

# **Standard terms of engagement and information for clients**

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1 August 2008

## **INTRODUCTION**

This document is in two parts. The first part sets out our standard terms of engagement and the second part sets out information for clients required by the *Rules of Conduct and Client Care for Lawyers* issued by the New Zealand Law Society (*Law Society*).

## **STANDARD TERMS OF ENGAGEMENT**

These standard terms of engagement apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing.

### **1 SERVICES**

- 1.1 The services which we are to provide for you from time to time will be outlined in a letter of engagement which we will provide to you for each new matter.

### **2 FEES, DISBURSEMENTS AND EXPENSES**

#### **Fees**

- 2.1 The fees which we will charge or the manner in which they will be arrived at will be set out in each new letter of engagement.
- 2.2 If the letter of engagement specifies a fixed fee we will charge this for the agreed scope of our services. Work which falls outside the scope will be charged on an hourly rate basis unless otherwise agreed. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope and, if requested, give you an estimate of the likely amount of the further fees, disbursements and expenses.
- 2.3 If the letter of engagement specifies that fees are to be calculated on an hourly basis, individual solicitors' hourly rates will be set out in that letter. The differences in those rates for each matter reflect the experience and specialisation of our solicitors. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.

#### **Disbursements and expenses**

- 2.4 In providing services we may incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice to you when the disbursement or expense is incurred. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf.

#### **GST (if any)**

- 2.5 GST is payable by you on our fees and on disbursements and expenses.

#### **Invoices**

- 2.6 We will usually send monthly interim invoices to you and an invoice on completion of the matter, termination of our engagement or when you request one.

**Payment**

- 2.7 Invoices are payable within 10 business days of the date of the invoice unless alternative arrangements have been made with us.

**Security**

- 2.8 We may ask you to pre-pay amounts to us or to provide security for our fees, disbursements and expenses. You authorise us:
- (a) to debit against amounts pre-paid by you; and
  - (b) to deduct from any funds held on your behalf in our trust account, any fees, disbursements or expenses for which we have provided an invoice.

**Third parties**

- 2.9 Although you may expect to be reimbursed by a third party for our fees, disbursements and expenses and although our invoices may at your request or with your approval be directed to a third party, you will still remain responsible for payment to us if the third party fails to pay us.

**3 CONFIDENTIALITY**

- 3.1 We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you. We will not disclose any of this information to any other person except:
- (a) to the extent necessary or desirable to enable us to carry out your instructions; or
  - (b) to the extent required by law or by the Law Society's *Rules of Conduct and Client Care for Lawyers*.
- 3.2 Confidential information concerning you will as far as practicable be made available only to those within our firm who are providing legal services for you.
- 3.3 We will not disclose to you confidential information which we have in relation to any other client.

**4 TERMINATION**

- 4.1 You may terminate our retainer at any time.
- 4.2 We may terminate our retainer in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.
- 4.3 If our retainer is terminated (whether by you or us) you must pay us all fees due and all disbursements and expenses incurred up to the date of termination.

## 5 RETENTION OF FILES AND DOCUMENTS

- 5.1 You authorise us (without further reference to you) to destroy all files and documents for each matter that we act for you (other than any documents that we hold in safe custody for you) 10 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

## 6 CONFLICTS OF INTEREST

- 6.1 We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises we will advise you of this and follow the requirements and procedures set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.

## 7 DUTY OF CARE

- 7.1 Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this. However, this duty of care is subject to the overriding duties owed to the courts and to the justice system.

## 8 TRUST ACCOUNT

- 8.1 We maintain a trust account for all funds which we receive from clients (except money received for payment of our invoices). If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank (but only once we have received your specific instruction to do this). We do not charge an administration fee against interest earned.

## 9 GENERAL

- 9.1 These terms will also apply to any future engagement, whether or not we send you another copy of them.
- 9.2 We are entitled to change these terms from time to time, in which case we will send you amended terms.
- 9.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

## INFORMATION FOR CLIENTS

Set out below is the information required by the *Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society (Law Society)*.

### 1 FEES

- 1.1 The basis on which fees will be charged is set out in our letter of engagement. When payment of fees is to be made is set out in our standard terms of engagement.

- 1.2 We may deduct from any funds held on your behalf in our trust account any fees, expenses or disbursements for which we have provided an invoice.

## 2 **PROFESSIONAL INDEMNITY INSURANCE**

- 2.1 We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We will provide you with particulars of the minimum standards upon request.

## 3 **LAWYERS' FIDELITY FUND**

- 3.1 The Law Society maintains the Lawyers' Fidelity Fund for the purposes of providing clients of lawyers with protection against pecuniary loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is limited to \$100,000. Except in certain circumstances specified in the Lawyers & Conveyancers Act 2006, the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

## 4 **COMPLAINTS**

- 4.1 We maintain a procedure for handling any complaints by clients, designed to ensure that a complaint is dealt with promptly and fairly.
- 4.2 If you have a complaint about our services or charges, you may refer your complaint to the person in our firm who has overall responsibility for your work.
- 4.3 If you do not wish to refer your complaint to that person, or you are not satisfied with that person's response to your complaint, you may refer your complaint to John Greenwood, partner or, if John Greenwood is acting on the particular matter, then any of our other partners.
- 4.4 John Greenwood may be contacted as follows:
- by letter to Greenwood Roche Chisnall, PO Box 25501, Wellington;
  - by email to [john@grclegal.com](mailto:john@grclegal.com); and
  - by telephoning John on 04 494 8503.
- 4.5 To contact one of our other partners, Bob Roche, David Chisnall, Jeannie Warnock or Anthony Staples, please call 04 494 8500.
- 4.6 The Wellington District Law Society also maintains a complaints service and has powers that require it to investigate complaints about its members. You are able to make a complaint to that service by contacting the Wellington District Law Society on 04 472 8978.

## 5 PERSONS RESPONSIBLE FOR THE WORK

- 5.1 The names and status of the person or persons who will have the general carriage of or overall responsibility for the services we provide for you are set out in our letter of engagement.

## 6 CLIENT CARE AND SERVICE

- 6.1 The Law Society client care and service information is set out below.
- 6.2 Whatever legal services your lawyer is providing, he or she must:
- act competently, in a timely way, and in accordance with instructions received and arrangements made;
  - protect and promote your interests and act for you free from compromising influences or loyalties;
  - discuss with you your objectives and how they should best be achieved;
  - provide you with information about the work to be done, who will do it and the way the services will be provided;
  - charge you a fee that is fair and reasonable and let you know how and when you will be billed;
  - give you clear information and advice;
  - protect your privacy and ensure appropriate confidentiality;
  - treat you fairly, respectfully and without discrimination;
  - keep you informed about the work being done and advise you when it is completed; and
  - let you know how to make a complaint and deal with any complaint promptly and fairly.
- 6.3 The obligations lawyers owe to clients are described in the *Rules of Conduct and Client Care for Lawyers*. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.
- 6.4 If you have any questions, please visit the New Zealand Law Society's website at [www.lawyers.org.nz](http://www.lawyers.org.nz) or call 0800 261 801.

## 7 LIMITATIONS ON EXTENT OF OUR OBLIGATIONS OR LIABILITY

- 7.1 Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our letter of engagement.