

# **Berrys Solicitors - Terms of Business Booklet**

## **Consumer Contracts Regulations**

It is possible our agreement falls with the Consumer Contract Regulations 2013, so as a matter of course we ensure full compliance. Part of the regulations allow for a no quibble cancellation period of 14 days. To this end we enclose a cancellation form for your attention. Should you wish to exercise your right to cancel, then please advise and return this form to us within the specified period.

Ordinarily, unless you instruct us otherwise we would normally not begin work on your matter until expiry of the cancellation period. If you consider the matter urgent then work can begin immediately upon your instruction. This does not affect your right to cancel, but it may mean you are charged for the work we undertake during the period.

Unless otherwise instructed once the quibble cancellation period has expired we can only then proceed with acting on your behalf. Matters in respect of cancellation are detailed within the documents sent to you.

Additionally, the regulations specify a maximum, 30 days in which the contract must be concluded. This is clearly not possible in legal matters of this nature and accordingly by entering in to the contract you are agreeing that it shall not be concluded within 30 days. Estimates for timescales of your particular matter are contained elsewhere within the documents we sent you.

### *Right to cancel*

You have the right to cancel this contract within 14 days without giving any reason. The cancellation period will expire after 14 days from the day of signing the terms of instruction. To exercise the right to cancel, you must inform us of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail). You may use the cancellation form below, but it is not obligatory.

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

### *Effects of cancellation*

If you cancel this contract, we will reimburse to you all payments received from you, including the costs of delivery (except for the supplementary costs arising if you chose a type of delivery other than the least expensive type of standard delivery offered by us).

We may make a deduction from the reimbursement for loss in value of any goods supplied, if the loss is the result of unnecessary handling by you.

We will make the reimbursement without undue delay, and not later than –

- (a) 14 days after the day we receive back from you any goods supplied, or
- (b) (if earlier) 14 days after the day you provide evidence that you have returned the goods, or
- (c) if there were no goods supplied, 14 days after the day on which we are informed about your decision to cancel this contract.

We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement.

## **Levels of Service**

In acting on your behalf in this matter we aim to achieve the highest possible levels of service, in particular we aim to ensure that:-

- a) The person dealing with the matter wherever possible will deal with your telephone calls, but if that person is unavailable, your call will be directed to an Assistant to deal with or for a message to be taken. All requests for returned telephone calls should be dealt with on the same day or as agreed or as soon as possible thereafter. The person dealing with the matter will be either Mr Chris Berry (Solicitor) or Mr Mathew Berry (Solicitor) and the person dealing with the matter will be specified in the initial instruction letter. Overall, the matter will be supervised in accordance with Solicitors rules by Mr C Berry, principal of the firm.
- b) Your letters should have a substantive reply within seven working days.
- c) We will inform you of any material developments by post as soon as possible. You should normally hear from us approximately every two – three weeks.
- d) **Quality Standards & Notifications**  
The firm is working towards accreditation under the Lexcel quality standard of the Law Society. As a result of this we are or may become subject to periodic checks by outside assessors. This could mean that your file is selected for checking, in which case we would need your consent for inspection to occur. Equally your File may be required to be inspected under the terms of our professional indemnity insurer policy relating to claims or circumstances that may give rise to a claim.

All inspections are, of course, conducted in confidence. If you prefer to withhold consent, work on your file will not be affected in any way. Since very few of our clients do object to this I propose to assume that we do have your consent unless you notify us to the contrary. We will also assume, unless you indicate otherwise, that consent on this occasion will extend to all future matters which we conduct on your behalf. Please contact me if I can explain this further or if you would like me to mark your file as not to be inspected. If you would prefer to withhold consent please put a line through this section in the copy letter for return to me.

### **Calculation of Charges**

We are obliged to inform you how our fees are calculated in accordance with our professional rules of conduct. We must stress that you are liable to us in respect of our fees and any disbursements (eg court fees). Payment of our fees is due when we cease to act for you and we have a lien on the file of papers and any payments until payment is made to us.

Chris Berry - £282.00 per hour (plus VAT)

Mathew Berry - £255.00 per hour (plus VAT)

Any other trainee solicitors, paralegals and other fee earners - £139.00 per hour (plus Vat)

Our costs for acting on your behalf are not fixed but are dependent upon the amount of work involved and are always subject to being checked when we render a Bill.

### Using Mathew Berry's charging rate as an example for work undertaken by him:

Our costs are calculated on the basis of charging £255.00 per hour (unless otherwise notified to you by us in writing) and we also charge for telephone calls in and out, letters in and out at £25.50 per item, emails in and out at £25.50 per item and any fees which we pay e.g. Court fees and Barrister's opinions. A letter, email or telephone call will have a minimum charge of £25.50 and if the duration and or preparation of same exceeds 6 minutes (a unit) then the charging rate of £25.50 will be charged for each part or whole unit spent thereafter. All our charges are subject to VAT. Our costs may include the cost of any cost draftsman whom we instruct. The hourly rate we intend to use in respect of a Cost Draftsman is £255.00 per hour. In addition to time spent we may take into account a number of factors including the need to carry out work outside our normal office hours, the complexity of the issues, the speed at which the action has to be taken and any particular specialist expertise which the case may demand.

The hourly rate is exceptionally competitive for level and experience of the fee earners who will be dealing with your matter and is commensurate with the Supreme Court Costs Office guidelines. The hourly rate may be subject to revision in light of any developments with your claim, for instance, increased complexity of the legal issues, case matter or significant rise in the valuation. Any developments will be in writing

including any changes in the hourly rate determined by the Supreme Court Costs office guidelines, which will automatically be implemented without further reference to you.

We are unable to give a realistic estimate or forecast of the overall costs as we are not aware to what degree or extent we will be called upon to deal with matters. Our Firms charges will be based on the hourly rate set in our Firms Terms and conditions.

We will submit a regular account if appropriate and hopefully over the passage of time some form of likely indication of our fees will become clear for the future. However, in saying all of that we would anticipate such works as are undertaken on your behalf will arise intermittently.

We would advise that this estimate is not intended to be fixed. Interim Bills may be delivered on a weekly basis. If the Bill is not paid within seven days then we may cease to act any further. In addition if the Bill is not paid within 30 days of the date of the bill then we reserve the right to charge interest at the rate payable on judgment debts.

In instances where we are dealing with probate estate administration matters, our business policy dictates that we will raise an interim invoice at the grant of probate/ HMRC application stage. This interim invoice will represent a portion or all of our costs up to the date of writing. We would suggest that such invoice is paid from funds held on client account and we will request the legal representatives written agreement to same and before we can proceed with the grant of probate/ HMRC application.

### **Value Added Tax (VAT)**

Please note – regarding Value Added Tax (VAT) this is a tax charged at the prevailing rate of 20% of the specific fee referred to. For instance if a listed fee above is listed as ‘plus VAT’ this means that the listed Fee will have an additional VAT sum added to this fee. For example, if an hourly rate fee of £282.00 is applicable to your matter, VAT of 20% will apply meaning the fee inclusive of VAT would total £338.40. This applies throughout our fees listed herein.

### **Estimates [general]**

Estimates and Quotations are generally based upon your initial description of the matter in question and upon any documentation that you might have given us to consider. Such information may not be sufficient to give an Estimate or Quotation, particularly if documentation needs to be prepared or negotiated, or if any complicated legal points are involved.

Where an Estimate or Quotation is given, it must be in writing to be of any effect. Such effect will in any event be limited in that sometimes a matter is more complicated than we could reasonably have expected from your description or from a preliminary review of that documentation, or unforeseen issues arise as a matter progresses which have a bearing on the amount of time which we need to spend, or upon any Disbursements or other costs which need to be incurred. We shall advise you of any such changes in circumstance, as these matters will fall outside the scope of any Estimate or Quotation which we have given. We shall seek to agree with you an additional fee for such matters, but if no agreement is made, we shall have the right to cancel this Contract on giving immediate written notice to you.

If it is not possible to calculate our charges with reference to a Quotation we have given, they shall be determined with reference to our hourly rates. Unless we specifically advise to the contrary, all Estimates and Quotations are exclusive of VAT, Disbursements and other costs.

### **Our Charges**

It is important that you understand your responsibilities for the legal costs incurred in this matter. As advised you will be responsible for our costs details of which are more particularly set out hereinafter.

Please note Additional Charging situations:

If our Firm is asked to provide your File relating to this matter or part thereof or furnish a copy of same we reserve the right to charge a fee for the recovery of the file with a minimum charge of £100.00 plus vat

and depending on the number of files up to a maximum of £150.00 plus vat . In addition the Firm will charge for photocopying or scanning ,namely, a minimum of £1.00 plus vat per sheet or such greater sum is deemed as reasonable at the time of the request. In addition postal charges plus vat will be charged . Please note if the original file is requested our Firm will be obliged to copy such file and the above copy charging rates will apply.

Please note in certain circumstances, usually when taking Will or Lasting Power of Attorney instructions, and where advised by ourselves, it may be necessary to approach your GP for confirmation as to capacity, knowledge & understanding. It would be necessary for our Firm to write to your GP setting circumstances & your wishes . We would anticipate our charges for same would be £75.00 - £100.00 plus vat. Please note your GP is likely to charge you a fee for attending upon you & preparing a report.

Please find our client account details below:

*Name of Bank – Lloyds Bank*

*Account Name – Berrys Solicitors Clients Account*

*Sort Code – 30 90 90*

*Account Number – 02073953*

Please contact our office to confirm our bank details before sending any monies. In the unlikely event that our bank details change during the period in which we are dealing with your matter, we will notify you in writing and by telephone call.

Please note, in the majority of cases we are required by law to carry out due diligence searches which incur additional costs and disbursements. This includes; Identification verification (£7.20 per individual), Anti-Money laundering Search (£10.00 per individual) and bankruptcy Search (£2.00 per name). Please note, these listed charges are subject to change and the ultimate fee incurred may vary at the time of instruction and during the course of your matter.

### **Billing & Payment**

If you or we cancel the terms of instruction agreement and we are required to invoice, then:  
Our invoices are payable in full upon receipt.

If any of our invoices are not paid within 30 days of their delivery to you:

- We may charge you interest on the outstanding amounts at the rate payable on judgment debts, and;
- We have the right to suspend work on any matters on which you have asked us to act, or to cancel all or any of our Contracts with you on giving you immediate written notice, and;
- We have the right to apply to Court/Tribunal to be taken off the record as your lawyers in relation to any legal matter in which we are representing you on giving you 7 days written notice.

Where the covering letter is addressed to more than one person, or where we have agreed with the addressee of the covering 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.

With regard to the future billing and legal costs on your matter, to inform you of our billing procedures and to ensure clarity and mutual understanding. As per our statutory requirements, we reserve the right to issue statutory interim bills periodically to reflect the work completed to date on your matter. These bills shall be final in respect of the period to which they relate, save that disbursements (costs and expenses which we incur

on your behalf), are normally billed separately and later than the bill for our fees in respect of the same period. This will take place approximately every month and these interim bills are expected to be settled upon receipt. Please note that payment of these bills is necessary to ensure that we can continue to act on your behalf without interruption. Your continued action in this matter without communication being received from you stating otherwise will be deemed to be your confirmation and acceptance of such proposed terms.

### **Work That is not Included**

As far as practically possible we will define our agreed instructions in our instruction letter, however as a matter of course our advice shall not include advice upon

- The laws of any jurisdiction other than England and Wales; or
- Taxes or duties (other than Stamp Duty); or
- Financial planning; or
- Accounting.

Any deviation to this will be agreed in writing before hand.

### **Instruction & Authority**

If you are an individual client then we will only take instructions from you direct, if you are a company, partnership or other organisation, we may accept instructions from anyone within your organisation unless you have written to us identifying which individuals we are to take instructions from.

When our Contract is with more than one person, unless otherwise agreed in writing, we may:

- Accept instructions from any one of those persons on behalf of all; and
- Correspond with any one of those persons on behalf of all.

### **Monies on Account**

We reserve the right to require you to pay one or more sums on account of our fees and/or any likely Disbursements or costs at any time before and/or during the course of the work. Any sums we ask you to pay on account may include an element to reflect any VAT that may be chargeable. These sums will be held in your name in our client account accruing interest. Interest will be calculated at the rate set by Lloyds Bank Plc and their standard interest rate at the time of submission. That of course may change. The period for which interest will be paid normally runs from the date(s) when funds are received by our bank until the date(s) on the cheque(s) issued to you.

### **Interest**

Where it is reasonably anticipated that the cleared monies will be held for a period of 4 days then such monies will be placed in a Designated Deposit Account subject to your written authorisation and subject to the our receipt of our return of signed terms. However, please note the Banks are presently taking 14 days to process and administer the opening of such an account and equally 14 days for the closure of such accounts. It will be appreciated considerable time and security measures have to be undertaken in opening and closing such accounts and a minimum Administration Charge of £282.00 - £250.00 plus VAT will be charged for each time such an Account is opened and a similar sum will be charged for a closure of same. When cleared monies are reasonably anticipated to be held for less than 4 days then such monies will be held in your name in our client account accruing interest. We will not account to you for any such interest as the administrative cost of same will far outweigh any financial benefit and any such interest will be retained by the firm.

If a client wishes us to account for such interest then we will be pleased to do so, provided you advise us in writing immediately upon the return of the signed terms and conditions. You will in such circumstances be obliged to attend to payment for such service by way of administrative charge based on the time spent accounting for same and reporting to you based on the hourly rate as previously mentioned and in our

experience you would need to legislate in the region of cost equivalent to 60 minutes based on the hourly rate for opening an account and such similar sum for the closure of such an account.

From these sums, we shall be entitled to settle our invoices for fees, Disbursements or costs after we have advised you of the fees, Disbursements and costs in question.

### **Limitation of Liability**

As solicitors we are permitted to put a reasonable limit on our liability to our clients provided that:

- The limit on our liability is not below the minimum level of cover required by the Solicitors' Indemnity Rules (currently £2,000,000 for partnerships and sole practitioners); and
  - We do not limit our liability for death or personal injury resulting from our negligence.
- Our liability to you shall therefore be limited as follows

- Irrespective of the legal grounds on which any claim against us is made, our liability and loss to you (including any liability for negligence other than for death or personal injury) shall be limited to £2 million for all claims and losses resulting from:
  - one act error or omission;
  - one 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.
- For the purposes of this clause, a claim against any one or more of our partners, assistant solicitors, employed barristers and any other members of our staff (whether employees or not) arising from one matter or transaction shall be regarded as a single claim against us and our liability to you shall be limited accordingly.
- 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.

### **Joint Liability**

If you have a claim against us for any loss or damage for which someone else (including you) could also be liable, our liability to you in those circumstances shall be limited to a just and equitable proportion of the loss or damage in question after liability for it has been apportioned between everyone responsible and for the purposes of this clause:

- "loss or damage" shall include all recoverable amounts, including legal costs; and
- The ability or otherwise of any person or entity to satisfy any legal claim for any reason including (but not limited to) death, bankruptcy, or insolvency shall be disregarded; and
- It shall be assumed that there are no agreements in force that exclude, limit or cap the liability of anyone else who might be liable to you.

### **Deposit Protection for client accounts**

There may be circumstances when our firm is holding significant amounts of money on behalf of clients. In such circumstances it may well be that we place such monies in a Designated Deposit Account with Lloyds Bank. If such an occurrence arises we will inform you in writing.

There is always the possibility, however unlikely that there would be a Bank failure. In such circumstances we would need to make a claim under the Financial Services Compensation Scheme (FSCS) in respect of client money held on clients' behalf.

The signing of our Terms and Conditions authorises our Firm to give such necessary information as is required to the FSCS to help them identify clients and any amounts to which they are entitled.

You also need to be aware of the following information:

- In the event of such circumstances it is unlikely that our Firm would be held liable for losses resulting from a banking failure.
- Lloyds Bank would be the name of the deposit taking institution in which your money is held.
- The £85,000 FSCS limit applies to the individual client, and so if you would hold other personal monies

in the same deposit –taking institution as Lloyds Bank Plc the limit remains £85,000 in total.

- If a corporate body client is not considered a small company by FSCS, then they will not be eligible for compensation.

Please note some deposit-taking institutions have several brands, ie where the same institution is trading under different names. Clients should therefore check either with Lloyds Bank, the FCA or a Financial Adviser for more information.

### **Specialist Advises**

In all aspect of work it may be necessary to refer clients to specialists where the need arises. Where it becomes apparent that such specialist advice is required we will advise you. The cost of such advice will be borne by the client. In the event of the client not wishing to take such specialist advice then our Firms contractual relationship with the client will terminate and the client will be responsible for all work undertaken by our Firm and any disbursements arising there under.

### **Other Matters**

We shall not be liable to you for any failure to provide our services caused by matters beyond our reasonable control.

### **Evidence of Identity**

We may ask you to provide evidence of your identity and/or authority to instruct us. We will ask if this is required by any internal procedure, statute or regulation. If you cannot satisfy these requests promptly, we have the right to cancel the Contract on giving immediate written notice to you.

### **Client Identification Requirements**

The law requires solicitors, banks, building societies and others to obtain satisfactory evidence of the identity of their client and, at times, people related to the client or their transaction. The Land Registry will also ask us to confirm that we have verified your identity before we can register the property you are purchasing. This is because solicitors who deal with money and property on behalf of their client can be used by criminals wanting to launder money.

In order to comply with the law on money laundering, we need to obtain evidence of your identity as soon as practicable, and in any event before we can proceed with your matter. We require one item from List A and one item from List B for each client.

#### List A

- Valid full passport
- Valid UK Photo-card driving licence
- Valid HM Forces identity card

#### List B

- a utility bill less than three months old
- a council tax bill for the current financial year
- an original bank or building society account statement or mortgage statement less than three months old. (This statement must have been sent to you by post. A statement printed by you from an online account will not be accepted.)
- state pension or benefits notification letter less than three months old
- HMRC tax notification less than three months old
- a firearm and shot gun certificate

Ways to supply me with ID:

1. *Personal Attendance at our office:* You can visit the office in person where one of our reception staff will take copies of your ID.
2. *Verification by a third party:* You can either ask another solicitor to certify your ID or you can have it certified at the Post Office. Most Post Offices offer this service further information can be found on their website: [www.postoffice.co.uk/document-certification-service](http://www.postoffice.co.uk/document-certification-service)

*Please note that I am unable to accept photocopies or scanned copies.*

*If you are unable to comply with these requirements, please contact me immediately in order that I can discuss alternative methods to verify your identity. If our Client Identification Procedures cannot be met at the commencement of the transaction then it may be necessary for me to cease acting and otherwise comply with our statutory duties.*

Following the introduction of the Money Laundering Regulations 2017, we are now required to make additional enquiries about our Clients' identity. We therefore propose to submit an electronic Anti-Money Laundering search at the outset of your matter, using the documentation and information that you have supplied to us. We do make a charge for the additional work required in this regard which is listed in our schedule of charges above.

This data will be used to cross-reference your details with a number of databases to verify the information provided. We hope that you appreciate that compliance with the Regulations is mandatory and is no way a reflection of our opinion of our Clients.

### **Regulatory Matters**

We are authorised and regulated by the SRA, whose Code of Conduct, including its professional rules, principles and guidance apply to us. We are not authorised by the Financial Services Authority. If, while we are acting for you, you need advice on investments, we may have to refer you to someone who is authorised to provide the necessary advice. However, we may provide certain limited investment advice services where these are closely linked to the legal work we are doing for you. This is because we are members of the Law Society of England and Wales, which is a designated professional body for the purposes of the Financial Services and Markets Act 2000.

The Firm has effected professional indemnity insurance cover which meets or exceeds the requirements of the SRA. In the event of any failure by the Firm to meet its liabilities, apart from such insurance, the Solicitors' Compensation Fund is in place, from which grants may be given to those who have suffered loss by reason of the dishonesty of a solicitor or an employee in connection with a solicitor's practice or in connection with a trust of which the solicitor is a trustee.

All UK law firms are subject to reporting and other requirements imposed by the UK's money-laundering laws and other legislation and you may therefore be required to provide us with information that may be relevant for legal or regulatory purposes at any time. Any failure by you to provide any information of this sort shall entitle us to cancel this Contract on giving immediate written notice to you.

### **Provision of Service Regulations 2009**

We comply with the above regulation by displaying the required details of Our Professional Indemnity Insurance in our offices. Upon written request we are happy to furnish a copy of same .

### **Your Responsibilities**

It is vital that we can contact you at all times. Please inform us in writing of any change of address or telephone number, as failure to do so could delay and prejudice the matter we are undertaking on your behalf.

We need you to tell us promptly of your instructions when required and we cannot deal with any intermediary without your written permission in advance.



We are constantly aware of the opportunities of fraud and or duress being undertaken. Accordingly any alterations to your original instructions must be advised to us by way of signed and dated correspondence. In order to carry out our services in a prompt, effective and professional manner, we shall require your full co-operation and assistance throughout the duration of our Contract with you. This means that we expect to receive clear, timely and accurate instructions from you and to be provided with documents promptly upon request. In litigation matters you are required by the Court Rules (the Civil Procedure Rules) to safeguard any documents which are likely to be required for disclosure and we will give you further guidance on the types of documents which you are obliged to disclose, as necessary.

### **Complaints Procedure**

It is expected that our relationship during the life of your claim will be professional and mutually satisfactory, however, we do accept that from time to time miscommunication, issues and grievances can occur. We want you to feel confident in raising any concerns you have at the earliest opportunity and would request that initially any problems you have with your claim or your bill are raised with the fee earner with conduct of this matter. If you are unable to resolve the issue then you can speak to Mr Chris Berry who will advise you of our complaints procedure a copy of which is available on request and request your complaint is put in writing so it can be investigated in accordance with the procedure. If the matter has not been amicably resolved within 8 weeks then there is a non – judicial means of dispute settlement through the offices of the Legal Ombudsman PO Box 6806 Wolverhampton WV1 9WJ more information on the role can be found on their website [www.legalombudsman.org.uk](http://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.

If you are a client and we have made a contract with you by electronic means you may be entitled to use an EU online dispute resolution service to assist with any contractual dispute you may have with us. This service can be found at <http://ec.europa.eu/odr>.

### **Complaints Regarding Fees**

Our invoices contain a brief summary of the work that we have undertaken for you and the Disbursements and costs that have been paid out your behalf in relation to the matters on which you have asked us to act. A more detailed description can be provided if needed. If you are unhappy with your bill then we will treat this like a complaint about our service. Accordingly we want you to feel confident in raising any concerns you have at the earliest opportunity and would request that initially any problems you have with your bill are raised with the fee earner with conduct of this matter. If you are unable to resolve the issue then you can speak to Mr Chris Berry who will advise you of our complaints procedure and request your complaint is put in writing so it can be investigated in accordance with the procedure.

If you are not satisfied with the amount of our fees, you may be entitled to have our charges reviewed by the court, called an assessment - such application for review to be requested not more than one month of delivery of the bill or notification see sections 70, 71 and 72 of the Solicitors Act 1974 or seek independent legal advice.

### **Papers & Deeds**

We are entitled to retain our files and any documents we are holding on your behalf until you have paid all our invoices. Unless you have already asked us to return any papers to you, we shall keep all files relating to your completed matters in storage for not less than six years, either in their original form or on some other retrievable medium. After the end of that period, those files will be destroyed, although this shall not apply to any original documents that you have specifically asked us in writing to keep in safe custody for you.

If you wish us to hold the papers after this time, then we will charge an annual fee of £75 plus vat [reviewable] and you must advise in writing before the expiry of the six years.

Wills, Title Deeds, Pre-registration Deeds and Documentation or other Asset or Legal documents will be charged an annual fee of £75 plus vat [reviewable].

We do not normally make a charge for retrieving stored papers which relate to current matters, although we reserve the right to charge you for any time spent in retrieving papers relating to completed matters and for

any time spent in reading the file, writing letters, retrieval of information or doing any other work at your request based on time spent on the hourly rate as previously mentioned.

If you ask us to send any documents to anyone else, we shall not be liable for any loss or damage that occurs to those documents after they leave our possession. You should also note that, unless we believe it might be appropriate to do so we will not ordinarily make copies of any lengthy or bulky documentation which we send to anyone else, unless you specifically ask us to do so, and pay our copying charges. Such copying charges will be based on the time spent copying and preparing same based on the hourly rate as mentioned.

### **Recommendations**

If we should recommend the services of anyone to you such as accountants, surveyors, trade mark and patent agents, foreign lawyers or anyone else, we shall do so in good faith and this shall be the sole extent of our liability with regard to the recommendation in question.

### **Audits and Audit Enquiries**

If we receive requests for information of an auditing nature from you, your accountants or auditors, we may address our response to you and we may charge you for the time spent in addressing these enquiries at our normal hourly rates.

External firms or organisations may conduct audit or quality checks on our practice to ensure compliance with mandatory requirements such as the regulatory standards and/or voluntary standards such as Lexcel or ISO 9001. Such external firms or organisations are required to maintain confidentiality in relation to your files. We operate our own in-house file review process to ensure our own quality standards are adhered to and personnel involved in the review process are bound by the firm's confidentiality obligations.

### **Third Party Rights**

Unless we specifically agree to the contrary in writing, we shall act only on your behalf in relation to the work that we do for you and the Contracts (Rights of Third Parties) Act 1999 shall not apply.

Any legal advice that we give you is for your own use only and we shall not be liable to anyone else in relation to that advice (including anyone that you pass or transmit it to) unless we expressly agree to be liable to the recipient(s) in writing.

### **Data**

If you are a private individual we shall only use any personal data that we have relating to you for the following purposes:

- To identify you as a client of this firm and to confirm any information you have given us;
- To provide you with our products and services;
- To process any payments from you;
- To send you information regarding our products and services, including any products and services that we may supply in conjunction with anyone else, unless you ask us not to do so;
- For our own internal purposes in connection with risk management matters and resolving disputes; and
- For legal and regulatory compliance; and
- For producing statistics and other information relating to our business, including statutory returns, providing this shall not identify you personally.
- For producing statistics and other information relating to our business, providing this shall not identify you personally.

Our use of that information is subject to your instructions, the Data Protection Act 1998 and the provisions of the General Data Protection Regulation 2018 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. Except in certain circumstances, you have a right of access under data protection legislation to the personal data that we hold about you and you should ask us should you need to access this data.

If you are unhappy with the way data is being handled then please inform Mr Chris Berry designated Data Protection Officer in writing who will then investigate same. If the matter cannot be amicably resolved then please note individuals have a right to complain to the Information Commissioner's Office (ICO) of Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF on 0303 123 1113 if they think there is a problem with the way Firm is handling their data.

As part of our services to clients such personal data will be retained subject to legal and regulatory compliance issues such personal data will be removed on your written request.

### **Conveyancing Matters**

In conveyancing matters when acting for you as a purchaser, we may also be acting for your proposed lender and as such we have a duty to fully reveal to your lender all relevant facts about the purchase and mortgage. This includes but is not limited to:

- Any differences between your mortgage application and information we receive during the transaction;
- Any cash-back payments or discounts that a seller is giving you.

### **Information Technology & Communication Matters**

We will aim to communicate with you by such method as you may request. More often than not this will be in writing, but may be by telephone if it is appropriate. We may need to virus check discs or e-mails, but unless you withdraw consent we may communicate with others when appropriate by e-mail or fax but we cannot be responsible for the security of correspondence and documents sent by e-mail or fax. The Data Protection Act requires us to advise you that your particulars may be held on a database operated by us.

Unless otherwise agreed, we may use conventional (unencrypted) email to communicate with you and anyone else that is involved in any matter on which you instruct us. You acknowledge that conventional email may present security risks in certain circumstances and you shall be taken to have accepted those risks unless you tell us not to use that means of communication.

If you would like us to use encrypted email for communication purposes you should notify us in writing. We will endeavour to do so, but this shall also be subject to us making the necessary arrangements with you and any other recipients.

If you do not want us to fax you at any fax number where we might ordinarily think you may be contactable, you must inform us of this in writing and provide us with any fax number(s) you wish us to use.

Please note that in order to protect the integrity and security of our IT systems, we may prohibit the receipt and opening of certain types of electronic files by our staff and you should note our internal IT procedures may also impose a delay on our ability to open and deal with certain types of electronic files.

Please note that we may record and monitor telephone, fax and email communications that are made to or from our offices and staff for the purposes of the Telecommunications (Lawful Business Practice) (Interceptions of Communications) Regulations 2000.

### **Termination**

You may immediately terminate the Contract in writing at any time if you wish us to stop acting for you.

We may also cancel the Contract:

- If we have good reason to do so and on giving you reasonable written notice; or
- If we believe there are circumstances that justify an immediate cessation of the work that we are doing for you; or
- In the circumstances provided for in other clauses of these Terms.

Circumstances that might justify our ceasing to act for you under the first two bullet points above would include a non-payment of any of our invoices, your failure to make any payment on account or to settle

any Disbursements or costs which we have requested, or your failure to give us the instructions that we might reasonably expect in relation to your matter(s).

In the event that we cancel the Contract and cease acting for you, we shall be entitled to charge you a fee for all the time spent by us up to cancellation and in the case of issued litigation matters up until the Court have approved our Firm names removal from the Court Record together with all the Disbursements and costs we have incurred or may be liable for up to that point in time. If it is not possible to calculate our fee with reference to a Quotation that we have given, our fee shall be calculated on the basis of our hourly rates.

### **Conflicts**

We have the following rights to cancel this Contract on giving immediate written notice:

- If our own interests conflict with yours; or
- If a conflict of interests arises between you and any of our other clients in relation to the same or related matters, or there is a significant risk that this might happen; or
- If any instructions you give us conflict with our professional duties or obligations as solicitors.

### **Investments**

Sometimes personal injury work, estate/ probate work and court of protection work involves investments. We are not authorised by the Financial Conduct Authority and so may refer you to someone who is authorised to provide any necessary advice. However, we can provide certain limited services in relation to investments, provided they are closely linked with the legal services we are providing to you, as we are regulated by the Solicitors Regulation Authority.

If you have any problem with the service we have provided for you then please let us know. We will try to resolve any problem quickly and operate an internal complaints handling system to help us to resolve the problem between ourselves. If for any reason we are unable to resolve the problem between us, then the Solicitors Regulation Authority and the Legal Ombudsman provide complaints and redress mechanisms.

The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000 but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law Society and the Legal Ombudsman is the independent complaints handling body of the Law Society.

This firm is not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct Authority so that we can carry on insurance mediation 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. The register can be accessed via the Financial Conduct Authority website at [www.fca.org.uk](http://www.fca.org.uk).

### **Money Laundering Notes & Proceeds of Crime**

Since the beginning of 2002 there has been extensive new law designed to prevent money laundering. Under this law we have a duty to report any financial transactions which we regard as suspicious. It is important that you are aware of this.

If the matter you are instructing us on involves the movement of money or other property through this firm directly or through another party we have to be satisfied that the relevant transaction is legitimate. This is a legal requirement and it may be necessary for us to ask you a series of questions touching upon your own identity, place of residence and the source of any relevant funds.

We are sorry that we have to undertake this level of enquiry but we do not have a choice. We are obliged by law to follow certain procedures and we do hope you will understand this.

The Proceeds of Crime Act 2002 (“The Act”) creates a number of offences relating to the proceeds of crime which you should be aware of when you instruct us. The proceeds of crime are any monies/property/assets which have arisen as a result of any crime. These include, for example, monies (however low in value), saved as a result of tax evasion or benefit fraud, whether that money has been saved or spent.

If we become aware or suspect the existence of the proceeds of crime in your case (whether from you or from any other person), we may have to report the irregularity to the Serious Organised Crime Agency (SOCA). SOCA may withhold permission for us to continue with the case. SOCA can pass the information received to any relevant body such as HM Revenue and Customs and an investigation may take place at any time in the future.

It follows from the above that if you have any concerns about irregularities in your financial position you may wish to seek specialist accountancy or welfare benefits advice to correct those irregularities. We strongly recommend that you do this before proceeding further. Please note that accountants are also required to comply with the provisions of the Act.

It is important that you are aware that we may have a legal duty under the Act to report known or suspicious circumstances without telling you. This could have serious consequences for you. In rare situations you could find that you then become subject to a HM Revenue and Customs investigation or benefits investigation and/or criminal proceedings.

The obligations which we have under this Act can, in certain instances, override the duty of solicitor/client confidentiality.

Circumstances may arise where we have to approach you to seek your permission to report certain matters to SOCA. For instance we may take the view that by proceeding further with your case (without permission from SOCA) we may be assisting in the commission of a money laundering offence. In the event that you refuse such permission we reserve the right to terminate your instructions and if we do so in these circumstances you will be liable for all our fees and expenses incurred up to the date of such termination.

We will not be liable to you for any losses arising out of our statutory reporting obligations under the Act. The limitation of our liability to you under this paragraph will only apply if we have acted (in terms of such reporting obligations) strictly in accordance with the requirements of the Act and any anti-money laundering guidance published from time to time by the Law Society.

### **Criminal Finances Act 2017**

On 27<sup>th</sup> April 2017, the Criminal Finances Act 2017 (“the Act”) was given Royal Assent Part 3 of the Act, when it comes into force on 30<sup>th</sup> September 2017, will create two new offences under the heading “corporate offences of failure to prevent facilitation of tax evasion”, which will apply in respect of corporate bodies and partnerships (wherever incorporated or formed) and will cover circumstances facilitating tax evasion in the UK and overseas.

How is the offence committed?

If a person, acting in “the capacity of a person associated with” the company (which includes employees, agents, or other people performing services for or on behalf of the company, and is acting in that capacity) commits a “tax evasion facilitation offence”, then the company may be liable for an unlimited fine.

This is a strict liability offence. This means that it is not possible to blame your clients (or the provision of information from your clients), even though they are ones committing the primary tax evasion offence. Nor is it possible to distance yourself from your employees (or other people “associated with” the company) who are deemed by the Act to have facilitated the tax evasion - your company will still have committed an

offence under the Act.

If we become aware of or suspect the existence of an act or action which fall or may fall within the Criminal Finances Act 2017 then our Firm without further reference to the client will be obliged to report such matter or suspicion to relevant authorities and an investigation may take place at any time in the future.

If we become aware or suspect the existence of the proceeds of crime in your case (whether from you or from any other person), we may have to report the irregularity to the Serious Organised Crime Agency (SOCA). SOCA may withhold permission for us to continue with the case. SOCA can pass the information received to any relevant body such as HM Revenue and Customs and an investigation may take place at any time in the future.

It follows from the above that if you have any concerns about irregularities in your financial position you may wish to seek specialist accountancy or welfare benefits advice to correct those irregularities. We strongly recommend that you do this before proceeding further. Please note that accountants are also required to comply with the provisions of the Act.

It is important that you are aware that we may have a legal duty under the Act to report known or suspicious circumstances without telling you. This could have serious consequences for you. In rare situations you could find that you then become subject to a HM Revenue and Customs investigation or benefits investigation and/or criminal proceedings.

The obligations which we have under this Act can, in certain instances, override the duty of solicitor/client confidentiality.

Circumstances may arise where we have to approach you to seek your permission to report certain matters to SOCA. For instance we may take the view that by proceeding further with your case (without permission from SOCA) we may be assisting in the commission of a money laundering offence. In the event that you refuse such permission we reserve the right to terminate your instructions and if we do so in these circumstances you will be liable for all our fees and expenses incurred up to the date of such termination.

We will not be liable to you for any losses arising out of our statutory reporting obligations under the Act. The limitation of our liability to you under this paragraph will only apply if we have acted (in terms of such reporting obligations) strictly in accordance with the requirements of the Act and any anti-money laundering guidance published from time to time by the Law Society.

Our Firm has a zero tolerance policy for the facilitation of tax evasion.

Note carefully – Please note, any work which we are required to carry out under Money laundering & Proceeds of Crime & Criminal Finances Act 2017 will be charged at our normal hourly rate plus VAT & disbursements for which you will be responsible.

### **Equality and Diversity**

We are committed to encouraging and 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.

### **Professional Indemnity Insurance**

The details of our Professional Indemnity Insurance and the territorial coverage of the policy are available in each of our offices and are available upon request.

### **General**

Any dispute or legal issue arising from our Terms of Business will be determined by the law of England and Wales, and subject to the exclusive jurisdiction of the English and Welsh courts, notwithstanding that you may be based, or our services may be provided to you, elsewhere.

**Cancellation of Instructions:**

To: Berrys Solicitors  
247 Church Street  
Blackpool  
FY1 3PE

I/We [\*] hereby give notice that I/We [\*] cancel my/our instruction/s detailed in the retainer dated.

I/We also understand that I/We may be liable for the expenses/fees, as outlined within the agreement I/We signed.

Name of client(s): \_\_\_\_\_

Address of client(s): \_\_\_\_\_

Signature of client(s): \_\_\_\_\_

Date: \_\_\_\_\_