

# terms of business



## 1. Our Aim

We are committed to providing the highest standards of service and expertise and subject ourselves to independent audit on these. This leaflet sets out our Terms of Business.

The individual letter you will receive with this general document defines the extent of the work we have agreed to undertake for you, our assessment of its cost and benefit to you and any specific terms applicable to your matter.

By instructing us, you have authorised us to take the steps we consider appropriate to represent you, including incurring reasonable expenses on your behalf.

If you have already asked us to start work on your behalf, e.g. by giving you initial advice or by acting in an emergency, we will have been doing so on the understanding that, unless otherwise agreed, the terms as set out here apply from the start.

Your continued instructions will amount to acceptance of these Terms of Business regardless of whether you have signed and returned a copy of the accompanying letter.

## 2. Responsibility for your work

We will confirm to you who is to be responsible for your work. This may not be the person who normally advises you because we are grouped together in teams according to specialist expertise, and we want to ensure that your matter is dealt with by people with the right level and area of expertise.

We try hard to avoid changing the people who are handling your work but if this cannot be avoided, we will notify you promptly if necessary.

## 3. How we carry out your instructions

Where appropriate, we will agree with you a plan for your work as far as possible and keep you informed of progress and when decisions by you are required. This, together with interim billing where appropriate, will give you a more accurate idea of what our work for you is costing and enable us to produce more realistic estimates for the rest of our work for you.

## 4. Identity check and anti money laundering requirements

We are required by law to obtain 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 obtain such evidence of your identity as soon as possible. We will undertake a search with third party agencies, which provide identity verification services for the purposes of evidencing your identity. To do so the agency may check details you supply concerning your affairs against any database (public or otherwise) to which it has access. It may also use your details in the future to assist other agencies for verification purposes. A record of the search will be retained.

Details of any additional documents that we need you to provide are explained in our letter confirming your instructions. We reserve the right to require provision of further information and documents in order to verify your own and/or your associates identities and/or source of funds employed in connection with your matter.

We are professionally and legally obliged to keep your affairs confidential. However, solicitors may be required by statute to make a disclosure to the National Crime Agency 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.

## 5. Charges

As our time and expertise committed to your matter are the core elements of our service, our charges are usually calculated by reference to hourly rates which take into account the degree of complexity, risk, value and urgency involved and the level of seniority of the lawyers working on your behalf.

We usually calculate our fees on the basis of the time it takes to perform the work during normal office hours.

We may need to act rapidly, drop everything else and continue outside the usual hours of business. The matter may be extraordinarily important, complex or valuable. We may have to spend

extended time out of the office or go through extraordinary amounts of documents. These factors may lead us to increase those fees.

Routine letters, faxes, emails and telephone calls are charged in six minute units of time, whether written, made or received. We record time in six minute units. Longer activities are charged on a time basis as a multiple of such units.

However, we are flexible about our charging policy. We are prepared to consider alternatives to hourly rates, including blended rates, retainers, fixed fees and contingent fees, where permitted. In certain circumstances we also offer Conditional Fee Agreements, also known as 'No win, no fee' arrangements.

We have detailed the charging agreement applicable to your matter in the accompanying letter addressing your specific matter.

At the outset of any matter, we will give you an indication of the likely costs and expenses involved in acting for you. Where appropriate we will confirm the stage at which payments are likely to be required from you. Any figure expressed as an estimate is given only as a guide and should not be regarded as a fixed fee unless agreed as such in writing. We will usually require payments on account of our fees before undertaking work on your behalf.

We will ensure that you are kept properly informed about the level of fees incurred and if any unforeseen or additional work becomes necessary. For a variety of reasons, some matters do not proceed. In these circumstances, we will charge for the work carried out and expenses incurred to the point of conclusion, unless otherwise agreed. We round up our fees to the nearest multiple of £10.

We are required to charge VAT at the current rate on our charges and on certain payments we make on your behalf. All figures advised or quoted are net of VAT.

## 6. Expenses and our associated fees

In appointing us to act for you, you are also authorising us to incur such expenses as we consider necessary to the proper conduct of your matter, although we will of course consult you before incurring a significant outlay. We will usually require payment in advance and on account before incurring expenses.

We pass on travel and subsistence expenses as incurred.

We reserve the right to charge for photocopying. Black and white copies are charged at 20p per A4 sheet (40p per A3 sheet) and colour copies at £1.00 per A4 sheet (£1.50 per A3 sheet). The telegraphic transfer of money attracts charges made by our bank for its services and by us to cover our administration costs. We also charge an administration fee on work done by some of our local property search providers. All of these costs will appear as part of our fees to you.

## 7. Billing frequency

Where appropriate, we will submit interim invoices as work progresses. Where we have agreed a fixed fee with you but the matter has not concluded for reasons outside our control, we may charge you on an interim basis up to the full extent of the fixed fee.

In addition we may, in March of each year, bring our invoicing up to date in respect of all your then unbilled work regardless of the stage that your matter has reached. Unless otherwise stated, monthly or other interim invoices are a final account of our fees for all the work done during the period to which they relate. You agree that we may bring proceedings on interim invoices which are not final bills. There may be a delay invoicing expenses incurred on your behalf pending

our receipt of the relevant invoices from third parties and accordingly our invoices may not be a final invoice in relation to such expenses.

## 8. Limits on fees

You may at any time set a limit on the fees you are prepared to incur and we will then not work beyond that limit without referring to you. We do, however, require you to confirm this to us in writing.

## 9. Payment and interest on late payment

Our invoices become payable upon delivery. We may charge you interest on any outstanding balance at 2% per calendar month from 14 days after delivery of our invoice.

We will apply any payment to settlement of outstanding interest before settlement of unpaid fees.

We will accept payment by credit card or debit card. We also accept payments in cash, up to a maximum of £500 per matter.

In the event that payment is not made, we also reserve the right to cease work at that point on the matter concerned and any other matter in which we act for you, so as not to incur further costs. In litigious matters we would then need to apply for our name to be removed from the court record as representing you, and reserve the right to claim the costs of doing so against you also.

## 10. Interest on client money

We have a written policy on payment of sums in lieu of interest on money we hold for you which seeks to provide a fair outcome. A copy is available on request. The following are the main points to bear in mind:

- Monies we hold on account of transactions and our costs and expenses in our general Client Account will rarely attract as good a rate of interest for you as you could arrange for yourself;
- No interest will be paid if the amount calculated on the balance of your monies is less than £20;
- Interest earned on monies held in designated Deposit Account by us is subject to tax and will be passed on to you in its entirety.

## 11. Financial Services Compensation Scheme ("FSCS")

Ashtons Legal will hold client funds with a number of banks or building societies at any one time, in order to spread financial risk. We select the banks or building societies we use in accordance with SRA rules and guidance. Client funds are held in separate client accounts, i.e. not for our own use. In the event of a bank failure, any client funds we hold on your behalf will be deemed to be spread across all the banks and building societies with whom we hold client accounts. The appropriate rules for any financial compensation can be found at the following websites - [http://europa.eu/rapid/press-release MEMO-14-296\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-296_en.htm) and [www.fscs.org.uk](http://www.fscs.org.uk)

## 12. Termination

We may cease to act for you on any matter by giving you reasonable written notice if:

- You fail to give us proper instructions;
- You fail to give us the co-operation which we are reasonably entitled to expect;
- Our continuing to act would be impractical, unethical or unlawful;
- We have a conflict of interest;
- You fail to provide us (or to replenish) sufficient money to be held on account;
- You fail to pay our invoices as and when due for payment; or
- You fail to co-operate with our AML/CTF due diligence requirements;
- You dishonestly mislead or seek to mislead us or any other party to the matter.

On termination by either you or us:

- You must pay our charges for work carried out up to the date of termination including those of our suppliers, including of counsel, experts and of any related insurance cover.
- We may keep all of the papers which we are legally entitled to retain (lien) until all of our costs, disbursements and interest have been paid.

### 13. Your Rights to Cancel

If you instruct us in your personal capacity, rather than as the representative of an organisation for example, you have the right to cancel your agreement for us to act on your behalf in certain circumstances.

If we have not met you, or you agreed the terms upon which we should act during a visit by us to your home or place of work the the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 apply.

In this case you have the right to cancel our agreement within 14 days of the date you receive these Terms of Business from us. To do so, please contact us using the information contained within our accompanying letter.

However once we have started work on your file you may be charged if you then cancel your instructions.

### 14. External communications and confidentiality

We use post, Document Exchange, telephone, fax and email for communication with you and others concerning your matter. At our discretion certain electronic communications will be sent with differing levels of encryption. If you would like more information about the encryption that we apply and when or would prefer that we communicate with you or others in any particular way please let us know.

Sometimes we ask other companies or people to undertake typing, photocopying, preparation of formal bills and other work on our files to ensure this is done promptly. We require that confidentiality is maintained by these outsourced providers. If you do not want any aspect of your file to be outsourced, please tell us as soon as possible.

We are subject to quality management standard and other audits. External organisations conduct quality checks on our practice, which may involve examining your file. These external organisations are required to maintain confidentiality in relation to all files.

If you prefer to withhold consent to your file being inspected, work on your file will not be affected in any way. We assume that we do have your consent on this occasion and in relation to all future matters in which we act for you, unless you notify us in writing.

If our work for you is being paid for by your insurer it may be a requirement that certain information about your case is shared with your insurer. If you are not sure if this applies to you please let us know.

We are bound by strict confidentiality rules and maintain strict confidentiality in regard to your work generally. However a number of regulatory authorities may require us to disclose some details from time to time. For example, the Solicitors Regulation Authority and HM Revenue & Customs have the power to inspect our records and we have reporting obligations under the Proceeds of Crime Act 2002.

### 15. Privacy and Data Protection

For more information on the personal data that we collect from you and how we use and protect this please see the separate document "How we use your personal information" which is available any time on request.

### 16. Intellectual property rights

Unless otherwise agreed in writing, we retain the copyright and other intellectual property rights in all written and other material supplied to you concerning matters in which we are instructed. If material prepared by us is passed or disclosed to third parties then you accept liability for the payment of a proper professional charge for the use of such documentation together with all expenses or losses incurred in enforcing our intellectual property rights.

### 17. Storage of files and documents

We keep certain documents relating to the work that we do for you after we have completed the work. Usually these documents will be kept for a minimum period of 6 years following which they are destroyed, but we may destroy certain documents earlier at our discretion unless we have specifically agreed with you otherwise. We will not destroy documents that you have asked us to deposit in safe custody during the period that we agree with you.

We will keep all documents and any items which you deposit with us for safe keeping available for inspection upon reasonable notice.

They will be returned to you on request unless they are the subject of an undertaking or obligation to a third party, or they are being retained pending payment of any outstanding costs. Subject to any restriction imposed by law, we do not accept liability for the loss of, or for damage to, items held in our custody, or any further losses which might arise as a consequence of an item being lost or damaged.

We look after deeds, Wills and other important documents free of charge, but we have no duty of care to give advice in relation to those documents. Holding documents for you or having knowledge of your circumstances will not constitute a retainer to advise you on changes or prospective changes in the law or how the law applies or may apply in your circumstances when it changes.

### 18. Scope of liability

Our advice is particular to your individual circumstances. We do not accept liability to any person or organisation to whom our advice is not addressed, except where its very nature raises a legal duty of care in favour of a third party. The provisions of the Contracts (Rights of Third Parties) Act 1999 are to that extent excluded.

The scope of our work will not include advising on the business implications of any matter or on financial, accounting or actuarial issues, the adequacy of any insurance arrangements or the value or physical condition of any asset.

We insure against the risk of being unintentionally negligent. If you require information about this insurance and the level of cover, please contact our Compliance Officer for Legal Practice (see below). The liability of Ashtons Legal and any individual partner, consultant, employee and other agents of Ashtons Legal (and any service company owned or controlled by or on behalf of Ashtons Legal) in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance), for loss or damage arising from or in connection with the services provided in any one or series of related matters shall be limited to £3 million, (unless we expressly state a higher amount in the letter accompanying these terms of business) except where the rule of law overrides this term.

Please note that where we recognise more than one person as our client in relation to a single matter then each agrees, (a) the limit of liability will be divided between them; (b) the clients are responsible for agreeing the division of the limit of liability between them; (c) the clients are under no obligation to inform Ashtons Legal of the division; (d) if, for whatever reason no such division is agreed between the clients then none of them shall dispute the validity or enforceability of the limit of liability on the grounds that no such division was agreed between them.

We will use reasonable skill and care in the conduct of our work for you. Where we make an assessment, either expressly or by implication, of the likely level of risk associated with different potential courses of action, you accept that such assessment is made relying only upon the information and documents then available to us and cannot therefore be definitive. Accordingly, such an assessment should only be used as one element in the making of any practical or commercial decision. It is for you to decide whether to accept all or any risk.

Ashtons Legal as an entity will conduct the work for you and you agree that you will not bring any claim whether in contract, tort, under statute or otherwise against any servant or agent of Ashtons Legal including (without limitation) any individual partner, consultant, employee or other agent of Ashtons Legal. The partners, consultants, employees and other agents of Ashtons Legal shall be entitled to rely on the terms of these Terms of Business insofar as they admit any liability.

If you accept or have accepted any express exclusion or limitation of liability from any of your other professional advisors, our total liability to you arising out of our work will not exceed the net aggregate amount for which we would otherwise have been liable after deducting any amount which you or we would have been entitled to recover from such advisor as a matter of law, whether pursuant to statute or otherwise, but are prevented from doing so as a result of such exclusion or limitation of liability.

We shall not be liable for :

- Any loss, damage, cost or expense arising from any breach by you of your agreement with us or any act or omission of any other person; or
- Any advice or document subject to the laws of a jurisdiction outside of England and Wales; or
- Any advice or opinion given to you by any third party (whether or not nominated or recommended by us); or
- Any indirect or consequential loss or damage or any loss of profit, income production or accruals arising in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance).

Nothing in these Terms of Business exempts us from liability arising from our fraud or reckless disregard of our professional obligations, from our negligence resulting in death or personal injury; or where, in the case of a contentious business agreement, law or regulation prohibits the exclusion of such liability.

If anything under this heading is not acceptable to you, you must raise this matter with us immediately.

### **19. What if you are unhappy with our service?**

Should there be any aspect of our service, with which you are unhappy, please raise this with your lawyer in the first instance so that we can attempt to resolve your concerns with you informally. If you wish to make a formal complaint, you can do so in person, by

telephone, email or letter to your lawyer, their supervisor (who will be named in our initial letter to you) or our Partner who has overall responsibility for Client Care, to whom we may refer your complaint in any event. The firm has a Complaints Procedure, a copy of which is available on request.

If you are unhappy with any bill that is sent, you should raise this with your lawyer or their supervisor in the first instance. It will be treated in the same way as a complaint about service and will be referred to the Client Care Partner if we are unable to reach a satisfactory resolution. You may also have a right to object to the bill by applying to the Court for an assessment under Part III of the Solicitors Act 1974. If all or part of the bill remains unpaid we may be entitled to charge interest on it however.

The Client Care Partner can be contacted at our Thetford Office. The address and contact details are:  
Fairstead House, 7 Bury Road, Thetford IP24 3PL  
Telephone: 01842 752401  
Email: [clientcarepartner@ashtonslegal.co.uk](mailto:clientcarepartner@ashtonslegal.co.uk)

If you are not satisfied with the resolution of a formal complaint raised with us, then you have the right to complain to the Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ  
Telephone: 0300 555 0333,  
Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)  
You can also access their website [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Ordinarily where you are dissatisfied with our response to your complaint, you must refer it to the Legal Ombudsman within six months of receiving our written response and in any event within six years of the act or omission about which you are complaining (or within three years of you having become aware of it). Details are available on the Legal Ombudsman's website.

If you are unsure whether your concerns should be raised with the Legal Ombudsman, the SRA or another regulator you should raise them with the Ombudsman in the first instance in any event. He will then forward them to the appropriate regulator, if he isn't the appropriate venue, or advise you accordingly.

### **20. Governing Law**

The Law of England and Wales will govern our professional and contractual relationship with you notwithstanding that you may be based, or our services are provided to you elsewhere. These Terms of Business are available in English and French.

### **21. Insurance mediation activity, professional regulations and Compliance Officer**

This firm is authorised and regulated by the Solicitors Regulation Authority ( whose website is at [www.sra.org.uk](http://www.sra.org.uk) ) under Recognised Body Number 45826. The Legal Ombudsman ( whose website is at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) ) deals with complaints against lawyers. If you are unhappy with any advice or other aspect of the service (other than insurance related advice) you receive from us, you should raise your concerns with either of those bodies.

Our Compliance Officer for Legal Practice is Ross Strowger ( who can be contacted at Trafalgar House, Meridian Way, Norwich NR7 0TA, telephone: 01603 703086, email: [ross.strowger@ashtonslegal.co.uk](mailto:ross.strowger@ashtonslegal.co.uk) ) with whom you should raise any concerns in the first instance.