

Our Ref: «MATTER\_FEE\_EARNER\_ID»/«client\_no»/«matter\_no»

25 March 2022

«FW\_CN\_MED\_EXP\_FW\_CN\_ME3\_CON\_title»  
«FW\_CN\_MED\_EXP\_FW\_CN\_ME3\_CON\_forename»  
«FW\_CN\_MED\_EXP\_FW\_CN\_ME3\_CON\_surname»

Dear «FW\_CN\_MED\_EXP\_FW\_CN\_ME3\_CON\_title»  
«FW\_CN\_MED\_EXP\_FW\_CN\_ME3\_CON\_surname»

**Re: Our Client:** «LINKNAME\_FORENAME\_1» «LINKNAME\_SURNAME\_1»  
**Address:** «CLIENT\_HOUSE», «CLIENT\_POSTAL\_TOWN»,  
«CLIENT\_POSTCODE»  
**Date of Birth:** «CLI1\_ADD\_INFO\_FW\_CLI1\_DOB»  
«CLI1\_ADD\_INFO\_FW\_CLI1\_DOB»

I refer to previous correspondence and e-mails in this potential claim.

Thank you for agreeing to review this case in response to our initial enquiry. We note your charging rates and confirm that these are acceptable.

As I explained in earlier correspondence, in the case we are instructed by «LINKNAME\_FORENAME\_1» «LINKNAME\_SURNAME\_1» in relation to a potential clinical negligence claim arising out of the circumstances of her treatment when she was admitted to «FW\_CN\_DEF1\_FW\_CN\_D1\_HOS\_TC» under the care of having[ ].

To assist you in your report, we enclose copies of the following:

1. Client's statement re the circumstances giving rise to the allegations of negligence
2. We refer you to the statement and our original letter of approach by way of background information.

Our client's allegation is that

### **Review Clinical Records**

Please review the records to determine whether our client can demonstrate on the balance of probabilities that the treatment afforded to her fell below the standard of care she was entitled to expect. The relevant standard of care is whether the medical staff's conduct fell below the standard that could have been expected from a responsible body of competent health professionals in the same fields who were skilled in their art at that time. It is the relevant standard of medical care prevailing rather than that which prevails now.

Please confirm that all of the relevant clinical notes have been disclosed to your satisfaction.

## **Law**

### **Questions**

We should be grateful if you would consider the following questions in your report. However, we value your views generally, and we ask that you do not restrict your report to dealing with these points only:

1.

### **Standard of Proof**

It is for our client to prove each element of the claim, on the balance of probabilities, that is, more likely than not. It is not necessary for our client to prove matters beyond reasonable doubt, as in criminal matters.

### **[Factual Disputes]**

It is for the court and not the experts, to resolve factual disputes. Where a factual matter is pertinent to a conclusion, the conclusion should be provided in the alternative.

### **Liability**

It is also for our client to prove that the hospital staff failed to reach the appropriate standard of care. Consequently, it will be necessary to show that the hospital staff failed to take such action as a reasonably competent health professional in the same fields would have done. If a substantial body of reasonably competent health professional in the same fields would, on the balance of probabilities, have taken the course of action that the healthcare professionals did in this case, then our client cannot say that they have been negligent.

If the body of health professionals referred to above, would have taken the same approach as the health professional in this case, they should be able to demonstrate a logical basis for this decision. If you are aware of any argument that the defendant may put forward in respect of this case, we would welcome your view as to whether any such argument has a sound medical basis. If you are aware of any counter arguments which may be put forward, we also look forward to hearing those.

### **Causation**

If and when we have successfully established fault on the part of the health professional it will then be necessary to show that the fault did, on the balance of probabilities, directly cause or materially contribute to the damage/loss of which our client complains (again on the balance of probabilities. If our client would have suffered [ ] in any event, regardless of the negligent acts which may be identified, then it will not be possible for our client to receive compensation.

A material contribution does not have to be a substantial contribution, and causation may be established if the contribution was more than negligible/de minimis to the Claimant's injury.

Again, if you are aware of any arguments which the defendant may put forward on causation, together with any counter arguments, we look forward to considering these.

Please consider the liability of the hospital staff by reference to contemporary medical literature.

### **Structure of Report**

Please produce your report in the normal A4 style and please ensure that your report is identified by number or purpose (e.g. preliminary) so that easy reference can be made in the future. Please also identify the clinical notes referred to in your report precisely and use the page numbers referred to in the enclosed A4 file of notes. It would also be of assistance if you would explain any complicated terminology and use diagrams where appropriate.

Please also provide an appendix to your report giving details of your qualifications and experience and also providing copies of any literature upon which you have relied.

Please also ensure that in order to comply with the Court rules you should insert above your signature, a statement that the contents of your report are true to the best of your knowledge and belief.

### **Meeting with Client**

If it is necessary for our client to attend upon you, please let us know so that we can make suitable arrangements.

### **Further Evidence**

### **Conference with Counsel**

There is a possibility that upon receipt of your report, we will wish to hold a conference with Counsel at which we would appreciate your attendance. Please let us have details of any dates that you know you will not be able to attend in the twelve weeks after you send your report to us.

You may or may not be aware that the Part 35 CPR Rules have changed in respect of the statement of truth that is now required in an expert's report. The new declaration should be worded as follows: 'I confirm that I have made clear which facts and matters 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'.

Should you require any further information, please do not hesitate to contact us. Once again we thank you for your assistance in this matter.

Yours Sincerely

**«CALCULATION\_FEE\_EARNER\_DESCRIPTION»**

«PRACTICEINFO\_PRACTICE\_NAME»