



Institute of Geologists

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Conor Taaffe, HomeBond



Brief/Instructions

- It is essential to understand what the client requires and for what purpose they require your services?
- Following the initial brief it is up to the professional to determine and advise the client on the type of service being provided, the report to be produced and if they can provide the full service required.
- The professional must clearly communicate to the client what they are proposing to do and the conditions of engagement before commencing any services.



Understanding the brief

- The public in general consider that a “**report**” will always satisfy their needs when it comes to building defects related inspections and reports.
- It is essential that the professional produces the report which meets the requirements of the client brief. This may not always happen as the client or the professional did not fully understand the purpose of the report and therefore the clients expectations may not be achieved.



Preliminary Matters

- What does the client want?
- What does the client need?
- Am I qualified to carry out the brief?
- Have I the experience/expertise required?
- Will I require advice from other professionals ?
- Do I have the equipment to carry out the proper investigation?
- Am I insured to carry out the brief?



IGI Code of Conduct

- A member will not give a professional opinion, make a report, or give legal testimony without being as thoroughly informed as might reasonably be expected considering the purpose for which the opinion, report, or testimony is desired, and the degree of completeness of information upon which it is based should be made clear.
- Any member violating any of the applicable standards prescribed in this Code shall be subject to discipline as provided for by the Articles of Association of the Institute of Geologists of Ireland Limited.



Insurances

- Ensure Professional Indemnity insurance policy covers the services to be provided and the work of sub-consultants
- Ensure adequate insurance limit for services provided
- Claims made basis – yearly premium must be paid
- Retained excess



Type of Report

- *Investigation, Appraisal or Assessment*
- *I.S. 398-1 (2013)*



Recipients

- It is important to remember who could be a reading the report
 - Client
 - Claims Adjuster
 - Legal Professionals
 - Technical experts
 - Judge



Recording Methods

- Long hand – time consuming
- Dictaphone – slow transcription process
- Site prepared sketches – preferred by most
- Pre-printed form/checklist – advance preparation
- On-site computer – absence of site notes
- Hand held device (PDA) – custom design
- Retention of records



Knowledge and Skills Required

Knowledge of standards – products, practice

Familiarity with intrusive investigation techniques

Knowledge of materials testing methods and protocols

Skills in information analysis and report writing

Ability to defend findings in court proceedings



Legal Considerations

- Negligence (duty of care)
- Breach of Contract
- Breach of Statute
- Rules of Evidence
- Discovery
- Cross-Examination



Statute

- Sale of Goods and Supply of Services Act 1980
 - Necessary skills to render service
 - Due skill care and diligence
- Statute of Limitations
- Companies Act
- Consumer Protection Act 2007
- Health & Safety



Expert Witness

- Expert witnesses are appointed by the parties, and a judge may direct them to consult with each other with a view to agreeing evidence and consider any matter that the judge may direct them to consider
- Duty to the Court to provide objective unbiased opinion in relation to matters within expertise
- Should not omit to consider material facts which could detract from his concluded opinion



Skill and Care

Under normal circumstances, the appropriate standard of care will be the skill and care reasonably to be expected of a competent person .

May be liable to the client for any losses which the client incurs as a result of incorrect conclusions or recommendations in, or omissions from the report – negligence, breach of contract, statute.

Competent Person definition in I.S. 398-1 (2013)



Negligence

An person who carries out an investigation may be negligent because of a failure to exercise reasonable skill and care at any stage in the production of the report, including negligent planning, negligent observations, negligent recording and analysis of data, negligent writing and checking of the report and failure to recommend specialist advice.



Minimise Risk (1)

A procedure checklist should be compiled and used when carrying out investigations. It should enable you to indicate the level of detail of the examination performed on each element. The proper use of such a list indicates to a court or other tribunal that a satisfactory system of working has been employed and that care and professionalism have been exercised.

Retention & retrieval of records



Minimise Risk (2)

- You should set out the intended scope and purpose of the appointment in writing at the time of appointment and should, where possible, see that this is agreed with the client
- The scope and purpose should then be included either as an appendix to or repeated in the text of the report along with any standard terms and conditions of engagement. This provides clarity within the report as to what the professional was engaged to do.



Minimise Risk (3)

When making recommendations you should, if appropriate, explain any shortcomings in the data upon which this advice is based. You should indicate whether and to what extent unforeseen circumstances might make a reassessment of this advice necessary.

Qualifications of this nature not only provide the client with more honest advice, but also make it more difficult for anyone, client or third party, to misinterpret the report.



Minimise Risk (4)

You should be careful not to tender advice you are not qualified to give.

Any necessary statements concerning, for instance, legal or insurance matters or specialist technical elements should only be made in the broadest possible terms and should be accompanied by recommendations to seek advice from suitably qualified consultants or firms.



Minimise Risk (5)

Limitations on Liability

- Client / 3rd Parties
- Time
- Cap
 - Monetary sum
 - Level of insurance
 - Type of loss
- Net Contribution clause
- Unfair Contract Terms



Minimise Risk (6)

Disclaimer

You may seek to exclude liability to persons other than the client and to whom they may owe a duty of care by the use of a prominent 'disclaimer' in the report. When such a duty of care is owed to a third person the use of a disclaimer is only effective if the Court also considers the disclaimer to be reasonable.



Form of Report (1)

- The written report is the ‘final product’ and is the only tangible evidence the client possesses. It is important to employ care and expertise in its preparation so that the client can obtain the maximum benefit from the work carried out.



Form of Report (2)

- Standard phrases or paragraphs may be helpful in the preparation of the report but there are both risks and advantages in using them. They may act as a 'checklist' to see that all points have been reviewed, but care should be taken to ensure that such paragraphs have been properly considered for inclusion and, to that extent, are relevant.
- Inclusion of irrelevant standard paragraphs may be used against you to show that little thought went into the production of the report.



Form of Report (3)

- If a large amount of technical information is to be included, appendices could be used. Suitable photographs, layout plans and sketches may assist in illustrating comments made in the text and these can best be included as an appendix which could be bound separately for ease of reference.



Form of Report (4)

- The assessment should be the logical conclusion of the findings. Only refer to alternative relevant and likely causes based on strong evidence.
- Avoid giving authoritative opinion on subjects not within your professional training and experience. Instead, consider pointing the client towards appropriate specialist help



Form of Report (5)

- A simple report may be quite adequate.
- Whatever format is chosen, the report should satisfactorily answer the brief and be written in such a manner that it will be clearly understood by a client who may not be familiar with technical terms.
- As far as possible write in plain English that anyone can understand.



Form of Report (6)

- ***Front cover*** – title, address, client, agent, date
- ***Contents page*** – useful if lengthy report
- ***Synopsis/Executive summary*** – It should generally be capable of being read in isolation but with reference to the main body of the report. The main messages and recommendations should be written so as to be generally understood by a layperson.
- ***Introduction*** – scope & limitations, purpose & caveats, survey procedures undertaken & restrictions, general description of building



Form of Report (7)

- *Sections dealing with specific topics* - These are the main sections of the report and would cover specific items within the scope of the investigations, e.g. XRD, Thin Section, SEM-EDAX etc. The section should include findings and conclusions, and can include recommendations.



Form of Report (8)

- *Summary of conclusions and recommendations* - If the report is of any significant length, it is usually appropriate to include a final section to allow the reader to learn of the recommendations without reading all the detail included in the sections on specific topics.
- It may be that a synopsis will make this section redundant but often the recommendations will warrant more space than will be available in the synopsis.



Form of Report (9)

- In the conclusions, the reader should always be referred back to the main body of the report for details and further clarification.
- If the brief requires any specific expertise beyond your competence then this should be dealt with by recommending that the client obtain specialist reports/advice.