

Expert assessments – drug and alcohol

1. The Court being satisfied that it is necessary for the following expert to be instructed, the court gives permission to [insert name of party] to instruct an expert [drug and alcohol testing and expert analysis], namely [insert name of company], as a single joint expert.
2. The following directions shall apply to the instruction:
 - a. the lead for the instruction of the expert shall be [insert name];
 - b. the letter of instruction to the expert [as approved by the court today / to be agreed by the parties by 4pm on [insert date] and sent to the court] must be sent to the expert by 4pm on [insert date]; or
 - c. [the agreed questions are annexed to this order] or
 - d. the questions to be dealt with by the expert are as follows:
 - i. Has [cocaine, cannabis, heroin etc delete as appropriate] been found in the head hair/body-hair/nail sample tested?
 - ii. [With reference to this forensic history, and any relevant forensic history identified in this letter of instruction or papers provided please provide your analysis and expert opinion as to whether the presence of any drugs or alcohol markers found in the hair/nails are more likely than not to be consistent with:
 - a. Active use of that substance?
 - b. Exposure to that substance?
 - iii. What is your expert opinion on the levels of any drug or alcohol use over any period testing?
 - iv. What is the pattern of any identified drug use over time?
 - v. Are there any additional compounds identified in the hair that would suggest further testing is required?
 - vi. Is there evidence of degradation of the hair, hair dyes or other compounds which may affect the reliability of testing? If so, please test the nail(s) and provide an overview analysis of nail (no sectional analysis being possible).
 - vii. Is your interpretation of the pattern or use of drugs or alcohol consistent with declared usage?

- viii. The court has ordered that [name] should not cut or dye their hair before the sample of hair is taken. Is there evidence that this has not been complied with?
 - ix. What is the impact of any dye or other treatment on the results?
 - x. In your opinion are additional samples required to be tested? If so, why?
 - xi. In the case of alcohol testing, please test the hair for both Ethyl Glucuronide (EtG) and Fatty Acid Ethyl Esters (FaEE).
 - xii. In addition, please undertake Phosphatidylethanol (PEth) testing.
 - xiii. Please provide your analysis of whether the results are consistent with chronic excessive use, social/moderate drinking or abstinence.
 - e. permission is [not] given for the expert to see and assess the child(ren);
 - f. the expert's report must be sent to the court and to the parties by no later than 4pm on [insert date];
 - g. permission is not given at this stage to call the expert to give oral evidence at the hearing;
 - h. the costs of the report shall be paid by [insert name], and
 - i. the appointment date(s) for the assessment are [insert if known].
3. In the event an individual being assessed does not engage, only partially engages or withdraws from the assessment, the expert must complete the assessment by the specified date based on the work they have undertaken by that date. If an individual being assessed does not engage fully without a good reason, there is a real risk that they will not be given a further opportunity to be assessed.
- 4. Important note: The parties are referred to the directions relating to the issue resolution hearing set out below and the obligation to inform the court in circumstances in which it becomes apparent an assessment is not proceeding and this may permit the timetable to be revised with the consequence that the issue resolution hearing may be brought forward.**
5. Questions of the expert must be dealt with in accordance with FPR rule 25.10.
6. If any party seeks permission to call an expert to give oral evidence that must be made clear to the other parties by no later than the pre-IRH advocates meeting. If clarification (only) is sought, then the court will expect questions to be raised within 10 days of receipt of the report in accordance with FPR rule 25. If a party seeks to cross examine the expert, as opposed to seeking clarification, clear reasons must be provided in the party's position statement filed for the IRH.

ANNEX TO ORDER

AGREED QUESTIONS TO EXPERT – DRUG AND ALCOHOL

1. Please take samples as are required for your investigation, which will include one or all of the following; scalp hair, body hair, fingernails, toenails, blood and urine (insofar as you are able) for forensic analysis. If insufficient head hair is available for the required testing period, please take as much head hair as is available.
2. Please provide photographic evidence to be made available on request covering:
 - a. The person providing the sample.
 - b. the hair samples when clamped (immobilised) prior to cutting;
 - c. the hair samples when clamped (immobilised) after cutting from the scalp;
 - d. the site of cutting from the scalp;
 - e. nail sample collection sites for all finger and toe nails before and after clipping;
 - f. nail samples when collected, packed sealed and signed, with each nail identified and stored separately.
 - g. Where the test site was located.
 - h. The test site following collection.
3. Please ensure the techniques used must be validated to ensure, where reasonably possible, the alignment of any hair sample is maintained from the point of cutting and packing the sample, during transport to the laboratory and during the handling and segmentation process. It should be made available if required.
4. Please ensure a full chain of custody will be maintained, and compliance documented in the report for all samples taken. Any break in this chain of custody must be notified in the report and opinion provided on the impact this is likely to have on the reliability of the opinions provided in the report.
5. At the time of collection, please collect a full forensic history to establish factors relevant to interpretation such as:
 - a. a detailed profile of declared use of drugs, medications, and/or alcohol, with dates, times, frequencies and level,
 - b. a detailed profile of exposure to drugs, with dates, times, frequencies and level,
 - c. a detailed profile of the alcohol use, with dates, times, frequencies and level
 - d. natural hair colour and ethnicity,

- e. hair grooming profile,
 - f. cosmetic or other treatments of the hair including brands, with frequency, dates and periods of use,
 - g. cosmetic or other treatments of the nails including brands, with frequency, dates and periods of use,
 - h. use of thermal treatments or straighteners to the hair with where on the scalp they were used, how close to the scalp the treatments were frequency, dates and periods of use,
6. Please undertake an investigation of the samples tested to identify the presence of [cocaine/heroin/cannabis/other/alcohol biomarkers] over a [3-/6-/9-/12-/other] month period or as close to that period as you are able. Where you are not able to be precise about timings, please explain your reason and provide a range.
 7. Please report all your findings irrespective of the concentration of drug and or alcohol biomarkers detected and industry cut off levels.
 8. With reference to this forensic history, and any relevant forensic history identified in this letter of instruction or papers provided please provide your analysis and expert opinion as to whether the presence of any drugs or alcohol markers found in the hair are more likely than not to be consistent with:
 - a. Active use of that substance?
 - b. Exposure to that substance that has led to contamination of the hair / nails?
 - c. A combination of these factors
 9. Please provide reference to any recent research or other data sources relevant to the interpretation of these results which you have factored into your interpretation.
 10. Please provide your expert opinion on the relevance of the levels of any drug or alcohol use over any period testing.
 11. What is the pattern of any identified drug use over time?
 12. Are there any additional compounds detected in the hair that would suggest further investigation and analysis is required? If so please provide the likely cost of this further investigation? [If any additional compounds are detected in the hair in addition to those instructed, please carry out the further investigation and analysis required and report these drugs along with those instructed, providing interpretation as for the instructed compounds.

13. Is there evidence of degradation of the hair, hair dyes or other compounds which may affect the reliability of testing? If so, please test the appropriate alternative sample (body hair and or nail) and provide an analysis of these findings in line with 3 – 9 above.
14. Is your interpretation of the pattern or use of drugs or alcohol consistent with declared usage?
15. The court has ordered that [name] should not cut or dye their hair or apply nail varnish or acrylic covers to the finger or toe nails before the samples are taken. If the nails already have acrylic covers attached then instruction will be given to be removed prior to the sample collection. Is there evidence that this has not been complied with?
16. What is the impact of any dye or other treatment on the results?
17. In your opinion are additional samples required to be tested? If so, why?
18. In the case of alcohol testing, please take samples as are required for your investigation, which will include one or all of the following; scalp hair, body hair, fingernails, toenails, blood and urine (insofar as you are able) for forensic analysis. If insufficient head hair is available for the required testing period, please take as much head hair as is available.
19. Please carry out all necessary tests required in this case to answer the questions presented, which should include, minimally EtG, EtPa and PEth and when required, the testing may also include, but is not limited to: CDT, MCV LFT's (ALT, AST GGT).
20. Please provide your analysis of whether the results are generally consistent with chronic excessive drinking, social/moderate drinking or support a declaration of abstinence.