

## A. ENGAGEMENT PRINCIPLES

A lawyer / client relationship is like any relationship - it requires both parties to effectively work together towards a common goal or purpose. You have expectations of us and we have expectations of you.

We recognise that each client is different and we are committed to work with you to determine the unique factors of your situation. At the same time, we are committed to provide the same high standard of service to all our clients, and to meet their expectations.

For us to deliver effectively on those commitments, there are a number of things we need from you.

### We Need You To

#### 1. **Brief Us Fully**

We need you to be open with us about what you are trying to achieve and about your situation or circumstances.

#### 2. **Give Us Authority**

We need you to give us sufficient authority, so that we can act effectively on your behalf.

#### 3. **Be Contactable**

So that we can act on your behalf, we need you to be contactable. You can help this by keeping us informed of your availability and providing alternatives for getting hold of you.

#### 4. **Be Involved & Take Responsibility**

We need you to be involved and take responsibility for your legal situation. You are the party primarily responsible for your legal situation. It is your problem or issue and, as such, you need to be involved and take responsibility for it. All costs associated with your legal situation are your responsibility.

#### 5. **Review Documentation**

We need you to review all documentation submitted to you, and for you to promptly respond with your feedback on it. For example, in the case of our terms of trade and scope of service documentation, you need to review and understand them. If you do not promptly raise any comments or objections, you will be deemed to have accepted them.

### We Need From You

#### 6. **Clear Instructions**

We need you to be clear in telling us what you want us to do. We'll ask you questions that will help, but thinking about what you want to achieve before we meet will speed the process.

#### 7. **Timely Decisions**

Our practice is to provide you with options. For those options to become solutions, you'll need to make some decisions. We'll support you fully, but ultimately the final decision rests with you.

#### 8. **Responsive Actions**

While we are responsible for recommending actions, ultimately **only** you can act. In many cases there will also be deadlines and, to get the best outcome, you need to meet them. We undertake to give you only genuine deadlines.

## B. TERMS OF TRADE

### 1. **Legal Aid**

We will send your application for legal aid to the Ministry of Justice for a decision. You will be advised by a notice from the Ministry of Justice whether or not you are granted legal aid and on what terms. Legal aid is governed by the Legal Services Act 2011 and the associated regulations. Legal aid is administered through the Ministry of Justice by the Legal Services Commissioner. If you are granted legal aid, then you may be required to pay a user charge of \$50.00.

The Ministry of Justice sets a fixed fee for each step in proceedings. We will apply later for an extension to your legal aid grant if that is necessary. You should be aware that there are extreme budgetary constraints on legal aid and extensions are difficult to get. We will therefore need to ensure matters are resolved as efficiently as possible.

As discussed with you, the following are key points:

- Legal aid is generally regarded as a loan **not** a grant. This means you may have to repay some or all of the legal fees for the work done on your file, depending on your income and the assets you own. If this happens, the Ministry of Justice may take a charge over your property and you may also be required to enter into an agreement to repay the amount by instalments.
- Section 25 of the Legal Services Act 2011 obliges you to notify the Ministry of Justice of any change in your circumstances - eg. a new job. The obligation includes notifying the Ministry of Justice of any change of address. We are also obliged to provide these details if they are known to us. Please make sure you notify us as soon as possible if any change occurs. We are also obliged to co-operate with any examination and audit carried out by the Ministry of Justice, and this includes provision to the Ministry of Justice of any details of your affairs known to us.
- Legal fees are based on the length of time spent working on the file and the experience of the solicitor involved. There is an hourly rate set for legal aid by the Ministry of Justice. In addition, there are additional expenses for such items as photocopying, faxes, toll charges and Court filing fees. We will send our account to the Ministry of Justice every three months or when the matter is completed, whichever happens first. You will receive copies of those accounts.

If your weekly income increases by \$50.00 or more or your capital (possessions) by \$500.00 or more, the Ministry of Justice must be advised. You must let the Legal Services Commissioner know if there is any change in you and your partner's contact details, employment status, family circumstances or financial details.

We will submit invoices in relation to your grant of aid to the Legal Services Commissioner and provide you copies. The Legal Services Commissioner will write to you about any conditions or repayment obligations that you may have in relation to the grant of legal aid and your rights as an applicant or recipient of legal aid. You should be aware at this time that legal aid is not always free. You should read those letters from the Legal Services Commissioner carefully and keep them for later reference.

## 2. Standard Charging

Where we have agreed a legal services fee estimate or quote for your matter, our legal services fee will be in accordance with that agreed fee arrangement.

Unless we state otherwise, our legal services fee:

- a) for any attendances outside the scope of any agreed fee estimate or quote; or
- b) for any attendances not otherwise subject to an agreed fee arrangement,

will be calculated on a time attendance basis (using 6 minute time recording units). For your information, our current charge rates range from \$265 – \$460 per hour plus GST. Those charge rates are, however, subject to review at any time.

We charge an office services surcharge to cover general office services (such as photocopying, printing, telecommunications, file storage, and trust & bank account administration), calculated as follows:

- \$25 on invoiced professional fees of \$500 or less;
- \$50 on invoiced professional fees in the range of \$501 and \$2,000;
- thereafter 2.5% of the invoiced professional fees.

This surcharge is GST-exclusive and will be shown as a separate item in each legal services invoice issued to you.

All attendances performed and expenses incurred in respect of your legal matter will be charged, irrespective of whether or not the matter proceeds or is completed.

Necessary incidental costs incurred or paid out on your behalf will be reimbursable and will be invoiced.

Unless otherwise agreed or specified, we will invoice you monthly for cash flow purposes for both you and the firm.

## 3. Quotes & Estimates

Any fee quote or estimate provided to you by us above is only valid for 30 days.

Any quote or estimate is based on the background information and instructions outlined above, and on the matter proceeding without any significant difficulties or complications. Any attendances outside that scope may be charged in addition on a time attendance basis (using 6 minute time recording units), unless we agree or specify otherwise.

## 4. Instructions

If our summary of the background information and/or your instructions is **not** accurate, you must advise us urgently. Otherwise, we will assume that it is accurate and will act on it accordingly.

Any variation to your instructions must be notified to us promptly.

## 5. GST

Unless expressly stated otherwise, amounts specified are **plus** GST.

## 6. Invoice Payment Terms

Our invoice(s) **must** be paid within 14 days of the date of the invoice, unless we agree or specify otherwise. For example, notwithstanding that general payment term, in the case of sale, purchase & financing transactions, all our charges in respect of the transaction (and any other outstanding costs at the time) must be paid by you prior to, or as part of, the settlement of the transaction.

**Any outstanding invoice will incur an accumulating late payment charge of 2% per month (or part thereof) on the overdue amount, until paid in full.**

If we have to spend any money on collecting, or attempting to collect, any overdue amount(s) from you ('**collection costs**'), then you must reimburse us for those collection costs.

Payments received from you will be applied first towards any accumulated administration fees and collection costs, and then any surplus will be applied towards payment of the overdue amount(s) in order of age (starting with the oldest invoice).

## 7. Client Files

We **may** convert all documents sent, received or held in respect of this matter (ie. your '**Client File**') into a secure electronic format and then destroy any or all of the paper documents.

## 8. Customer Due Diligence Information

We are required to comply with all laws binding on us, including (but **not** limited to):

- a) **AML/CFT**: The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act); and
- b) **FATCA**: The United States Foreign Account Tax Compliance Act (FATCA); and
- c) **CRS**: The Common Reporting Standard (CRS).

To meet these requirements, we may be required to conduct customer due diligence on you; persons acting on your behalf; and other relevant persons, such as your beneficial owners or persons who have effective control of you as a client. We may **not** be able to act or continue acting for you until this is completed to the required standard.

We will advise you what information & documents ('**CDD Information**') are required for these purposes. This CDD Information could include formal identification, address confirmation, source of funds, transaction details, ownership structures, tax identification details, and any other information considered relevant. Please ensure the CDD Information requested is provided promptly to avoid any delays in us acting for you.

We may be required by law to disclose some or all of your CDD Information to government agencies, and we may **not** be permitted to advise you of that disclosure. We may also be required to provide some or all of your CDD Information to banks with which we place your funds through our trust account. Otherwise we will retain your CDD Information.

## 9. Storage & Protection Of Client Data

We use a 3<sup>rd</sup> party cloud computing platform and other 3<sup>rd</sup> party internet based computer applications.

By instructing us to act for you in respect of any matter or transaction, you are deemed to have authorised the storage of data relating in any way to you (your '**Client Data**') by those 3<sup>rd</sup> party providers.

Details of each of those 3<sup>rd</sup> party providers and services are set out below:

### a) **Neos**

- i) Our primary computer network comprises a cloud based server hosted by Neos Systems Limited ('**Neos**') in its secure data centre based in the Wellington area.
- ii) All data is backed up in 3 separate locations:

- a. Neos' primary data centre in Wellington;
  - b. Neos' secondary data centre in Auckland; and
  - c. at our principal place of business in Wellington.
- iii) All data is fully encrypted using 48-bit encryption.
  - iv) We have entered into a comprehensive Service Level Agreement with Neos in respect of all the services it provides to us, and a Confidentiality Agreement to protect the confidentiality of all data.
  - v) Neos is a CloudCode Signatory. This means that it has voluntarily adopted and committed to the New Zealand Cloud Computing Code of Practice. A copy of Neos' CloudCode Disclosure Statement is available upon request. This statement includes Neos' contact and other corporate identity details.
- b) **ActionStep:** We use ActionStep our legal practice management system and, as such, Client Data is stored in its cloud based system.
  - c) **Xero:** We use the Xero online accounting application as our nominal accounting system and, as such, limited 'low risk' Client Data is stored in its cloud based system.

#### 10. Companies & Trusts

Where we are providing legal services to a company or a trust, for the purposes of our contractual solicitor/client relationship, the instructing principal client will jointly and severally include:

- a) in the case of an unlisted company, that company and all its directors and shareholders; and
- b) in the case of a trust, that trust and its trustees.

#### 11. Limitations On Our Responsibility & Liability

**Limited Liability Company:** Wakefields Lawyers Limited is a limited liability company trading as 'Wakefields Lawyers'. For further information, please email [info@wakefieldslaw.com](mailto:info@wakefieldslaw.com).

**Foreign Law Matters:** We are only qualified to advise on New Zealand Law. If we assist you in respect of matters governed by foreign law, we do so on the basis that we do **not** accept any responsibility in relation to your legal position under that foreign law, and strongly recommend that you obtain specific legal advice on that legal position from a suitably qualified foreign legal adviser.

**Investment, Taxation, Accounting & Resource Management Advice:** We do **not** provide investment, taxation, accounting or resource management advice, and strongly recommend that you consult an investment, taxation, accounting or resource management expert (as the case may be) for such advice. We will **not** be liable in any way for any investment, taxation, accounting and/or resource management advice, which may be provided to you.

**Communications:** We do **not** accept any liability for any loss arising from any damage to, or non-receipt, non-opening or compromise of any communication, including E-mail or other internet based communications.

**Third Party Service Provider:** Where we instruct a third party on your behalf, we will **not** be responsible for any act or omission of the third party.

**Consumer Guarantees Act 1993 ('CG Act'):** Where you are using our services for business purposes, you are deemed to have agreed in accordance with section 43(2) of the CG Act that none of the rights or remedies under the CG Act will apply to the provision of those services to you.

**Limitation On Extent of Liability:** If we incur any liability to you, our total aggregate liability to you will be limited, depending on the nature of the claim, to the maximum amount payable by the New Zealand Law Society's 'Lawyers Fidelity Fund' or an amount equal to the recommended minimum level of professional indemnity insurance cover specified by the New Zealand Law Society ('**Law Society**') for a legal firm such as Wakefields Lawyers, at the time of the claim. This limitation applies to all liabilities, whether in contract, tort (including negligence), law, equity or otherwise arising out of or in connection with our engagement or the services we provide you.

#### 12. Publications & Invitations

We may send you Wakefields Lawyers publications and invitations to Wakefields Lawyers seminars and functions by E-mail or otherwise. Under the Privacy Act 1993, you have rights of access to, and correction of, your personal information held by us.

#### 13. General Charging Guidelines

Our fees are charged in accordance with guidelines laid down by the Rules of Conduct and Client Care of Lawyers of the New Zealand Law Society. In fixing the fee, we are entitled to take account of matters such as:

- a) the time and labour expended;
- b) the skill, specialised knowledge, and responsibility required to perform the services properly;
- c) the importance of the matter to you and the results achieved;
- d) the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you;
- e) the degree of risk assumed by us in undertaking the services, including the amount or value of any property involved;
- f) the complexity of the matter and the difficulty or novelty of the questions involved;
- g) the experience, reputation, and ability of the individual(s) acting for you;
- h) the possibility that the acceptance of your retainer in this matter will preclude us from acting for other clients;
- i) whether the fee is fixed or conditional (whether in litigation or otherwise);
- j) any previous quote or estimate of fees given by us;
- k) any previous fee agreement (including a conditional fee agreement) entered into between us;
- l) the reasonable costs of running a practice; and
- m) the fee customarily charged in the market and locality for similar legal services.

#### 14. Confidentiality

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.

#### 15. Duty Of Care Only To You

Our duty of care is to you and **not** to any other person.

Any advice given by us to you is:

- a) solely for your benefit and, as such, may not be relied upon by any other person, unless we expressly agree to that;
- b) **not** to be disclosed, referred to or used, other than for the purpose for which it was sought;
- c) **not** to be made public or published;
- d) limited to the matters stated in it;;and
- e) limited to and governed by New Zealand law;

**16. Termination**

You may terminate our legal services engagement at any time. We may terminate the engagement in any of the circumstances set out in the Law Society's Rules of Conduct and Client Care for Lawyers

## 17. Conflicts Of Interest

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.

## 18. Governing Law

Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

## 19. Legal Practice Succession

We may assign or novate all our rights and obligations under any legal services contract with you to any successor law firm which takes over the legal practice of Wakefields Lawyers. No consent or approval will be required from you for any such assignment or novation. We will not have any liability to you in respect of any legal services provided to you by any such successor law firm.

## 20. Continuing Terms Of Trade & Future Changes

These terms of trade apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.

We may change these terms of trade at any time, and will publish the changed terms of trade on our website. The change will bind you in respect of any matters on which we accept instructions after publication of the change.

## 21. Application

These terms of trade apply to our relationship with you. However, if these terms of trade are inconsistent with any other legal services agreement we have made with you (whether generally or in respect of a specific instruction), then that other agreement prevails over these terms (but only to the extent of the inconsistency).

## C. INFORMATION FOR CLIENTS

Set out below is the information required by the Rules of Conduct and Client Care for Lawyers of the Law Society.

### 1. Fees

The basis on which fees will be charged and when payment of fees is to be made are set out above.

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

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 Coverage

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. Limitations On Extent Of Our Obligations Or Liability

Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our above terms.

### 5. Keeping Your Records

We will retain or dispose of your records in accordance with our terms of trade. We will provide copies to you in accordance with our obligations under the Privacy Act 1993 on request. We may charge for the cost of providing records to you.

### 6. Compliance Obligations

We are obliged to comply with all laws applicable to us in all jurisdictions, including (but **not** limited to):

- anti-money laundering and countering financing of terrorism laws; and
- laws relating to tax and client reporting and withholdings.

We may be required to undertake customer due diligence on you, persons acting on your behalf and other relevant persons such as beneficial owners and controlling persons. We may **not** be able to begin acting, or to continue acting, for you until that is completed.

### 7. Client Care & Service

The Law Society client care and service information is set out below.

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.
- Let you know how to make a complaint and deal with any complaint promptly and fairly.

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.

If you have any questions, please visit [www.lawsociety.org.nz](http://www.lawsociety.org.nz) or call 0800 261 801.

### 8. Lawyers Complaints Service

If you have a complaint about the services you have received from our firm, please contact Lauchie Griffin.

If we have been unable to resolve a complaint or concern, you may contact:

The Lawyers Complaints Service

P: 0800 261 801

W: [www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form](http://www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form)

E: [complaints@lawsociety.org.nz](mailto:complaints@lawsociety.org.nz)