

6.3 Standard terms and conditions of business for conveyancing clients

Note: These ‘terms and conditions of business’ are intended as a resource to enable practices to select those which are applicable to the way in which they carry on business. Some practices may prefer to provide some of the information contained in an opening letter or in some other form of written communication. Many of the conditions are alternatives and practices will need to select those which are applicable to the way in which they operate.

PLEASE SIGN AND RETURN

[Practice name]

Terms and conditions of business – property transactions

We set out in this statement the basis on which we will provide our professional services.

We are [*practice name*]. [We are a company incorporated in England and Wales with registered number [*number*] and our registered office is at [*address*]. Where we use the word ‘partner’ we are referring to a director of [*practice name*].][We are a limited liability partnership incorporated in England and Wales with registered number [*number*] and our registered office is at [*address*]. A list of the members[, together with those non-members who are designated as partners,] can be inspected at [*address*]. Where we use the word ‘partner’ we are referring to a member of [*practice name*].][We are a partnership and our address is [*address*]. A list of partners can be inspected at this address.][We are a sole practitioner.]

You are the client. The expressions ‘we’, ‘us’ and ‘our’ refer to [*practice name*] and ‘you’ and ‘your’ refer to you as our client.

We are authorised, unless otherwise agreed, to take such action as we think necessary to obtain the required result. We shall not refer to you for specific instructions every time we take a step. If, therefore, there is a limit to what we are required to do, or a limit to expenditure, we must be notified of this in advance.

1. Our responsibilities

We will treat you fairly and with respect and communicate with you in plain language.

We will review your matter regularly, advise you of any changes in the law that affect your matter and advise you of any reasonably foreseeable circumstances and risks that could affect the outcome of your matter.

At the outset of our work with you we will send you a client care letter which will:

- confirm your instructions and the scope of our work for you;
- contain details of the [*partner/member/director*], assistant solicitor, legal executive or conveyancing executive responsible for your work and the name of any supervising [*partner/member/director*];
- together with this document, form an agreement between us;
- prevail over the terms of this document if there is any inconsistency between this document and the client care letter.

Sometimes, however, work will be delegated to another member of staff where we deem it appropriate to expedite matters or to minimise expense. All support staff are closely supervised and the practice takes complete responsibility for their work.

2. Your responsibilities

You will:

- provide us with clear, timely and accurate instructions;
- provide all documentation and information that we reasonably request in a timely manner;
- comply with any applicable timescales and time limits which we notify to you with reasonable notice;
- safeguard any documents that may be required for your matter, including documents that you may have to disclose to another party;
- let us know how to contact you and also inform us if you are going to be absent for any significant period, e.g. if you will be away on holiday or working overseas.

3. Service levels and frequency of communication

We will explain to you by telephone or in writing the legal work required as your matter progresses.

We will update you on the likely timescales for each stage of your matter and any important changes in those estimates.

4. Limit of liability

Advice given by us is for your benefit only. It may not be used or relied upon for any other purpose or by any person other than you without our prior written agreement.

We try to maintain the highest levels of service. However, if we are found to be liable to you, we are insured, subject to the policy terms and conditions. Details of our professional indemnity insurance, including contact details of our insurer and the territorial coverage of the policy, can be inspected at our office or made available on request.

Unless we expressly state a different figure in our client care letter, our liability to you will not exceed a maximum aggregate sum of £[*amount*] for any claim arising out of:

- the same act or omission;
- a series of related acts or omissions;
- the same act or omission in a series of related matters or transactions;
- similar acts or omissions in a series of related matters or transactions.

If you wish to discuss a variation of this limit, please contact the person dealing with your matter. Agreeing a higher limit on our liability may result in us seeking an increase in our charges for handling your matter.

We exclude all liability for any consequential, special, indirect or exemplary damages, costs or losses, or any damages, costs or losses attributable to lost profit, goodwill, anticipated saving or opportunity.

We exclude all liability of whatever nature arising as a direct or indirect consequence of our compliance in good faith with the prevention of money laundering provisions mentioned in section 14.

Advice given to you by a [partner/member/director] or an employee is given by that person on behalf of [*practice name*] and that person does not assume any personal responsibility to you for that advice. The practice's [partners/members/directors] are not personally liable for any acts or omissions by the practice, unless the law requires otherwise.

We will not be liable to you if we are unable to perform our services as a result of any cause beyond our reasonable control. In the event of any such occurrence affecting us we will notify you as soon as reasonably practicable.

Unless specifically agreed in writing with you, we do not provide any tax or accountancy advice nor do we undertake to advise you on any tax implications of any matter. We would expect your accountants and tax advisers to deal with all tax and accounting aspects in connection with the matter and your tax and accounting requirements generally.

We can only limit our liability to the extent the law allows. In particular, nothing in this document limits our liability arising from fraud or dishonesty or for death or personal injury caused by negligence, or other liabilities which cannot lawfully be limited or excluded.

5. Charges and expenses

Our fees will be agreed with you at the start of the transaction. In addition, and in case the transaction becomes more complicated than expected, our fees will be calculated by reference to the amount of time expended in relation to a particular matter. Our client care letter outlines our current hourly rates which vary according to the seniority and experience of the person undertaking your work. Hourly rates are reviewed periodically and you will be informed in writing of any change.

Our time is recorded in units of six minutes. We will record time spent working on your matter; this will include, by way of example, attending meetings, correspondence, considering and drafting documents, telephone calls, travel time, and client and file administration. Items of a 'routine' nature, e.g. telephone calls solely to make appointments, letters of acknowledgement, etc., are not normally charged for.

In addition to the time spent, our fees may take into account a number of other factors which include the complexity of the issues, the speed at which action must be taken, the value of the dispute, property or relevant matter, the novelty of the questions raised, and the skill, effort and specialised knowledge involved.

We will add VAT to our fees, where appropriate, at the applicable rate. All sums in our client care letter are exclusive of VAT unless otherwise stated.

Where any matter has a substantial financial implication or is particularly urgent or complex, our fees may take into consideration a value element which reflects the importance of the transaction and the consequent responsibility involved.

Our fees do not include any disbursements which we may have to incur on your behalf. Examples of disbursements include courier fees, search and registration fees, company searches, stamp duty land tax/land transaction tax and bank transaction costs and expenses. You will have to pay those disbursements in addition to our fees.

We may also recover from you miscellaneous charges not incorporated within our hourly rates, including photocopying and scanning costs, car travel on your behalf at our current rate per mile and other travel costs we incur on your behalf (e.g. rail/air tickets and accommodation/subsistence costs) to the amount invoiced or incurred by us.

If for any reason a matter does not proceed to completion, we will charge you for work done and fees and disbursements incurred unless we agree otherwise. Property sales and purchases which fail to

complete often involve as much work as those which reach completion. Any charge made will not exceed the amount of our estimate even if the time spent would justify a higher fee.

6. Payment arrangements

We will deliver a bill following exchange of contracts and payment is required:

- on a purchase – prior to completion;
- on a sale – at completion. If sufficient funds are available on completion, and we have sent you a bill, we will deduct our charges and expenses from the funds;
- otherwise when an account is prepared and a detailed costs analysis is undertaken.

Should a transaction not proceed for any reason, then, as mentioned above, the fee will be calculated on the basis of time spent on the matter. A bill will be rendered once you confirm that you are not proceeding with the transaction. This bill will also include any search fees and other disbursements.

If a bill is delivered in a concessionary figure ('but say') and remains unpaid after one month, we reserve the right to credit the account with the amount of the 'but say' bill and to render a full account for all work done on the basis of a detailed costs analysis.

You may be required to make payments of anticipated charges and disbursements in certain circumstances. These are known as payments on account. In most matters we ask clients, at the outset, for a reasonable sum in advance on account. We shall also ask for payments on account where we are required to give an undertaking (which may bind us) to pay the fees of a third party.

In particular, we have the right to request payment for work before it is commenced and to suspend or terminate all or any part of your instructions to us and any work done for you without further obligation to you, in the event that any such request for a payment on account remains unpaid.

Payment of every bill is due within 28 days of its date.

We may charge interest on overdue bills at the base rate of [*bank*] plus 4% per year on a daily basis from the date of the bill.

We may cease acting for you if an interim bill remains unpaid after 28 days or if our reasonable request for a payment on account is not met.

If our instructions are given by, or on behalf of, more than one person or company, each person or company for whom we are acting will be responsible for the payment of the full amount of our fees and expenses, regardless of whether our bills are addressed only to one or some of such parties.

Our payment details are printed on our bills. You should not make payment to any other account in respect of monies payable to us. Any email purporting to come from us seeking to redirect such payment is unlikely to be genuine. Please contact the [*partner/member/director*] or employee dealing with your matter if you receive any such email, and only do so using the telephone number on which you usually contact them (not on any telephone number contained in the suspect email).

You have the right to challenge or complain about our bill. Please see section 18 below for details of how to complain about our bill.

7. Regulated services

[*Practice name*] is authorised and regulated by the Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham B1 1RN.

This means that we are governed by Codes of Conduct and other professional rules, which you can access on the SRA's website at www.sra.org.uk or by calling 0370 606 2555.

Our SRA authorisation number is [number]. All services provided by us are regulated by the SRA.

8. Data protection

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;
- improving our marketing;
- legal and regulatory compliance.

Our use of that information is subject to your instructions, relevant data protection legislation including the United Kingdom General Data Protection Regulation, our duty of confidentiality and any subsequent legislation in force from time to time. Full details can be found in our privacy policy which is available on our website or a hard copy can be made available to you upon request.

If you do not wish to receive information about us and our services, wish to receive only certain kinds of information, or wish to receive information only by a particular method, please notify our office, preferably in writing.

If you are an individual and wish to make a subject access request at any time, please email us and your request will be dealt with expeditiously.

You have the right to request from us, in certain circumstances, rectification or erasure of personal data or to restriction of processing concerning you or to object to our processing of the data, as well as the right to data portability. You also have the right to complain to the Information Commissioner's Office about the manner in which we process your personal data.

It is likely that we will not be able to meet our regulatory requirements without the personal data we request. As such, if you do not provide it, we may not be able to act for you.

9. Electronic communications

We may communicate with you by email, mobile phone and other electronic media. If you do not wish us to communicate with you by those means, please let us know.

When we communicate by electronic media, we take steps to safeguard the security and confidentiality of the information transmitted. However, we cannot guarantee that all communications will be secure or free from infection or virus.

If you require a greater level of security in electronic communications, please notify us in writing of this and we will agree with you a mutually acceptable email protocol.

You should ensure you check to see whether emails we send you are blocked due to virus-checking or other detection software.

Please note that we may monitor incoming and outgoing emails for the prevention and detection of crime, investigating or detecting the unauthorised use of our telecommunications systems and ascertaining compliance with our internal or professional practices and procedures.

10. Speaking to your lender

We are also acting for your proposed lender in this transaction. This means we have a duty to make full disclosure to the mortgagee of all relevant facts relating to you, your purchase and mortgage. That will include disclosure of any discrepancies between the mortgage 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 of interests arises, we must cease to act for you in this matter.

11. Advice on investments and insurance

We are not authorised by the Financial Conduct Authority. If, while we are acting for you, you need advice on investments, we may refer you to someone who is authorised to provide the necessary advice.

Although we are not authorised by the Financial Conduct Authority, we are included on the register maintained by the Financial Conduct Authority so that we can, where this is closely linked to the legal work we are doing for you, provide certain limited services in relation to investments and may carry on insurance distribution activity, which is broadly the advising on, selling and administration of insurance contracts. The register can be accessed via the Financial Conduct Authority website at **www.fca.org.uk/register**. This part of our business, including arrangements for complaints or redress if something goes wrong, is authorised and regulated by the Solicitors Regulation Authority.

12. Storage of papers and documents

After completing the work, we will be entitled to keep all your papers and documents while there is still money owed to us for fees and expenses.

We will keep our file of your papers for up to 12 years, except those papers that you ask to be returned to you. We keep files on the understanding that we can destroy them six years after the date of the final bill. We will not destroy documents you ask us to deposit in safe custody. Full details of our data retention policy are available on request from our office.

If we take papers or documents out of storage in relation to continuing or new instructions to act for you, we will not normally charge for the retrieval. However, we reserve the right to charge you for time spent producing stored papers that are requested and reading correspondence or other work necessary to comply with your instructions in relation to the retrieved papers.

13. Identity, disclosure and confidentiality of business

The information and documentation you provide to us is confidential and we will not disclose any such information or documentation to any person, save where we are required to do so by:

- any police, governmental, regulatory or supervisory or law enforcement body or authority in connection with statutory or regulatory obligations or in accordance with any internal procedures we have put in place to meet those obligations;
- our insurers, external auditors, other advisers or professional standards bodies.

14. Prevention of money laundering and terrorist financing

We are required by law to get satisfactory evidence of the identity of our clients and sometimes people related to them. This is because solicitors who deal with money and property on behalf of their clients 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. Our requirements in this respect will be made clear to you at the start of each matter. Where we have any doubts about the legitimacy of a transaction or have not received the relevant identity documents, then we reserve the right to delay progress or completion until we have satisfied ourselves of the identity of the relevant persons or the legitimacy of the matter or transaction and we will not be liable for any loss caused by such delay. Any personal data received for this purpose will only be processed for the purposes of preventing money laundering or terrorist financing unless permitted by an enactment or unless you provide consent.

We are professionally and legally obliged to keep your affairs confidential. However, solicitors may be required by statute to make a disclosure to relevant law enforcement agencies where they know or suspect that a transaction may involve money laundering or terrorist financing. If we make a disclosure in relation to your matter, we may not be able to tell you that a disclosure has been made. We may have to stop working on your matter for a period of time and may not be able to tell you why.

15. External auditing

External firms or organisations may conduct audit or quality checks on our practice. These external firms or organisations are required to maintain confidentiality in relation to your files. Please contact us if you do not wish your files to be disclosed to external auditors.

16. Terminating your instructions

You may end your instructions at any time, by giving us notice in writing. We can keep all your papers and documents while our charges or disbursements are outstanding.

We can only decide to stop acting for you with good reason.

We will, where it is lawful and practicable to do so, give you reasonable prior notice if we decide that we are no longer willing or able to act for you.

If you or we decide that we should stop acting for you, you are liable to pay our charges up until that point. These are calculated on the basis set out in our client care letter.

17. Receiving and paying funds

[Our policy is not to accept cash from clients.][Our policy is not to accept cash from clients of more than £[amount] per transaction.] If you try to 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. 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.

Our client account facilities are provided, at our discretion, in order to receive, hold and transfer funds in connection with a matter on which we are acting for you. Any receipts into the client account which are not expected, or which do not correspond to the particulars we have been provided with, may be retained pending further investigation or returned to the sender. We require advance notice of all receipts and the reasons for them.

You authorise us to make payments out of the client account without seeking further approval from you where such payments are anticipated in the ordinary course of business. We may insist on verifying the identity of the recipient of funds before we make a payment.

In the absence of specific instructions from you, you hereby authorise us to hold such monies in a non-designated general client account.

We shall not be responsible for any loss or damage arising from the failure, refusal or inability of any bank or other financial institution to repay all or any part of such monies at any time or from their insolvency or failure, or the failure in or of the banking or inter-bank systems.

18. Complaints

We are committed to providing high-quality legal advice and client care.

In the event of a complaint, you should raise the concern in the first place with the person dealing with your matter.

If this does not resolve the problem you should then contact the supervising [partner/member/director], whose name will have been notified at the outset of your matter.

The complaint does not have to be put in writing, although setting out clearly the issues and the action you wish us to take may help us to resolve your concerns more quickly.

If these steps do not resolve the problem you should contact the client care [partner/member/director], by telephone, email or post. They are [*name of client care partner/member/director*].

We have a written procedure which sets out how we handle complaints. It is available on request from the person dealing with your matter or [*name of client care partner/member/director*].

We have eight weeks to consider your complaint. If we have not resolved it within this time you may complain to the Legal Ombudsman. If you are not satisfied with our handling of your complaint you can ask the Legal Ombudsman to consider the complaint.

The Legal Ombudsman can be contacted at PO Box 6806, Wolverhampton WV1 9WJ; telephone from 10 am to 4 pm, 0300 555 0333; email enquiries@legalombudsman.org.uk; website: www.legalombudsman.org.uk.

Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving a final written response from us about your complaint. The Legal Ombudsman expects complaints to be made to it within a year of the date of the act or omission about which you are concerned or within a year of you realising there was a concern.

The Legal Ombudsman deals with complaints by consumers and very small businesses. This means that some clients may not have the right to complain to the Legal Ombudsman. If the Legal Ombudsman is unable to deal with a complaint it does not prevent you from making a complaint directly to us about the service you have received or about the bill.

19. Referral arrangements

We may pay a referral fee for work to be referred to us. In such a situation we will inform you in writing and will tell you what fee we have paid. The advice which we give to you will be independent and we will treat you the same as any other client. You are free to raise questions on all aspects of the transaction and any information which you disclose to us will be treated as confidential and not disclosed to the referrer or to any other third party without your consent. We will not act for the referrer in connection with the same transaction in any way at all and you are under no obligation to instruct us in connection with the transaction.

20. Property disclaimers

We will not carry out a physical inspection of the property.

We will not advise on the valuation of the property or the suitability of your mortgage or any other financial arrangements.

We will not advise on environmental liabilities where we shall assume, unless you tell us in writing to the contrary, that you are making your own arrangements for any appropriate environmental survey or investigations. We may, however, need to obtain on behalf of your lender at your expense an environmental search.

21. Conflicts

Sometimes conflicts may arise between your interests and the interests of another client of the practice or another person connected with the practice during the course of an engagement.

If a conflict does arise, we will discuss this with you. Professional conduct regulations may require us to stop acting for you on that particular matter and we reserve the right to act on behalf of another client (and not for you) on a transaction in which you are an interested party.

To assist with detecting potential conflicts, you should tell us of anyone connected with the matter and whether, to your knowledge, you are aware of anything which may affect our ability to give impartial advice or may lead to a conflict arising.

22. Undertakings

As solicitors, we are obliged to fulfil any undertaking we may give in the course of our work for you.

Where you instruct us to give an undertaking and we act on your instructions, you agree that:

- you will not withdraw or change your instructions to us in relation to the undertaking; and
- you will do everything you can to ensure that we are able to fulfil the undertaking.

23. English law

Unless specifically agreed in writing by us on each occasion we can only advise on English jurisdiction, law and procedure (this covers England and Wales but not Scotland, Northern Ireland, the Republic of Ireland, the Isle of Man or the Channel Islands). If the matter involves issues of non-English jurisdiction, law or procedure, subject to your agreement, we shall engage lawyers qualified in the relevant country to provide specific advice on those aspects.

24. General

No person other than a party to our agreement with you may enforce any terms of such agreement by virtue of the Contracts (Rights of Third Parties) Act 1999, unless expressly agreed in writing. What this means is that no other person except you has any rights under our agreement with you unless we expressly agree otherwise with you.

Each of these terms in this document shall be regarded as independent of every other term so that if any such term or the application of any such term to any person or to any circumstances is found to be invalid or unenforceable, then such finding will not affect any other term or the application of such term to any other person or circumstance.

Any failure by us to pursue our legal rights or any relaxation of any of them shall not be taken as a waiver or compromise of any such rights.

25. 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.

26. 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.

27. Future instructions

Unless otherwise agreed, these terms of business will apply to all future instructions you give us on this or any other matter.

28. Authorities

Where we are acting for more than one person we have an obligation to obtain instructions from each of them. This may be inconvenient for you and so to enable us to accept instructions from either/any of you on behalf of both/all, you are asked to sign the authority at the end of the enclosed copy of this form. We will then accept instructions from either/any of you on behalf of you both/all of you.

I/We confirm that I/we have read and understood, and I/we accept, these terms and conditions of business.

You may accept instructions from either one/any of us on behalf of us both/all of us in connection with all matters relating to our purchase/sale and to any related transaction.

I/We agree to our details being retained on a computer database.

I/We have read the above. I am/We are happy to give you the authorities requested and to instruct you to act for me/us on the terms set out.

Signed

Date