

# Standard Terms of Business

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## 1. GENERAL

### Service standards

- Our aim is to offer you an efficient and effective service and, with your help, we hope to achieve this objective.
- The accompanying letter has the name, status and contact details of the person who has the conduct of your file and the chain of responsibility and deals with matters that are relevant to specific instructions to our firm.
- If it is necessary to change the person who has the conduct of your file, we will write to you.
- The paragraphs in this document are numbered for convenience only and have no other significance.

### About TMJ Legal Services

- TMJ Legal Services is the trading name of TMJ Legal Services Ltd, a company registered in England and Wales, number 07601828. Our registered office is Foster House, 99 Raby Road, Hartlepool TS24 8DT. We are authorised and regulated by the Solicitors Regulation Authority (SRA) under number 560353. The SRA Standards and Regulations set out the regulatory framework imposed on service providers such as ours. Further information is available on the SRA website at [www.sra.org.uk](http://www.sra.org.uk).

### Our commitment to you

- To progress your file in accordance with your instructions.
- To represent your interests and keep your business confidential.
- To explain to you the legal work which may be required and the prospects of a successful outcome.
- To make sure that you understand the likely degree of financial risk which you will be taking on.
- To advise you if legal aid might be available to you.
- To keep you regularly informed of progress or, if there is none, when you are next likely to hear from us.
- To try to avoid using technical language when writing to you - tell us when we fail in this aim!
- To deal with your queries promptly, for example, we will always try to return your telephone calls on the same day.
- After completion taking the various procedural steps leading to closure and storage of your file including, where relevant, registration at HM Land Registry and giving notices to relevant persons and/or organisations.

## 2. OFFICE HOURS, APPOINTMENTS, TELEPHONE MESSAGES, RETURN CALLS AND E-MAIL

### Office Hours

- Our offices are open Monday to Friday 9.00 am until 5.00 pm.

- We close our Wingate and Durham offices between 1.00 pm and 1.45 pm each day.

### Appointments

- We try to arrange appointments at one of our offices at times convenient to you, preferably during business hours but, by prior arrangement, can facilitate appointments outside these hours. If facilities are available, we can meet you at home or your place of work.
- Sometimes we can accommodate clients who call in without an appointment, but this might not be possible, and your time would then be wasted.
- The idea of a fixed appointment might seem old fashioned, but it does allow us to provide a better level of service for all our clients.
- Please remember to telephone us, if, for any reason, you cannot keep an appointment, or you will be delayed beyond the appointment time.

### Telephone Messages

- Each person has a direct dial and is aware of the importance of your call, but there will be occasions when you will need to consider whether to:
  - leave a message on their voice mail; or
  - send an e-mail; or
  - ring our main reception in Hartlepool on (01429) 235616 or one of our other offices at Peterlee (0191) 5865711, Durham (0191) 3830111 or Wingate (01429) 838225 and leave a message.
- Reception will note your message and send a short version of it by e-mail to the person you want to contact.
- After-hours messages can be left on our Hartlepool answer phone (01429) 235616. Calls to our Wingate and Durham offices are often picked up after hours.

### Emails

- If you have access to e-mail, please let us have your address. If you are using a facility provided by your employer do remember to ask for permission and that third parties might access the confidential information we send you.

### Please note:

- E-mail is not secure – while we have in place a variety of security measures it is important to remember that e-mail is not secure. We cannot guarantee the privacy or confidentiality of any information that is sent over the internet by e-mail. In accessing and using e-mail, you accept that electronic mail passing over the internet may not be free from interception or interference by third parties.

### Return calls, replying to post and e-mails

- Our aim is to return a telephone call or e-mail the same day. If they are received after 2.30 pm our aim is to return them the following day.
- We are always prepared to return calls from a mobile phone but ask you to remember that a lengthy call to a mobile is expensive and we reserve the right to increase our fees if return calls are constantly required to a mobile phone.
- Our aim is to acknowledge letters within two working days and reply to letters after receiving instructions from you within three working days.

### 3. IDENTITY, DISCLOSURE AND CONFIDENTIALITY

- The Money Laundering Regulations 2017 require us to:
  - obtain information about a client's identity and to verify that information.
  - obtain identity information about people, for example, third parties such as friends or relatives, providing funds to help with a transaction or beneficiaries receiving money from an estate.
  - continue to monitor the transaction and keep identity information up to date.
- The minimum requirements are for solicitors to get satisfactory evidence of the identity of their clients. This is because solicitors who deal with money and property on behalf of their client can be used by criminals wanting to launder money.
  - To comply with the law, we need to get evidence of your identity as soon as possible.
  - We must be satisfied as to your identity and where you live.
  - Our practice is to ask clients to produce original documents. A guidance sheet which details the usual documents we find acceptable is available upon request.
  - If you cannot provide us with the specific identification requested, please contact us as soon as possible to discuss other ways to verify your identity.
- In general, the Code of Conduct for Solicitors states that a client's affairs are confidential and must not be disclosed to a third party without consent. This privilege does not apply when information is given to a legal adviser in connection with fraud or money laundering.

#### Please note:

- Under the provisions of the Proceeds of Crime Act 2002 a solicitor can be found guilty of a criminal offence for failure to report money laundering to the National Crime Agency (NCA) when they know, suspect or should have known or suspected that money laundering was or is taking place.
- If a report is made to NCA it is an offence to disclose this to the client or any other person.

#### Mortgage Fraud

- If we are also acting for your proposed lender in your transaction, we have a duty to fully reveal to your lender all relevant facts about the transaction and mortgage. This includes:
  - Any differences between your mortgage application and information we receive during the transaction.
  - Any cash back payments or discount schemes that a seller is giving you.

### 4. INFORMATION ABOUT COSTS

- We provide details of our costs relating to your matter/instructions to our firm in the accompanying letter.
- If we have given an estimate and have not quoted a fixed fee we have assumed your transaction will proceed without additional work or unduly complex or

time-consuming procedures. We monitor the telephone calls, letters and time spent on your file and other factors including seeing you, talking to witnesses, researching the legal position and background of the case, reading and studying papers and documents, preparing papers for a barrister and court, attending meetings, attending court and corresponding with other parties as appropriate.

- For example, we take into account:
  - The time spent, any need to carry out work outside normal office hours, the complexity of the issues, the speed at which action has to be taken, specialist expertise, higher levels of client care, the value of the property or other subject matter of your instructions, dealing with third parties by correspondence, telephone or e-mail to resolve issues which arise and could not have been anticipated, issuing frequent reminders by telephone, post or e-mail to third parties, the risks you face and our detailed guidance, additional unforeseen work imposed by a third party: for example a mortgage provider
  - If we need to revise our estimated fee, then we shall write to you and provide reasons for the increase.
    - If we cannot reach agreement with you, we will do no further work and charge you for the work undertaken to date.
    - Should you decide to change solicitors or ask us to release your file we can refuse until money due to us is paid in full.
  - Our aim is to send you a completion statement and invoice as soon as we have full financial information about your transaction.
- If you have entered into a Conditional Fee Agreement/Contingency Fee Agreement you should still refer to the details of how charges are calculated, as these apply equally to work done under a Conditional Fee Agreement/Contingency Fee Agreement but subject to the terms of such an Agreement. Where terms in the Agreement conflict with these Standard Terms of Business or the engagement letter, the terms in the Agreement will take precedence.

#### Very Important

- If a situation arises and we elect to stop acting for you or must decline to take further instructions an account will be raised for the work done up to that date with, when circumstances allow, a letter giving reasons for our decision and confirmation the solicitor client relationship has ended.
- Our charges for additional work or unduly complex or time-consuming procedures are based on hourly rates reflecting the status of the person acting for you. The current hourly rates applicable to your case or our fixed costs will be set out in the engagement letter.

#### Other Parties Charges and Expenses (Litigation only)

- In some cases, and transactions, a client may be entitled to payment of costs by some other person. It is important that you understand in such circumstances, the other person may not be required to pay all the charges and expenses that you incur with us. You have to pay our charges and expenses

in the first place and any amounts that can be recovered will be a contribution towards them. If the other party is in receipt of legal aid no costs are likely to be recovered.

- If you are successful and a court orders another party to pay some or all of your charges and expenses, interest can be claimed on them from the other party from the date of the court order. We will account to you for such interest to the extent that you have paid our charges or expenses on account, but we are entitled to the rest of that interest.
- You will also be responsible for paying our charges and expenses of seeking to recover any costs that the court orders the other party to pay to you.
- A client who is unsuccessful in a court case may be ordered to pay the other party's legal charges and expenses. That money would be payable in addition to our charges and expenses. Arrangements can be made to take out insurance to cover liability for such legal expenses. Please discuss this with us if you are interested in this possibility.

## 5. PAYMENT ARRANGEMENTS

- We either enclose or will forward, at a later date, our standard information sheet detailing the various ways in which money can be paid to us.

### Please note:

- There are differing periods for clearance of funds through the banking system. The SRA Accounts Rules and general terms we have with our bank, Barclays Bank Plc, are clear:
  - Until payment has cleared, we cannot make any payments against the un-cleared funds. Currently Barclays Bank requires a minimum of seven working days for a cheque to clear.
  - We have a limit for money laundering and insurance obligations, on cash payments of £2,000 only and this figure is a maximum for all cash payments from you. If you try and avoid this policy by depositing cash directly with our bank, we may decide to charge you for any additional checks we decide are necessary to prove the source of the funds.
  - All cash payments must be made before 12.00 noon at either our Hartlepool or Peterlee Office.
  - Where we have to pay money to you, it will be paid by cheque or bank transfer. It will not be paid in cash or to a third party.
  - We will not pay disbursements on your behalf. A disbursement is a payment to a third party. We always ask you for the money, however small the amount, before making the payment.
- Our fees, plus VAT and disbursements, are payable on delivery of our invoice and by cleared funds and, in the case of a conveyancing matter, before completion.

### Please note:

- If we hold money on account we reserve the right to deduct our fees, VAT and any disbursements before paying you the remaining balance
- We do not offer credit and if we do not hold sufficient monies to cover the price; for example, in connection

with a purchase, plus our costs, VAT and disbursements we will not complete the transaction.

### Very Important

- If we are acting for you in a conveyancing transaction we often request mortgage funds the day before completion assuming they will be sent electronically. Although this is unlikely; if payment from the lender is by cheque we will require the funds sooner.
- The lender might charge you interest from the date funds are released to us and because we do not hold the money for more than a few working days we do not pay interest.
- If a balance of money is due from you to complete a matter you must ensure it arrives as cleared funds at least one working day before completion.

### Late Payments

- Payment is due to us within 28 days of delivering our bill. If all or part of the bill remains unpaid within 28 days of delivery, interest will be charged on the outstanding amount on a daily basis at 4% over Barclays Bank PLC's base rate from time to time commencing 28 days after delivery of our bill to you.

### Please Note:

- If the work is of a commercial nature we reserve the right to charge interest and penalties under The Late Payment of Commercial Debts (Interest) Act 1998.
- Initial Court issue fees, subsequent court fees and, if allowed, legal costs of recovering the debt will be included in our claim.

### Very Important

- Where payment of whole or part of an amount due to us is unpaid, especially if a disbursement has been paid on your behalf, we will write to you and explain why we have exercised our right to decline to act for you any further.
- Any money received on your behalf will be held in our client account. Subject to certain minimum amounts and period of time the following will apply;

## 6. INTEREST PAYMENT

- The SRA Accounts Rules state that when we hold money in a client account for a client, or for a person funding all or part of your fees, or for a trust, we must account to the client or that person or trust for interest when it is fair and reasonable to do so in all the circumstances. Our policy can be found on our website [www.tmjlegal.co.uk](http://www.tmjlegal.co.uk). A copy is available upon request.
- **Unclaimed Client Funds**
  - On occasions, there may be a time gap between completion of a matter and file closure. Where we do not have a current address for a client and it would be uneconomic to employ an agent to trace them, we pay the balance, if it is less than £50, to Hartlepool Hospice Ltd registered charity number 510824.
  - If a cheque issued to you by the firm is not presented by you to your bank within six months of the date of issue, and the amount is less than £50, we reserve the right to transfer the whole amount to the firm's nominated charity account

(as detailed above), without further reference to you.

## 7. FINANCIAL SERVICES COMPENSATION SCHEME

- If we hold your money at any time we will take good care of it. We bank with Barclays Bank Plc. We are unlikely to be liable to repay money lost through a banking failure.
- If we do hold any of your money it will have the same protection (up to £85,000) under the Financial Services Compensation Scheme (FSCS) as if you held the money in that bank personally.
- If you hold other personal money in the same bank you should note that the limit of £85,000 applies to the total (money with us and your own personal money). You should be aware that some deposit taking institutions/banks have several brands, i.e. where the same institution is trading under different names. It is important you check either with your bank, the Financial Conduct Authority or a financial adviser for more information. If we have to make a claim under the FSCS in respect of your money we will, subject to your consent, have to give certain information about you to the FSCS to allow it to identify you and disclose the amount you held in our client account.
- You should note, however, that the FSCS will provide a £1 million protection limit for temporary high balances held with a bank, building society or credit union if it fails. Further details relating to what constitutes a temporary high balance and the rules relating to the protection can be found at [www.fscs.org.uk](http://www.fscs.org.uk). In the event of a bank failure you agree to us disclosing details to the FSCS.

## 8. TERMINATION

- You may terminate your instructions to us in writing at any time, but we will be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses.
- In some circumstances, we may consider we ought to stop acting for you, for example, if you cannot give clear or proper instructions on how we are to proceed, or if it is clear you have lost confidence in the way we are carrying out your work.
- We may also decide to stop acting for you if you do not pay an interim bill or comply with our request for a payment on account.
- Please note that if we are also acting for your lender in a Conveyancing transaction, we have a duty to make full disclosure to the lender of all relevant facts relating to you, your purchase and mortgage. This will include disclosure of any discrepancies between the mortgage and application and information provided to us during the transaction and any cashback payments or discount schemes which a seller is providing you. If a conflict arises between our duties to you and our duties to the Lender, we must cease to act for you.

## 9. LIMITED COMPANIES

- When accepting instructions to act for a limited company, we may require a director and/or controlling shareholder to sign a form of personal guarantee in respect of the charges and expenses of this firm. If such a request is refused, we will be entitled to stop acting and to require immediate payment of our charges on an hourly basis and expenses as set out earlier.

## 10. COMPLAINTS

- We aim to provide quality legal advice and client care and hope that you will be happy with the service we provide.
- If you are unhappy with any aspect of our service, or about your bill, please contact Keith Morgan – details below.

### Please Note:

- We operate an internal complaints' handling system to help us resolve the problem between ourselves. Please immediately contact Keith Morgan at our Head Office (01429) 235616 or if you prefer e-mail; his address is [kmorgan@tmjlegal.co.uk](mailto:kmorgan@tmjlegal.co.uk) or by post to Foster House, 99 Raby Road, Hartlepool TS24 8DT and he will try to resolve any problem quickly.
- Keith will acknowledge your communication in three working days and aim to provide a detailed reply within 28 working days.
- We have eight weeks to consider your complaint. If we have not resolved it within this time, or if you are not happy with our handling of your complaint, you can ask the Legal Ombudsman (PO Box 6806, Wolverhampton, WV1 9WJ, telephone 0300 555 0333, website [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)) to consider your complaint.
- Normally, a complaint to the Legal Ombudsman has to be made within six months of receiving a final written response from us. A complaint should be made within six years from the date of the act or omission about which you are complaining, or three years from the date you should reasonably have known there were grounds for complaint.
- Any barrister or other professional we instruct on your behalf should have their own complaints process. If you are unhappy with their service you can complain to them direct but, if they have not given you that information themselves, please let us know and we can tell you how to make your complaint.

### Very Important

- If your complaint is about a bill, you might have the right to object to the bill and apply to the court for an assessment of the bill under Part III of the Solicitors Act 1974. The Legal Ombudsman may not consider a complaint about the bill if you have applied to the court for assessment of the bill.
- The Solicitors Regulation Authority (SRA) can help you if you are concerned about a solicitor's behaviour. This could be for things like dishonesty, taking or losing your money or treating you unfairly because of your age, a disability or other

characteristic. Please refer to the SRA website at [www.sra.org.uk/consumers/problems/report-solicitor](http://www.sra.org.uk/consumers/problems/report-solicitor) for information on how to raise your concerns.

- Further details of our procedures for handling a complaint are available on request.

## **11. PROFESSIONAL INDEMNITY INSURANCE**

- We hold professional indemnity cover with Pelican Underwriting. Our liability to you for a breach of your instructions shall be limited to £3 million, unless we expressly state a higher amount in the letter accompanying these terms of business.
- We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or opportunities.
- We can only limit our liability to the extent the law allows. In particular, we cannot limit our liability for death or personal injury caused by our negligence.
- Please ask if you would like us to explain any of the above terms.

## **12. EQUALITY AND DIVERSITY**

- We are committed to promoting equality and diversity in all our dealings with clients, third parties and employees. Please contact us if you would like a copy of our equality and diversity policy.

## **13. DATA PROTECTION AND STORAGE OF FILES AND DOCUMENTS**

- We use the information you provide primarily for the provision of legal services to you and for related purposes including updating and enhancing client records, analysis to help us manage our practice, statutory returns and legal/regulatory compliance. Our use of that information is subject to your instructions, data protection law and our duty of confidentiality.
- Please note that our work for you may require us to pass on such information to third parties such as expert witnesses and other professional advisers, including sometimes advisers appointed by another party to your matter. We may also give such information to others who perform services for us, such as typing or photocopying. Our practice may be audited or checked by our accountants or our regulator, or by other organisations. We do not normally copy such information to anyone outside the European Economic Area, however we may do so however when the particular circumstances of your matter so require. All such third parties are required to maintain confidentiality in relation to your files.
- You have a right of access under data protection law to the personal data that we hold about you. We seek to keep that personal data correct and up to date. You should let us know if you believe the information we hold about you needs to be corrected or updated. The person at the firm with overall responsibility for data protection compliance is Clair Dunkerley. The firm is registered with the Information Commissioner. Further information regarding data protection and privacy is available from the Information Commissioner's Office [www.ico.org.uk](http://www.ico.org.uk)

- Under the General Data Protection Regulation (GDPR) you, as a data subject, have a number of rights. These include the right to be informed, the right of access, the right to rectification, the right to erasure, the right to restrict processing, the right to data portability and the right to object. Further information about these rights is set out on the ICO website referred to above and also in our privacy policy at [www.tmjlegal.co.uk](http://www.tmjlegal.co.uk)
- We may receive personal data from you for the purposes of our money laundering checks, such as a copy of your passport. These will be processed only for the purposes of preventing money laundering and terrorist financing, or as otherwise permitted by law or with your express consent. You consent to us retaining such data for longer than the five-year statutory period, unless you tell us otherwise.
- If you send us personal data about anyone other than yourself, you will ensure you have any appropriate consents and notices in place to enable you to transfer that personal data to us and so that we may use it for the purposes for which you provide it to us.

## **14. STORAGE OF PAPERS AND DEEDS**

- We keep file papers, except documents you ask us to return to you, for a minimum retention period of seven years. The retention period is dependent on the type of matter and will be specified in our closing letters. After that, storage is on the clear understanding that we have your authority to destroy the file after the stated retention period. This does not apply to documents you ask us to deposit in safe custody.
- We are entitled to keep all your papers and documents while there is still money owed to us for fees and expenses.
- It is not our normal practice to charge for retrieving stored files or other documents in connection with continuing or new instructions to act for you.
- We reserve the right to charge, based on time spent reading papers, writing letters or other work necessary to comply with your instructions.

## **15. DISTANCE SELLING**

- Under the Consumer Contracts Regulations 2013, you have the right to cancel a contract within 14 days without giving any reason. This only applies where contracts are agreed away from our premises or where we are not both physically present.
- To exercise the right to cancel, you must inform us of your decision to cancel the contract by a clear statement (e.g. a letter sent by post, fax or e-mail). To meet the cancellation deadline, it is sufficient for you to send your communication exercising your right to cancel before the cancellation period has expired. If you cancel the contract, and you will then be reimbursed any payments made by you to us.

## **16. FINANCIAL SERVICES AND INSURANCE DISTRIBUTION**

- We are not authorised by the Financial Conduct Authority (FCA). If, while we are acting for you, you

need advice on investments, we may have to refer you to someone who is authorised to give that advice.

- We are, however, included on the register maintained by the FCA so that we can carry on insurance distribution activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority (SRA). The register can be accessed via the FCA website at [www.fca.org.uk/firms/financial-services-register](http://www.fca.org.uk/firms/financial-services-register).

## 17. PROVISION OF SERVICE REGULATIONS 2009

- We comply with the above regulations by displaying the required details of our Professional Indemnity Insurance at each of our offices and on our web site.

## 18. APPLICABLE LAW

- Any dispute or legal issue arising from our terms of business will be determined by the law of England and Wales and considered exclusively by the English and Welsh courts.

## 19. TAX ADVICE

- Any work that we do for you may involve tax implications or necessitate the consideration of tax planning strategies. We are not qualified to advise you on the tax implications of a transaction or the possibility of them arising. If you have any concerns about these matters you are advised to refer to a suitably qualified adviser.

## 20. CYBERCRIME WARNING

- Cybercrime and email-related fraud is increasing. You should be alive to the possibility that a fraudster might deliberately misrepresent himself or herself as a member of, or as someone acting on behalf of, or working with TMJ Legal Services for criminal purposes. Such scams normally originate by email. Often the email will suggest there has been a change in bank details or request personal or financial information so that money can be paid to them.

### Important

- We will **NOT** be changing our bank details while we are acting for you. Furthermore, **WE WILL NOT NOTIFY YOU OF OUR BANK DETAILS BY EMAIL**. If you receive an email or any other communication asking you to pay money into an account other than our client bank account, the details of which you will have been given, please contact the person dealing with your matter immediately before you make any payment and under no circumstances action the request.

Prior to transferring funds to our account, we recommend that you contact us to verify our account details. Please be aware that we will not accept responsibility if you transfer money to an incorrect bank account.

- If you change your bank details while we are acting for you, please notify us in person or by telephone as soon as possible. We do not accept such notifications by email. If we receive any communication from you informing us of a change to your account details or instructions for payment, we will not make any payment until we have been able to confirm those instructions directly with you.

## 21. JOINT INSTRUCTIONS

- If we are instructed by more than one person or more than one representative of a company or other body, which is our client, we are entitled to act on the instructions of any one of such persons and to correspond with any of such persons unless otherwise agreed.
- In this situation there will be no rights of confidentiality between such persons or representatives so that all information and documents can be shared with any one of you. If there is a difference of opinion on your instructions you may need to be separately represented and if a conflict of interest arises between you or your representatives, we may have to cease acting for both or all such persons or companies.
- Where our engagement letter is addressed to more than one person, or where we have agreed with the addressee of our engagement letter to act for another person as well, each of you shall be jointly and severally liable for our fees and disbursements and other costs, so that each of you is jointly responsible for ensuring that our bill is paid, and we can pursue all or any one of you for the whole amount that is due to us. This shall be the case regardless of any agreement you may have entered into with anyone else regarding the payment of our fees, disbursements, and other costs.

## 22. TERMS AND CONDITIONS OF BUSINESS

- Unless otherwise agreed, and subject to the application of the current hourly rates, these Standard Terms of Business shall apply to any future instructions given by you to this firm.
- Although your continued instructions will amount to an acceptance of our Terms of Business, we may ask you to return a signed copy of the engagement letter to keep on our file before we are able to start work for you.



(Clair Dunkerley)