person may not without the permission of the court put expert evidence** (in any form) before the court.

...

When to apply for the court's permission

- 25.6** Unless the court directs otherwise, parties must apply for the court's permission as mentioned in rule 25.4 **as soon as possible** and—

...

- d.** in proceedings for a **financial remedy, no later than the first appointment;**

What an application notice requesting the court's permission must include

- 25.7** (1) Part 18 applies to an application for the court's permission as mentioned in rule 25.4.

(2) In any proceedings—

- a.** the application notice requesting the court's permission as mentioned in rule 25.4 **must state**—
- i.** the **field** in which the expert evidence is required;
 - ii.** where practicable, the **name** of the proposed expert;
 - iii.** the **issues** to which the expert evidence is to relate;
 - iv.** whether the expert evidence could be obtained from a **single joint expert**;
 - v.** the other matters set out in Practice Direction ... or **25D**, as the case may be; and
- b.** a **draft of the order sought** is to be attached to the application notice requesting the court's permission and that draft order must set out the matters specified in Practice Direction 25C or 25D, as the case may be.

Where permission is granted

- 25.8** (1) In any proceedings, where the court grants permission as mentioned in rule 25.4—

- a.** it will grant permission only **in relation to the expert named or the field** identified in the application notice requesting the court's permission; and

- b. the court **will give directions specifying the date** by which the expert is to provide a written report.

...

General requirement for expert evidence to be given in a written report

25.9 (1) Expert evidence is to be given in a **written report** unless the court directs otherwise.

(2) The court will not direct an expert to attend a hearing unless it is necessary to do so in the interests of justice.

Written questions to experts

25.10 (1) A party **may put written questions** about an expert's report to—

- a. an expert instructed by another party; or
- b. a single joint expert appointed under rule 25.11.

(2) Unless the court directs otherwise or a practice direction provides otherwise, written questions under paragraph (1)—

- a. must be **proportionate**;
- b. may be put **once only**;
- c. must be put **within 10 days** beginning with the date on which the expert's report was served;
- d. must be for the purpose **only of clarification of the report**; and
- e. must be **copied and sent to the other parties at the same time** as they are sent to the expert.

(3) An expert's **answers** to questions put in accordance with paragraph (1)—

- a. must be given **within the timetable** specified by the court; and
- b. are treated as part of the expert's report.

(4) Where—

- a. a party has put a written question to an expert instructed by another party; and

- b.** the expert does not answer that question, the court may make one or both of the following orders in relation to the party who instructed the expert—
 - i.** that the party may not rely on the evidence of that expert; or
 - ii.** that the party may not recover the fees and expenses of that expert from any other party.

Court's power to direct that evidence is to be given by a single joint expert

25.11 (1) Where two or more parties wish to put expert evidence before the court on a particular issue, the court may direct that the evidence on that issue is to be given by a single joint expert.

(2) Where the parties who wish to put expert evidence before the court ("the relevant parties") cannot agree who should be the single joint expert, the court may—

- a.** **select the expert** from a list prepared or identified by the relevant parties; or
- b.** direct that the expert be selected in such other manner as the court may direct.

Instructions to a single joint expert

25.12 (1) Where the court gives a direction under rule 25.11(1) for a single joint expert to be used, the **instructions are to be contained in a jointly agreed letter unless** the court directs otherwise.

(2) Where the instructions are to be contained in a jointly agreed letter, in default of agreement **the instructions may be determined by the court on the written request of any relevant party copied to the other relevant parties.**

(3) Where the court permits the relevant parties to give separate instructions to a single joint expert, each instructing party must, when giving instructions to the expert, at the same time send a copy of the instructions to the other relevant parties.

(4) The court **may give directions** about—

- a.** the **payment of the expert's fees** and expenses; and
- b.** any **inspection, examination or assessments** which the expert wishes to carry out.

(5) The court may, before an expert is instructed, **limit the amount** that can be paid by way of fees and expenses to the expert.

(6) Unless the court directs otherwise, the relevant parties are **jointly and severally liable** for the payment of the expert's fees and expenses.

Power of court to direct a party to provide information

25.13 (1) Subject to paragraph (2), where a party has access to information which is not reasonably available to another party, the court **may direct the party who has access to the information to—**

- a. prepare and file a document recording the information; and**
- b. serve a copy** of that document on the other party.

(2) In proceedings under Part 14 (procedure for applications in adoption, placement and related proceedings), a court officer will send a copy of the document recording the information to the other party.s

Contents of report

25.14 (1) An expert's report **must comply with the requirements set out in [Practice Direction 25B](#).**

(2) At the **end** of an expert's report there must be a statement that **the expert understands and has complied with the expert's duty to the court.**

(3) The **instructions to the expert are not privileged against disclosure.** (Rule 21.1 explains what is meant by disclosure.)

Use by one party of expert's report disclosed by another

25.15 Where a party has disclosed an expert's report, any party may use that expert's report as evidence at any hearing where an issue to which the report relates is being considered.

Discussions between experts

25.16 (1) The court may, at any stage, direct a discussion between experts for the purpose of requiring the experts to—

- a. identify and discuss the expert issues in the proceedings; and**
- b. where possible, reach an agreed opinion on those issues.**

(2) The court may specify the issues which the experts must discuss.

(3) The court may direct that following a discussion between the experts they must prepare a statement for the court setting out those issues on which—

- a. they agree; and
- b. they disagree, with a summary of their reasons for disagreeing.

Expert's right to ask court for directions

25.17 (1) Experts may file written requests for directions for the purpose of assisting them in carrying out their functions.

(2) Experts must, unless the court directs otherwise, provide copies of the proposed requests for directions under paragraph (1)—

- a. to the party instructing them, at least 7 days before they file the requests; and
- b. to all other parties, at least 4 days before they file them.

(3) The court, when it gives directions, may also direct that a party be served with a copy of the directions.

Copies of orders and other documents

25.18 Unless the court directs otherwise, **a copy of any order or other document affecting an expert filed with the court after the expert has been instructed, must be served on the expert** by the party who instructed the expert or, in the case of a single joint expert, the party who was responsible for instructing the expert, **within 2 days** of that party receiving the order or other document.

Action after final hearing

25.19 (1) Within **10 business days after the final hearing**, the party who instructed the expert or, in the case of a single joint expert, the party who was responsible for instructing the expert, must inform the expert in writing about the court's determination and the use made by the court of the expert's evidence.

(2) Unless the court directs otherwise, the party who instructed the expert or, in the case of the single joint expert, the party who was responsible for instructing the expert, must send to the expert a copy of the court's final order and—

- a. where the decision was one of the High Court or a county court, any transcript of the court's decision;

- b.** where the decision was one of a magistrates' court, the reasons for the court's decision, within 10 business days from the date when that party received the order and transcript or reasons.

Practice Direction 25B - The duties of an expert, the expert's report and arrangements for an expert to attend court

This Practice Direction supplements FPR [Part 25](#)

The meaning of “expert”

- 2.1.** In accordance with [FPR 25.2\(1\)](#), “expert” means a person who provides expert evidence for use in family proceedings. [FPR 25.2\(2\)\(a\) to \(c\)](#) expressly refers to evidence that is not expert evidence. For example, evidence given by a children’s guardian is not expert evidence.
- 2.2.** An expert includes a reference to an expert team which can include ancillary workers in addition to experts. In an expert team, an 'ancillary' worker may be, for example, a play therapist or similar who undertakes work with the child or family for the purpose of the expert assessment. It is perfectly possible that such workers will be experts in their own right and in their own field, but it would be cumbersome to name everyone in that position in an order giving permission for an expert to be instructed, a child to be medically or psychiatrically examined or otherwise assessed or expert evidence to be put before the court or in a letter of instruction to an expert. The purpose of the term 'expert team' is to enable a multi-disciplinary team to undertake the assessment without the order having to name everyone who may be involved. The final expert’s report must, however, give information about those persons who have taken part in the assessment and their respective roles and who is responsible for the report.

The expert’s overriding duty

- 3.1.** An expert in family proceedings has an **overriding duty to the court that takes precedence** over any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

Particular duties of the expert

- 4.1.** An expert shall have regard to the following, among other, duties—
 - a.** **to assist the court** in accordance with the overriding duty;
 - b.** to provide **advice to the court that conforms to the best practice** of the expert’s profession;
 - c.** to answer the questions about which the expert is required to give an opinion (in children proceedings, those questions will be set out in the

order of the court giving permission for an expert to be instructed, a child to be examined or otherwise assessed or expert evidence to be put before the court);

- d. to provide **an opinion that is independent of the party** or parties instructing the expert;
- e. to **confine the opinion to matters material to the issues** in the case and in relation only to the questions that are **within the expert's expertise** (skill and experience);
- f. where a question has been put which falls outside the expert's expertise, to state this at the earliest opportunity and **to volunteer an opinion as to whether another expert is required** to bring expertise not possessed by those already involved or, in the rare case, as to whether a second opinion is required on a key issue and, if possible, what questions should be asked of the second expert;
- g. in expressing an opinion, **to take into consideration all of the material facts** including any relevant factors arising from ethnic, cultural, religious or linguistic contexts at the time the opinion is expressed;
- h. to inform those **instructing the expert without delay of any change in the opinion** and of the reason for the change.

The requirement for the court's permission

- 5.1. The general rule in family proceedings is that the **court's permission is required to put expert evidence (in any form)** before the court ([FPR 25.4\(1\)](#)). **The court is under a duty to restrict expert evidence to that which in the opinion of the court is necessary** to assist the court to resolve the proceedings. The overriding objective in [FPR 1.1](#) applies when the court is exercising this duty. In children proceedings, the court's permission is required to instruct an expert and for a child to be medically or psychiatrically examined or otherwise assessed for the purposes of the provision of expert evidence in the proceedings ([FPR 25.4\(2\)](#)).

Preliminary enquiries which the expert should expect to receive

- 6.1. **In good time** for the information requested to be available for—
- a. the court hearing when the court will decide whether to give permission for the expert evidence to be put before the court (or also in children proceedings, for the expert to be instructed or the child to be examined or otherwise assessed); or

- b. the advocates' meeting or discussion where one takes place before such a hearing,

the **party or parties intending to instruct the expert shall approach the expert with some information about the case.**

- 6.2. The details of the information to be given to the expert are set out in [Practice Direction 25C](#), paragraph 3.2 and [Practice Direction 25D](#) paragraph 3.3 and include the nature of the proceedings, the questions for the expert, the time when the expert's report is likely to be required, the timing of any hearing at which the expert may have to give evidence and how the expert's fees will be funded.
- 6.3. Children proceedings are confidential which means in those proceedings parties raising preliminary enquiries of an expert who has not yet been instructed can only tell the expert information which he or she will need about the case to be able to answer the preliminary questions raised.

Balancing the needs of the court and those of the expert

- 7.1. It is essential that there should be proper co-ordination between the court and the expert when drawing up the case management timetable: the needs of the court should be balanced with the needs of the expert whose forensic work is undertaken as an adjunct to his or her main professional duties.

The expert's response to preliminary enquiries

- 8.1. **In good time for the court hearing when the court will decide whether or not to give permission for the expert evidence to be put before the court (or also in children proceedings, for the expert to be instructed or the child to be examined or otherwise assessed) or for the advocates' meeting or discussion where one takes place before that hearing, the party or parties **intending to instruct the expert will need confirmation** from the expert—**
 - a. that acceptance of the proposed instructions will not involve the expert in any **conflict of interest**;
 - b. that the work required **is within the expert's expertise**;
 - c. that **the expert is available to** do the relevant work within the suggested time scale;
 - d. **when the expert is available** to give evidence, of the dates and times to avoid and, where a hearing date has not been fixed, of the amount of notice the expert will require to make arrangements to come to court (or to

give evidence by telephone conference or video link) without undue disruption to his or her normal professional routines;

- e. of the **cost**, including hourly or other charging rates, and likely hours to be spent attending experts' meetings, attending court and writing the report (to include any examinations and interviews);
- f. of any **representations which the expert wishes to make to the court about being named or otherwise identified in any public judgment given by the court.**

Content of the expert's report

9.1. The expert's report shall be **addressed to the court** and prepared and **filed in accordance with the court's timetable** and must—

- a. give details of the **expert's qualifications and experience**;
- b. include a **statement identifying the document(s) containing the material instructions and the substance of any oral instructions** and, as far as necessary to explain any opinions or conclusions expressed in the report, summarising the facts and instructions which are material to the conclusions and opinions expressed;
- c. state **who carried out any test**, examination or interview which the expert has used for the report and whether or not the test, examination or interview has been carried out under the expert's supervision;
- d. give details of the **qualifications** of any person who carried out the test, examination or interview;
- e. **answer the questions about which the expert is to give an opinion** and which relate to the issues in the case;
- f. **in expressing an opinion** to the court—
 - i. take into consideration **all of the material facts** including any relevant factors arising from ethnic, cultural, religious or linguistic contexts at the time the opinion is expressed, identifying the facts, literature and any other material, including research material, that the expert has relied upon in forming an opinion;
 - ii. describe the expert's **own professional risk assessment** process and process of differential diagnosis, highlighting factual assumptions, deductions from the factual assumptions, and any unusual, contradictory or inconsistent features of the case;

- iii. indicate whether any proposition in the report is **an hypothesis** (in particular a controversial hypothesis), or an opinion deduced in accordance with peer-reviewed and tested technique, research and experience accepted as a consensus in the scientific community;
 - iv. indicate whether the opinion is **provisional (or qualified**, as the case may be), stating the qualification and the reason for it, and identifying what further information is required to give an opinion without qualification;
- g. **where there is a range** of opinion on any question to be answered by the expert—
 - i. summarise the range of opinion;
 - ii. identify and explain, within the range of opinions, any “unknown cause”, whether arising from the facts of the case (for example, because there is too little information to form a scientific opinion) or from limited experience or lack of research, peer review or support in the relevant field of expertise;
 - iii. give reasons for any opinion expressed: the use of a balance sheet approach to the factors that support or undermine an opinion can be of great assistance to the court;
- h. **contain a summary** of the expert’s conclusions and opinions;
- i. **contain a statement** that the expert—
 - i. has no **conflict** of interest of any kind, other than any conflict disclosed in his or her report;
 - ii. does not consider that any interest disclosed affects his or her suitability as an expert witness on any issue on which he or she has given evidence; (iii) will advise the instructing party if, between the date of the expert’s report and the final hearing, there is any change in circumstances which affects the expert’s answers to (i) or (ii) above;
 - iv. **understands their duty to the court and has complied** with that duty; and (v) is aware of the requirements of [FPR Part 25](#) and this practice direction; (j) be verified by a statement of truth in the following form—

“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. The opinions I have expressed

represent my true and complete professional opinions on the matters to which they refer.”

(FPR Part 17 deals with statements of truth. [Rule 17.6](#) sets out the consequences of verifying a document containing a false statement without an honest belief in its truth.)

Arrangements for experts to give evidence

Preparation

- 10.1.** Where the court has directed the attendance of an expert witness, the party who instructed the expert or party responsible for the instruction of the expert shall, **by a date specified by the court prior to the hearing at which the expert is to give oral evidence (“the specified date”) or, where in care or supervision proceedings an Issues Resolution Hearing (“the IRH”) is to be held, by the IRH,** ensure that—
- a. **a date and time (if possible, convenient to the expert) are fixed** for the court to hear the expert’s evidence, substantially in advance of the hearing at which the expert is to give oral evidence and no later than a specified date prior to that hearing or, where an IRH is to be held, than the IRH;
 - b. if the expert’s oral evidence is not required, the expert is notified as soon as possible;
 - c. **the witness template accurately indicates how long** the expert is likely to be giving evidence, in order to avoid the inconvenience of the expert being delayed at court;
 - d. consideration is given in each case to whether some or all of the experts participate by telephone conference or video link, or submit their evidence in writing, to ensure that minimum disruption is caused to professional schedules and that costs are minimised.

Experts attending court

- 10.2.** Where expert witnesses are to be called, all parties shall, **by the specified date or, where an IRH is to be held, by the IRH,** ensure that—
- a. the parties’ advocates have identified (whether at an advocates’ meeting or by other means) the issues which the experts are to address;
 - b. wherever possible, a logical sequence to the evidence is arranged, with experts of the same discipline giving evidence on the same day;

- c. the court is informed of any circumstance where all experts agree but a party nevertheless does not accept the agreed opinion, so that directions can be given for the proper consideration of the experts' evidence and opinion; (d) in the exceptional case the court is informed of the need for a witness summons.

Practice Direction 25D – Financial remedy proceedings and other family proceedings (except children proceedings) – the use of single joint experts and the process leading to expert evidence being put before the court

This Practice Direction supplements FPR [Part 25](#)

Scope of this Practice Direction

- 1.1.** This Practice Direction applies to financial remedy proceedings and other family proceedings except children proceedings and contains guidance on –
- a.** the use of single joint experts;
 - b.** how to prepare for the hearing at which the court will consider whether to give permission for putting expert evidence (in any form) before the court including–
 - i.** preliminary enquiries of experts;
 - ii.** information to be given to the court before the hearing;
 - c.** the letter of instruction to the expert.

Single joint experts

- 2.1.** [FPR 25.4](#) applies to a single joint expert (“SJE”) in addition to an expert instructed by one party. This means that the court’s permission is required to put expert evidence from an SJE (in any form) before the court. However, **in family proceedings (except children proceedings) there is no requirement for the court’s permission to be obtained before instructing an expert.** Wherever possible, expert evidence should be obtained from a single joint expert instructed by both or all the parties (“SJE”). To that end, a party wishing to instruct an expert should first give the other party or parties a list of the names of one or more experts in the relevant speciality whom they consider suitable to be instructed.
- 2.2.** **Within 10 business days after receipt of the list of proposed experts, the other party or parties should indicate any objection to one or more of the named experts** and, if so, supply the name(s) of one or more experts whom they consider suitable.
- 2.3.** Each party should disclose **whether they have already consulted any of the proposed experts about the issue(s) in question.**

- 2.4.** Where the parties cannot agree on the identity of the expert, each party should think carefully before instructing their own expert and seeking the permission of the court to put that expert evidence before it because of the costs implications.

Disagreements about the use and identity of an expert may be better managed by the court in the context of an application for the court's permission to put the expert evidence before the court and for directions for the use of an SJE (see paragraph 2.6 below).

Agreement to instruct separate experts

- 2.5.** If the parties agree to instruct separate experts and to seek the permission of the court to put the separate expert evidence before it,-
- a.** they should agree in advance that the reports will be disclosed; and
 - b.** the instructions to each expert should comply, so far as appropriate, with paragraphs 4.1 and 6.1 below (Letter of instruction).

Agreement to instruct an SJE

- 2.6.** If there is agreement to instruct an SJE, **before applying to the court for permission to put the expert evidence before it and directions for the use of an SJE**, the parties should-
- a.** so far as appropriate, comply with the guidance in paragraphs 3.3 (Preliminary enquiries of the expert) and paragraphs 3.11 and 3.12 below;
 - b.** receive the expert's confirmation in response to preliminary enquiries referred to in paragraph 8.1 of [Practice Direction 25B](#);
 - c.** have agreed in what proportion the SJE's fee is to be shared between them (at least in the first instance) and when it is to be paid; and
 - d.** if applicable, have obtained agreement for public funding.
- 2.7.** The instructions to the SJE should comply, so far as appropriate, with paragraphs 4.1 and 6.1 below (*Letter of instruction*).

The test for permission and preparation for the permission hearing

- 3.1.** The test in [FPR 25.1](#) which the court is to apply to determine whether permission should be given for expert evidence to be put before the court has been altered from one which refers to expert evidence being restricted by the court to that which is reasonably required to resolve the proceedings to one which refers to the expert evidence being in the opinion of the court necessary

to assist the court to resolve the proceedings. The overriding objective of the FPR, which is to enable the court to deal with cases justly, having regard to any welfare issues involved, continues to apply when the court is making the decision whether to give permission. In addition, the rules ([FPR 25.5\(2\)](#)) now tell the court what factors it is to have particular regard to when deciding whether to give permission. In financial remedy proceedings the expectation is that the new test and factors are a reflection of current practice and so are unlikely in practice to alter the use of expert evidence in these proceedings.

- 3.2.** Paragraphs 3.3 to 3.12 below give guidance on how to prepare for the hearing at which the court will apply the test in [FPR 25.1](#) and the factors in [FPR 25.5\(2\)](#) and decide whether to give permission for expert evidence to be put before the court. The purpose of the preparation is to ensure that the court has the information required to enable it to exercise its powers under [FPR 25.4](#) and [25.5](#) in line with [FPR 25.1](#).

Preliminary enquiries of the expert

- 3.3.** In good time for the information requested to be available for the hearing at which the court will consider whether to give permission for expert evidence to be put before the court, the party or parties intending to instruct the expert shall approach the expert with the following information—
- a.** **the nature of the proceedings and the issues** likely to require determination by the court;
 - b.** the **issues** in the proceedings to which the expert evidence is to **relate**;
 - c.** the **questions** about which the expert is to be asked to give an opinion and which relate to the issues in the case;
 - d.** whether permission is to be asked of the court for the use of another expert in the same or any related field (that is, to give an opinion on the same or related questions);
 - e.** the **volume of reading** which the expert will need to undertake; (f) whether or not it will be necessary for the expert to conduct interviews and, if so, with whom;
 - g.** the **likely timetable** of legal steps;
 - h.** **when the expert's report is likely to be required**;
 - i.** whether and, if so, **what date has been fixed by the court for any hearing** at which the expert may be required to give evidence (in particular the Final Hearing); and whether it may be possible for the expert to give evidence by

telephone conference or video link: see paragraphs 10.1 and 10.2 (Arrangements for experts to give evidence) of [Practice Direction 25B](#); (j) the possibility of making, through their instructing solicitors, representations to the court about being named or otherwise identified in any public judgment given by the court;

- k. whether the instructing party has public funding and the legal aid rates of payment which are applicable.

Expert's response to preliminary enquiries

- 3.4. In good time for the hearing at which the court will consider whether to give permission for expert evidence to be put before the court, the solicitors or party intending to instruct the expert must obtain the confirmations from the expert referred to in paragraph 8.1 of [Practice Direction 25B](#). These confirmations include that the work is within the expert's expertise, the expert is available to do the work within the relevant timescale and the expert's costs.
- 3.5. Where parties **cannot agree who should be the single joint expert** before the hearing at which the court will consider whether to give permission for expert evidence to be put before the court, they should obtain the above confirmations in respect of all experts whom they intend to put to the court for the purposes of rule 25.11(2)(a) as candidates for the appointment.

The application for the court's permission to put expert evidence before the court

Timing and oral applications for the court's permission

- 3.6. **An application for the court's permission to put expert evidence before the court should be made as soon as it becomes apparent that it is necessary to make it.**

[FPR 25.6](#) makes provision about the time by which applications for the court's permission should be made.

- 3.7. Applications should, wherever possible, be made so that they are **considered at any directions hearing or other hearing for which a date has been fixed** or for which a date is about to be fixed. It should be noted that one application notice can be used by a party to make more than one application for an order or direction at a hearing held during the course of proceedings. An application for the court's permission to put expert evidence before the court may therefore be included in an application notice requesting other orders to be made at such a hearing.

- 3.8.** Where a date for a hearing has been fixed, a party who **wishes to make an application at that hearing but does not have sufficient time to file an application notice should as soon as possible inform the court** (if possible in writing) and, if possible, the other parties of the nature of the application and the reason for it.

The party should provide the court and the other party with as much as possible of the information referred to in [FPR 25.7](#) and paragraph 3.11 below. **That party should then make the application orally at the hearing. An oral application of this kind should be the exception and reserved for genuine cases where circumstances are such that it has only become apparent shortly before the hearing that an expert opinion is necessary.**

- 3.9.** In financial remedy proceedings, unless the court directs otherwise, parties must apply for permission to put expert evidence before the court as soon as possible and no later than the first appointment. The expectation is that **the court will give directions extending the time by which permission should be obtained where there is good reason for parties to delay the decision whether to use expert evidence and make an application for the court's permission.**

- 3.10.** Examples of situations where the time for requesting permission to put expert evidence before the court is likely to be extended are where—

- a.** a decision about the need for expert evidence cannot be made until replies to questionnaires in relation to Forms E have been fully considered; or
- b.** valuations of property are agreed for the purposes of the Financial Dispute Resolution appointment but no agreement is reached to resolve the proceedings at that appointment and the court cannot make a consent order as mentioned in [FPR 9.17\(8\)](#). In these circumstances, it may become clear to a party that he or she will want to use expert valuations of property and an application for the court's permission for such valuation to be put before it may be made orally at the end of the appointment to avoid the need for a separate hearing about this issue. As with other oral applications, the party should provide the court and the other party with as much as possible of the information referred to in [FPR 25.7](#) and paragraph 3.11 below. [FPR 9.17\(9\)](#) requires the court to give directions for the future course of the proceedings where it has not made a consent order including, where appropriate, the filing of evidence.

The application

- 3.11.** In addition to the matters specified in [FPR 25.7\(2\)\(a\)](#), an application for the court's permission to put expert evidence before the court must state—

- a. the discipline, qualifications and expertise of the expert (by way of **C.V.** where possible);
- b. the expert's **availability** to undertake the work;
- c. the **timetable** for the report;
- d. the **responsibility** for instruction;
- e. whether the expert evidence can properly be obtained **by only one party**;
- f. why the expert evidence proposed **cannot properly be given by an expert already instructed in the proceedings**;
- g. the **likely cost** of the report on an hourly or other charging basis;
- h. the proposed apportionment (at least in the first instance) of any jointly instructed expert's fee; when it is to be paid; and, if applicable, whether public funding has been approved.

The draft order to be attached to the application for the court's permission

3.12. [FPR 25.7\(2\)\(b\)](#) provides that a draft of the order giving the court's permission to put expert evidence before the court is to be attached to the application for the court's permission. **That draft order must set** out the following matters—

- a. **the issues** in the proceedings to which the expert evidence is to relate;
- b. **the party** who is to be responsible for drafting the letter of instruction and providing the documents to the expert;
- c. **the timetable** within which the report is to be prepared, filed and served;
- d. **the disclosure** of the report to the parties and to any other expert;
- e. the organisation of, preparation for and conduct of any experts' discussion (see [Practice Direction 25E](#) - Discussions between Experts in Family Proceedings);
- f. the preparation of a statement of agreement and disagreement by the experts following an experts' discussion;
- g. **making available to the court** at an early opportunity the expert reports in electronic form;
- h. the **attendance** of the expert at court to give oral evidence (alternatively, the expert giving his or her evidence in writing or remotely by video link), whether at or for the Final Hearing or another hearing; unless agreement

about the opinions given by the expert is reached by a date specified by the court prior to the hearing at which the expert is to give oral evidence.

Letter of instruction

- 4.1.** The party responsible for instructing the expert shall, **within 5 business days after the permission hearing**, prepare (in agreement with the other parties where appropriate), file and serve a letter of instruction to the expert which shall—
- a.** set out the **context** in which the expert’s opinion is sought (including any ethnic, cultural, religious or linguistic contexts);
 - b.** set out the **questions** which the expert is required to answer and **ensuring** that they—
 - i.** are **within the ambit of the expert’s area of expertise**;
 - ii.** **do not contain unnecessary or irrelevant detail**;
 - iii.** are kept to a **manageable number and are clear, focused and direct**; and (iv) reflect what the expert has been requested to do by the court;
 - c.** list the documentation provided, or provide for the expert an indexed and paginated bundle which shall include—
 - i.** an agreed list of essential reading; and
 - ii.** a copy of this Practice Direction and Practice Directions 25B, 25E and where appropriate Practice Direction 15B;
 - d.** **identify any materials** provided to the expert which have not been produced either as original medical (or other professional) records or in response to an instruction from a party, and state the source of that material (such materials may contain an assumption as to the standard of proof, the admissibility or otherwise of hearsay evidence, and other important procedural and substantive questions relating to the different purposes of other enquiries);
 - e.** identify all requests to third parties for disclosure and their responses in order to avoid partial disclosure, which tends only to prove a case rather than give full and frank information;
 - f.** identify the relevant people concerned with the proceedings and inform the expert of his or her right to talk to them provided that an accurate record is made of the discussions;

- g.** identify any other expert instructed in the proceedings and advise the expert of their right to talk to the other experts provided that an accurate record is made of the discussions;
- h.** subject to any public funding requirement for prior authority, define the contractual basis upon which the expert is retained and in particular the funding mechanism including how much the expert will be paid (an hourly rate and overall estimate should already have been obtained), when the expert will be paid, and what limitation there might be on the amount the expert can charge for the work which they will have to do. In cases where the parties are publicly funded, there may also be a brief explanation of the costs and expenses excluded from public funding by Funding Code criterion 1.3 and the detailed assessment process.

Adult who is a protected party

- 5.1.** Where the adult is a protected party, that party's representative shall be involved in any instruction of an expert, including the instruction of an expert to assess whether the adult, although a protected party, is competent to give evidence (see Practice Direction 15B-Adults Who May Be Protected Parties and Children Who May Become Protected Parties in Family Proceedings).

Asking the court to settle the letter of instruction to a single joint expert

- 6.1.** Where possible, the written request for the court to consider the letter of instruction referred to in rule 25.12(2) should be set out in an e-mail to the court and copied by e-mail to the other instructing parties. The request should be sent to the relevant court or (by prior arrangement only) directly to the judge dealing with the proceedings. In the magistrates' court, the request should be sent to the relevant court or (by prior arrangement only) to any district judge (magistrates' courts) hearing the proceedings (and copied to the legal adviser) or to the legal adviser. The court will settle the letter of instruction, usually without a hearing to avoid delay; and will send (where practicable, by e-mail) the settled letter to the party responsible for instructing the expert for transmission forthwith to the expert, and copy it to the other instructing parties for information.

Practice Direction 25E – Discussions between experts in family proceedings

This Practice Direction supplements FPR [Part 25](#)

Scope

- 1.1.** This Practice Direction supports FPR25.16 by providing details about how and when experts discussions are to be arranged, their purpose and content. This Practice Direction applies to children proceedings and all other family proceedings.

Experts' discussion or meeting: purpose

- 2.1.** In accordance with FPR 25.16, the court may, at any stage, direct a discussion between experts for the purpose outlined in paragraph (1) of that rule. FPR 25.16(2) provides that the court may specify the issues which the experts must discuss. The expectation is that those issues will include –
- a.** the reasons for disagreement on any expert question and what, if any, action needs to be taken to resolve any outstanding disagreement or question;
 - b.** an explanation of existing evidence or additional evidence in order to assist the court to determine the issues.

One of the aims of specifying the issues for discussion is to limit, wherever possible, the need for the experts to attend court to give oral evidence.

Experts' discussion or meeting: arrangements

- 3.1.** Subject to the directions given by the court under FPR25.16, the solicitor or other professional who is given the responsibility by the court ('the nominated professional') **shall within 15 business days after the experts' reports have been filed and copied to the other parties**, make arrangements for the experts to have discussions. Subject to any specification by the court of the issues which experts must discuss under FPR 25.16(2), the following matters should be considered as appropriate –
- a.** where permission has been given for the instruction of experts from different disciplines, a global discussion may be held relating to those questions that concern all or most of them;

- b. separate discussions may have to be held among experts from the same or related disciplines, but care should be taken to ensure that the discussions complement each other so that related questions are discussed by all relevant experts;
- c. 5 business days **prior to a discussion or meeting**, the nominated professional should formulate an agenda including a list of questions for consideration. The agenda should, subject always to the provisions of FPR 25.16(1), focus on those questions which are intended to clarify areas of agreement or disagreement.

Questions which repeat questions asked in the court order giving permission for an expert to be instructed or expert evidence to be put before the court or the letter of instruction or which seek to rehearse cross-examination in advance of the hearing should be rejected as likely to defeat the purpose of the meeting. The agenda may usefully take the form of a list of questions to be circulated among the other parties in advance and should comprise all questions that each party wishes the experts to consider.

The agenda and list of questions should be sent to each of the experts **not later than 2 business days before the discussion**;

- d. the nominated professional may exercise his or her discretion to accept further questions after the agenda with the list of questions has been circulated to the parties. **Only in exceptional circumstances should questions be added to the agenda within the 2-day period before the meeting. Under no circumstances should any question received on the day of or during the meeting be accepted.** This does not preclude questions arising during the meeting for the purposes of clarification. Strictness in this regard is vital, for adequate notice of the questions enables the parties to identify and isolate the expert issues in the case before the meeting so that the experts' discussion at the meeting can concentrate on those issues;
- e. the discussion should be chaired by the nominated professional. A minute must be taken of the questions answered by the experts. Where the court has given a direction under FPR 25.16(3) and subject to that direction, a Statement of Agreement and Disagreement must be prepared which should be agreed and signed by each of the experts who participated in the discussion. In accordance with FPR 25.16(3) the statement must contain a summary of the experts' reasons for disagreeing. The statement should be

served and filed **not later than 5 business days after the discussion has taken place;**

- f. in each case, whether some or all of the experts participate by telephone conference or video link to ensure that minimum disruption is caused to professional schedules and that costs are minimised.

Meetings or conferences attended by a jointly instructed expert

- 4.1.** Jointly instructed experts should not attend any meeting or conference which is not a joint one, unless all the parties have agreed in writing or the court has directed that such a meeting may be held, and it is agreed or directed who is to pay the expert's fees for the meeting or conference. Any meeting or conference attended by a jointly instructed expert should be proportionate to the case.

(Practice Direction 25C, paragraphs 2.1 to 2.7 deals generally with single joint experts in children proceedings and Practice Direction 25D paragraphs 2.1 to 2.7 deals with single joint experts in relation to other family proceedings).

Court-directed meetings involving experts in public law Children Act cases

- 5.1.** In public law Children Act proceedings, where the court gives a direction that a meeting shall take place between the local authority and any relevant named experts for the purpose of providing assistance to the local authority in the formulation of plans and proposals for the child, the meeting shall be arranged, chaired and minuted in accordance with the directions given by the court.

About the authors

Kate Hart (Roffe Swayne) has experience of acting as an expert witness in both domestic and international matters and has been actively involved in more than 200 engagements. She is regularly appointed to value business interests as an expert in matrimonial proceedings and has given evidence in the High Court, County Court and at arbitration. Kate is a member of the Academy of Experts, board member of the Network of Independent Forensic Accountants (“NIFA”) and a member of the Forensic Advisory Committee of the Institute of Chartered Accountants in England and Wales. She is a guest lecturer at Portsmouth University and a contributing author of *Forensic Accounting & Finance: Principles & Practice*.

Roger Isaacs (Milsted Langdon) is the Chair of the Forensic Advisory Committee of the Institute of Chartered Accountants in England and Wales. He has given expert accountancy evidence for over twenty years and lectures regularly to solicitors and barristers as well as being a prolific author of articles for the legal press. He is the national technical director of the Network of Independent Forensic Accountants (“NIFA”) and the Deputy Chair of the Top 20 MGI Worldwide international accountancy network. Roger is a member of Resolution and specialises in business valuations. He is also a licensed insolvency practitioner, a CEDR accredited mediator in 2000 and member of the Academy of Experts.

James Pirrie (Family Law in Partnership) a Resolution member since the 1980s has long aspired to stronger relationships between the professions to enable clients to access the specific expertise they need to address all the complexities of separation in a robust way. He has made the FPR a particular focus, believing that solicitors should have technical expertise as a bedrock of their services. This publication comes from opportunities for dialogue with ICAEW and NIFA over the past several years and several decades of trying to understand a small fraction of what Michael Drake (Resolution founder member) treats as common place.