



Coroners Court of Victoria

Information for Expert Witnesses

An expert witness engaged by the court to provide a written expert opinion report for a coronial investigation will receive a Letter of Engagement from the court. This letter will outline the required scope of services to be provided, and an agreed timeline payment for the cost of those services.

Additional expenses

A coroner may also require an expert witness to attend an inquest proceeding and testify in court about the expert opinion provided. If this occurs, an expert witness will be entitled to receive a separate additional payment of an allowance or reimbursement for expenses incurred in relation to attending court and providing oral evidence in the inquest proceeding.

An expert witness must complete a *Witness Expense Claim Form – Certification of Net Loss Income* in order to receive payment for these additional expenses.

A copy of this form is available under the Forms section of the court's website or by request from the court's Reception.

Code of Conduct

All expert witnesses engaged by the court to provide a written expert opinion report must adhere to the Coroners Court of Victoria Code of Conduct for Expert Witnesses including:

Duty to the court

- The expert has an overriding duty to assist the court impartially on matters relevant to the area of expertise of the expert
- The expert must exercise his or her independent judgment and follow any direction from a coroner in relation to each report provided
- The expert must deliver their report to the court within the period as indicated in the court's letter of engagement, unless otherwise agreed
- The expert must appear in court to give oral evidence in relation to his or her report when subpoenaed by a coroner to do so.



Coroners Court of Victoria

Reports

- A report of the expert must be that of the expert and no other person
- In the report for the court the expert must state, specify or provide—
 - (a) the court's reference number
 - (b) the name of the deceased (if applicable)
 - (c) the full name and professional address of the expert
 - (d) the qualifications of the expert
 - (e) the date of submission
 - (f) the sources of information relied upon at the time of writing the report (e.g. the deceased's medical history, autopsy report, CT scans, etc)
 - (g) responses to any specific questions conveyed from the coroner
 - (h) the reasons for the facts, matter and assumptions on which their opinion is based and summarise any literature or other materials utilised in support of their opinion
 - (i) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and the qualifications of that person; and
 - (j) whether any opinion in the report is qualified because of insufficient research, insufficient data or for any other reason
 - (k) note any inconsistencies contained within the materials provided by the court
 - (l) if applicable, that a particular question, issue or matter falls outside their area of expertise.
- Where the report expresses an opinion, the opinion should—
 - (a) respond to a clearly defined question or questions
 - (b) identify the factual premises upon which the opinion is based
 - (c) be based on the specialised knowledge of the expert; and
 - (d) be clearly expressed.
- The report should, where appropriate, be—
 - (a) willing to give consideration to alternative factual premises; and
 - (b) willing to acknowledge recognised differences of opinion or approach between experts in the relevant discipline.



Coroners Court of Victoria

- The body of the report should be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct part of the subject
- Each page of the report should be numbered
- Each annexure to the report should be distinguishable
- The expert must deliver his or her report either by —
 - (a) e-mailing a scanned copy of the report in PDF format; or
 - (b) sending the report by post.

Further directions from a coroner

- A coroner may direct the expert to—
 - (a) consider any additional matters relevant to the investigation
 - (b) provide an update on his or her progress in producing the report; or
 - (c) appear at an inquest to give oral evidence in relation to the report.

Confidential information

- A coroner may direct the expert to—

Confidential information means that—

 - (a) is by its nature confidential
 - (b) is marked as confidential
 - (c) is known to be confidential; or
 - (d) which the expert ought to have known was confidential
 - (e) but does not include information which—
 - (i) is or becomes public knowledge other than by breach of the code of conduct or by any other unlawful means;
 - (ii) is in the possession of the expert prior to taking on the engagement, without any breach of an obligation of confidence; or has been independently developed or acquired by the expert, except for the report which the expert is engaged to produce to the court; or
 - (iii) is required to be released by law.
- The report produced for the court by the expert is confidential information



Coroners Court of Victoria

- Unless a coroner otherwise orders, a report for the court produced by the expert must only be provided to the court
- Information disclosed to the expert for the purposes of producing a report for the court is provided confidentially and remains the property of the court at all times, irrespective of whether the report is complete or incomplete
- The report must specify—
 - (a) any person or entity external or independent of the expert who was consulted or provided any information; and
 - (b) a summary of that consultation or information.

Disqualification

- An expert may be disqualified from producing a report for the court by reason of a pre-existing relationship with the deceased or a party to the investigation and/or inquest.
- The expert must disclose any such pre-existing relationship
- Where the expert becomes aware of a pre-existing relationship after entering into the engagement the expert is to immediately inform the court of the nature of the relationship, and the court may terminate the engagement
- If the expert's engagement is terminated for any reason, the expert is to return to the court all original materials previously supplied, and must seek instructions from the court in relation to any copies of materials held in their possession

Miscellaneous

- Any written report or other material produced by the expert pursuant to their engagement by the court whether produced in whole or part (and whether or not it has been delivered to the court) is and remains the intellectual property of the court, unless the coroner otherwise orders
- At the time of submitting the report, the expert is to return to the court all original materials (for example, radiology scans, etc.) previously supplied, unless otherwise directed by the court
- The expert is to retain all copies of materials supplied by the court until the completion of the coronial investigation, after which time the expert is to securely destroy such copies, unless otherwise directed by the court.