

## TERMS AND CONDITIONS

The following terms of engagement apply to all work carried out by Barrow & Cook except as otherwise agreed. The expression “we”, “us”, and “our” refer to Barrow & Cook and “you” and “your” refer to our client.

These terms and conditions will apply to any services which we provide to you and will usually be supplemented by a letter dealing amongst other things with the specific services to be provided and the fees payable.

These terms and conditions may be revised from time to time and a copy will be sent to you to replace these, and the revised terms and conditions will apply from the date you receive them. You are of course free to terminate the arrangement between us if you do not accept the revised terms and conditions.

### 1. Our Services

#### Scope of our Services

The scope of the services we have agreed to provide for you in any matter will be agreed between us and confirmed in our Client Care Letter. You agree that you do not require us to provide you advice or further services in relation to any aspect outside of the scope of the services so agreed.

#### Joint Instructions

Where we are jointly instructed by you and another client to act in a matter, we will assume that either of you are authorised to give us instructions, unless either of you advise us otherwise. In addition, as matters progress, we may need to act on instructions of other people from whom we consider it is reasonable to take instructions in order to progress the matter within the timescales set. Unless informed of any change, we will assume that this remains the case until our work is completed.

#### Provision of Information

To assist us in carrying out the work as efficiently as possible, you will need to ensure that all information provided is to the best of your knowledge complete, accurate and up to date. You should also notify us of any changes or variations to that information which may arise after the date it is passed to us and of any new circumstances that might be relevant to the work we are undertaking.

### 2. Responsibility for Work

The name of the person who will carry out most of the work in this matter and, if different, the partner with overall responsibility for your matter will be confirmed in our Client Care Letter. They may from time to time, be assisted by other members of our

team i.e. trainees, paralegals etc. However, you will be notified of this either in the Client Care Letter or in writing when applicable.

We try hard to avoid changing the people who are handling your work but if this cannot be avoided, we will notify you promptly of the name and status of the person who will be dealing with your case.

### 3. Complaints

We are authorised and regulated by the Solicitors Regulation Authority (SRA). We are committed to high quality legal advice and client care and aim to offer all our clients an efficient and effective service, and I am confident that we will do so in this case. However, if you would like to discuss how the service to you could be improved, the level of your bill, or should there be any aspect of our service with which you are not satisfied, please contact The Senior Partner on 01744 23271 or e-mail [reception@barrowandcook.co.uk](mailto:reception@barrowandcook.co.uk) or by post to 5-7 Victoria Square, St.Helens, Merseyside, WA10 1HH. We have a procedure in place which details how we handle complaints and this will be immediately be sent to you.

If you would like to see a copy of our complaints procedure at any other time, please let me know and I will arrange for a copy of our complaints procedure to be sent to you.

We have eight weeks to consider your complaint. If for any reason we are unable to resolve the problem between us within that timeframe, then you may ask the Legal Ombudsman to consider the complaint. The Legal Ombudsman may be contacted at PO Box 6806, Wolverhampton WV1 9WJ.

Please be aware that complaints to the Legal Ombudsman must usually be made within six years of the act or omission about which you are complaining occurring; or within three years from when you should have known about or become aware that there were grounds for complaint. However, the Legal Ombudsman will not accept complaints where the act or date of awareness was before 6 October 2010. For further information, you should contact the Legal Ombudsman on 0300 555 0333 or visit [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk).

#### **4. Contacting Us**

Our office is located at 5-7 Victoria Square, St.Helens, Merseyside, WA10 1HH. The normal hours of opening are between 9.00 and 5.00 on weekdays. Appointments can be arranged outside those hours when essential to the interests of a client.

#### **5. Professional Indemnity**

In the interests of our clients, we maintain compulsory professional indemnity insurance to a total level of three million pounds.

#### **6. Our Charges**

##### **Professional Fees**

Unless and until either an alternative fee arrangement has been agreed and confirmed in writing by us or you are entitled to have our fees paid by the Legal Services Commission (in which cases different cost considerations apply as set out in our Client Care Letter), the basis for calculation of our fees is primarily by reference to the time spent by the fee earner(s) dealing with the matter (including any time which we spend travelling) and will be charged at an hourly rate.

The hourly rates applicable to your matter will be confirmed to you in our Client Care Letter. We may from time to time review our charging rates and will notify you immediately in writing of any changes which are applicable to your matter.

Our current rates from time to time may not be appropriate in cases of exceptional complexity or urgency or where specialist knowledge is required.

Where it becomes apparent that such circumstances exist we will notify you of this.

All fees are quoted exclusive of VAT, which will be added where appropriate.

##### **Matter not concluded**

Unless otherwise agreed in writing, our fees are payable whether or not a matter is successfully concluded. If any matter does not proceed to completion for any reason during the period in which we are instructed, then we will be entitled to charge for work done on the [an hourly basis plus expenses/by proportion of the agreed fee] as set out above but, at its absolute discretion, we may waive part or all of such entitlement to fees.

##### **Estimate of Costs**

We will provide you at the outset of a matter with the best possible information on our costs and will update this information as the matter progresses. As you will appreciate however, a matter can often end up taking quite a different shape from that envisaged at the time when it starts and the legal advisers are instructed. Accordingly, it can be difficult to come up with a clear estimate. However, as matters progress, we should be able to provide you with more detailed estimates of our likely costs and will keep this under review with you.

##### **Limits**

Whilst it is often not possible to estimate charges in advance, it is open to you to notify us of any limit which you wish to impose on our charges after which further reference will be made to you. We will advise you when it appears that any costs estimates or limits are close to being exceeded. Notwithstanding any estimates or costs limits however, the final bill will be a product of the amount of time our fee earners spend on the matter and our agreed fee rates; any estimates provided are neither intended to be a cap nor a target billing figure. Therefore, if significant further work is required in addition to that currently envisaged or if the timetable is extended significantly, our fees will be greater than our indicative estimates. Should it become apparent at any time during the course of the matter that significant further work will be required, we shall of course let you know.

##### **Fixed Charges**

In property transactions, in the administration of estates and in transactions involving a substantial

financial consideration or benefit to the client, fees may be calculated both by reference to the time spent and also by reference to a value element based on e.g. the price of the property; the amount of the mortgage advance; the size of the estate; or the value of the financial benefit. The value element reflects the importance of the transaction and the consequent responsibility falling on us as a firm. We will tell you in advance if a value element will be included, how it will be calculated and the amount to be charged.

### **Third party responsibility**

In certain circumstances, there may be an expectation that a third party (including an insurer) will pay your costs. In the event that the third party does not pay the sums due, you will be required to pay the outstanding costs.

### **Disbursements**

We may incur certain expenses your behalf, (for example, such items as court fees, counsel's fees, search fees). You will have to pay those expenses or reimburse us for them in addition to our fees. VAT is payable on certain disbursements.

## **7. Billing arrangements**

### **Timing of bills**

We will normally send you a final bill for the settlement of our services at the end of the matter. However, if the matter is ongoing, we may render interim bills at agreed intervals.

### **Payments on account**

We may ask you to pay sums of money from time to time on account of the anticipated fees. We will offset any such payments against your final bill.

Total fees may be greater than any advance payments.

### **Settlement of bills**

Accounts are to be paid by you when due, whether or not the amounts concerned may ultimately have to be paid by another party. Bills are to be settled in full within 30 days of receipt.

In relation to non-contentious costs, we are entitled to charge interest on unpaid bills at the rate payable on judgment debts from one month after delivery of the bill in accordance with Article 5 of

the Solicitors' (Non-Contentious Business) Remuneration Order 2009. We reserve the right to charge interest on any outstanding amounts at the statutory rate.

If any payment on account is not made or a bill is not settled in accordance with these terms, we reserve the right to decline to act further for you.

### **Concerns over your bill**

If you are not satisfied with the amount of our fees please contact us. Objections about the amount of our fee will be handled by way of our complaints procedure.

### **Lien over papers and documents**

Following the conclusion of your matter, we are entitled to retain your file of papers and documents while there is money owing to us for fees.

### **Client account**

We operate a client account facility which allows for money to be held or transferred in relation to a matter we are working on. However, the facility is operated at our discretion and any unauthorised receipts will be held pending further investigation or returned to the sender. Therefore, we ask that you give us advance warning of any receipts.

It is our policy to only accept cash up to £1,000. If you circumvent this policy by depositing cash direct with our bank we reserve the right to charge for any additional checks we deem necessary regarding 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.

### **Client Interest**

If we hold money on your behalf, in accordance with the Solicitors Accounts Rules 2011, it is our policy that we will pay you a sum of money in lieu of interest on a fair and reasonable basis.

Client monies will normally be held by us in a general client account with our primary banker Lloyds TSB bank.

A sum in lieu of interest will be payable on amounts held in our general client account on the following basis:

1. Interest will be paid at the conclusion of your matter;
2. The period for which interest will be paid normally runs from the date the funds are received by us cleared in our account until, where paid electronically, the date when the funds are sent or, where paid by cheque, the date(s) on the cheque(s) issued to you;
3. The rate of interest paid to clients will be in line with Lloyds TSB bank's published interest rates on Client Deposit Accounts over the period when interest is due;
4. All interest that is paid to you will be paid as a gross amount;
5. We will not account to you for any interest in the following situations:
  - (a) On money held for the payment of a professional disbursement if the person to whom the money is owed has requested a delay in settlement;
  - (b) On money held for the Legal Services Commission;
  - (c) On money on an advance to us to fund a payment on your behalf in excess of funds already held for you;
  - (d) Where the total amount of interest calculated over the course of the matter is £20 or less;
  - (e) Otherwise, where there is an agreement to contract out of the provisions of this policy.

If it is apparent that money held on your behalf will need to be retained for some time then such money may need to be placed in a designated deposit account in which case all of the interest accruing while the funds are so invested will be paid to you when the account is closed or on intermittent basis as agreed with you.

## **8. Limitation of Liability**

### **Reliance by third parties**

Advice rendered by us is provided for the purpose of the instructions to which it relates and for your benefit. It may not be used or relied on for any other purpose or by any person other than you without our prior agreement.

### **Liability in respect of other parties**

We will use all reasonable endeavours to ensure that all information provided by us is accurate but we cannot account for the accuracy of information provided by or obtained from third parties. We shall not be liable for any decision made or action taken by you or others based upon reliance on or use of information or advice provided by or obtained from third parties.

Where we are asked to recommend the services of another advisor or service provider, we will do so in good faith, but without liability and without warranting the ability or standing of that person or firm. We will not be responsible for the quality of the services provided by that person or firm.

### **Limitation of our liability**

Our liability for a breach of your instructions shall be limited to the maximum amount for which we hold professional indemnity insurance at the time of such breach.

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 terms above.

## **9. Confidentiality**

We owe you a duty of confidentiality in respect of information relating to you which we obtain during the course of our retainer. All such information will be regarded as, and kept confidential at all times unless you instruct us to disclose information or except in the circumstances set out below.

Our duty of confidentiality to you is subject to any disclosures we are required to make in good faith to the police, governmental, regulatory or supervisory authorities in relation to any statutory or regulatory obligations. In particular, we are required, without your knowledge or consent, to report any awareness or suspicion of money laundering in relation to the proceeds of any crime. We can also be ordered by the Government Agencies to disclose information and answer

questions about your private affairs, again without your knowledge and consent.

Sometimes we ask other companies or people to do other work on our files to ensure this is done promptly. We will always seek a confidentiality agreement with these outsourced providers. If you do not want your file to be outsourced, please tell us as soon as possible.

Occasionally, our files may need to be examined by external auditors (for quality purposes) or our external advisers (who assist the firm in maintaining quality and risk). In particular, our files may need to be assessed for quality purposes by the SRA, and, if the matter is publicly funded, the Legal Aid Agency (LAA). Your file may be one of a sample which is to be assessed. These external firms or organisations are required to maintain confidentiality in relation to your files.

Our duty of confidentiality does not apply to a disclosure we make to our insurers pursuant to the terms of our professional indemnity insurance policy. In the event of a claim, complaint or the notification of a circumstance which may give rise to a loss or claim, we are obliged to make a notification to our insurers and this may necessarily result in your file being disclosed to our brokers or insurers. By entering into this retainer agreement with us you are expressly consenting to such disclosure.

## **10. Conflict**

An actual or potential conflict between your interests and the interests of another client of the firm may arise during the course of a matter. If this situation arises during our dealings with you, we will discuss the position with you and determine the appropriate course of action.

## **11. Equality & Diversity**

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

## **12. Data Protection**

We are registered under the Data Protection Act 1998 and will deal with data held in accordance with our obligations under the Act.

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
- legal and regulatory compliance

Our use of that information is subject to your instructions, the Data Protection Act 1998 and our duty of confidentiality. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisers. You have a right of access under data protection legislation to the personal data that we hold about you.

We may from time to time send you information which we think might be of interest to you. If you do not wish to receive that information please notify us in writing.

## **13. Money Laundering**

### **Notification**

Solicitors who deal with money and property on behalf of their client can be used by criminals wanting to launder money.

Under the provisions of our statutory obligations (in particular with regard to our obligations under the Money Laundering Regulations 2007), we are under a strict duty to report any circumstances where we know or suspect that a client or matter is involved in money laundering or terrorist financing, to the Serious Organised Crime Agency. Under these circumstances, we may be precluded from informing you of the disclosure or seeking your consent. If we make a disclosure, we may also have to stop working on your matter for a period of time and may not be able to tell you why.

### **Identification**

In view of the above, the law requires solicitors to get satisfactory evidence of the identity of their clients and sometimes people related to them. We may also be required to carry out background

checks on our clients and to make detailed enquiries as to the source of funds being used in relation to transactions on which we are instructed to advise.

Depending on the type of transaction and/or whether it falls into a regulated sector, we may ask you to provide us with proof of your identity. We may delay, decline or cease to act for you if we have requested to see proof of your identity, but there has been an unreasonable delay in providing it. Any fee for these searches will appear on your bill under expenses.

We are required to retain records of the identification obtained.

If as a result of meeting our statutory obligations, or executing our internal procedures put in place to meet those obligations in good faith, we cause you loss, damage or delay, our liability to you will not exceed the minimum level of Professional Indemnity insurance cover as specified by the Solicitors' Indemnity Insurance Rules.

#### **14. Mortgage fraud**

If we act for your proposed lender in this transaction. We have a duty to fully reveal to your lender all relevant facts about the purchase 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

#### **15. E-mail Communications**

If you have the necessary facilities we will sometimes use E-mail for communication with you unless you tell us not to.

There are some specific points of which you should be aware:

- (i) Communications over the Internet are not completely secure. You will have to guide us as to what should or should not be sent over the Internet.

- (ii) Viruses or other harmful devices may be spread over the Internet. We take reasonable precautions to prevent these problems by use of a firewall and virus checking software. If we are to communicate by E-mail, it is on the basis that you will do likewise.
- (iii) Please note our client care letter states how we deal with e-mails.

#### **16. Termination**

##### **Termination by you**

You may withdraw your instructions at any time by written notice to us.

We will be entitled to keep all your papers and documents whilst there is money owing to us for our fees and expenses.

##### **Termination by us**

In some circumstances, we may consider that we ought to cease acting for you. We will only decline to act further for you where we have reasonable grounds to do so (for example: failure by you to settle invoices in full on the due date or to make payments in advance when so requested; failure by you to give clear and proper instructions on how we are to proceed; if it is clear that you have lost confidence in how we are carrying out your instructions; if by continuing to act we would be in breach of the law or rules of professional conduct). If we do cease to act for you then we will confirm in writing the reasons why and give you reasonable notice.

#### **17. Storage of files**

At the end of the matter, 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 6 years, except those papers that you ask to be returned to you. We keep files on the understanding that we can destroy them 6 years after the date of the final bill. We will not destroy documents you ask us to deposit in safe custody.

If we retrieve papers or documents from storage in relation to continuing or renewing instructions to act for you, we will not normally charge for such

retrieval. However, we may make a charge based on time spent producing stored papers or documents to you or another or making copies of any documents at your request. We may also charge for reading correspondence or other work necessary to comply with the instructions given by you, or on your behalf. Our charges would be based on our hourly rate applicable at the given time and we would always discuss this with you beforehand.

**18. Enforcement**

In the event that any of these terms and conditions is held to be invalid, the remainder of the terms and conditions will remain in full force and effect.

**19. Governing law**

These terms and conditions shall be governed by, and construed in accordance with, the law of England & Wales.

The Courts of England & Wales shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning this agreement and any matter arising from it.

**20. Future instructions**

Unless otherwise agreed, and subject to the application of then current hourly rates, these Terms and Conditions of Business shall apply to any future instructions given by you to us. Although your continuing instructions in this matter will amount to an acceptance of these terms and conditions of business, it will be helpful if you will please sign and return one copy of them for us to retain on our file.

As this is an important document, please keep your copy in a safe place for future reference.

*I have read, understood and accept the terms and conditions of business set out above.*

Signed.....

Date.....