

# NEWTONS

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## SOLICITORS



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### TERMS OF BUSINESS

October 2018

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## **TERMS OF BUSINESS 2018 (1 October 2018)**

These are the terms upon which we will act for you and subject to such specific Client Care letters as may be issued from time to time which will take precedence in the event of any conflict with these terms. Our Engagement Letter (also referred to as a "Client Care Letter") will inform you of the name of the fee earner dealing with your matters and the Partner undertaking the supervisory role.

In these Terms of Business, "we" "us" or "the firm" refers to Belsize Legal Services LLP trading as "Newtons".

Belsize Legal Services LLP is a Limited Liability Partnership. Its registered number is OC412523.

Belsize Legal Services LLP is authorized and regulated by the Solicitors' Regulation Authority – SRA number: 634101.

The Value Added Tax number of Belsized Legal Services LLP is: 254 213 727.

The registered office of Belsize Legal Services LLP is 28 Rosslyn Hill London NW3 1NH.

We request that post to the firm's office is sent to PO Box 71699 London NW3 9WA. This is to enable us to receive and handle incoming post efficiently and in a timely manner.

### 1. Point of Contact

- (a) You must give us all information that we think is relevant and tell us as soon as possible about any changes to your instructions or circumstances so that we can represent you effectively or, in some cases, we may be forced to stop acting for you at all.
- (b) You must respond promptly to us for requests we may make for further information and documents. Failure to provide requested information could jeopardise your matter and incur additional costs and could result in our terminating our retainer.
- (c) If you instruct us to act for a company or organisation we will require proof of your authority to do this.
- (d) If we are acting for two or more of you jointly (for example, as executors of an estate, trustees or co-owners of a property) we will need written consent from the other individual that you are authorised to act on instructions from one of you. However, you may let us know if you want us to act differently.
- (e) There are now particular legal requirements on us to report information on matters we handle. Further details appear below.

### 2. Fees

Our fees are usually calculated on the basis of time and hourly rates and in some circumstances value, details of all of which will be set out in our Client Care letter.

- (a) Taking into account:
  - the complexity of the matter;
  - the seniority and experience of personnel involved;

- the element and importance to you.
- (b) The rates for the individuals engaged on your business will be set out in detail in the Client Care letter sent at the outset of each instruction, as updated thereafter. Except as otherwise agreed all our fee arrangements are reviewed annually with effect from 31 October in each year.
- (c) **Conditional Fees**  
We do not undertake work based on a Conditional Fee Agreement.
- (d) Where it is necessary to instruct third parties e.g. barristers and others to advise or act on your behalf we will do so as your agent. This means that you will be responsible for the payment of their fees, even though these fees may be included in our accounts. We do not settle substantial expenses incurred on your behalf such as barristers', experts' or foreign lawyers' fees unless you put us in funds first. If we instruct others to act for you, we will choose them carefully but we cannot be responsible for their work.
- (e) In accordance with our Equality and Diversity policy, we will not charge extra for any home visits made in the event in which one of our clients is unable to access the office premises due to a disability. Please ask for our written Equality and Diversity policy for more details.

### 3. Costs Estimates and Budgets

Before acting on your instructions, we will set out in our Client Care letter the basis on which our fees and expenses will be charged and we will give you an estimate of our costs. **(Unless stated otherwise, this is an estimate not a quotation)**. Reviewing this estimate from time to time and obtaining your agreement to such revised estimate.

For fixed fee agreements, we shall in the Client Care letter set out in clear terms:

- the total agreed fee (or percentage of transaction value);
- the details of the work that the fee will cover.

### 4. Billing and Payment

Our bills are either prepared in-house or sent out to an independent costs draftsman. This is dealt with further in the Client Care letter.

Our normal procedure is for an account to be sent out every month or as otherwise set out in our Client Care letter and finally on the conclusion of the matter. More frequent accounts may be rendered where significant charges have been incurred on your behalf.

We reserve the right at any time to ask for a payment in advance on account of our fees and/or our disbursements incurred on your behalf or if we are required to provide a solicitor's undertaking for payment of a third party's fees. It is our normal practice to do so in all cases where significant disbursements (such as Counsel's fees) are expected and where we are required to provide a solicitor's undertaking for payment of a third party's fees.

Funds received on account are held in our Client Account. Such funds are to be applied by us in accordance with the Solicitors Accounts Rules 2011.

Payment is due immediately upon issuing an account. If the account remains outstanding for more than 30 days after it has been rendered we reserve the right to charge interest at the greater of 2.5% over Lloyds TSB base rate or (if higher) the rate payable on judgment debts on all amounts due to us from the date of issue until payment. If an account is outstanding, we reserve the right to terminate our retainer without prejudice to costs outstanding and due up to the date of termination.

If you think you will be unable to pay promptly for any reason, either generally or on any specific occasion, we ask that you advise us fully in advance, or obtain our agreement to any required variation. We may ask for money on account of future work in the event of a delay in paying our fees or in other circumstances notified to you by us.

We may decide not to carry out further work until we are paid and to terminate our retainer.

On the back of our account we provide information on your rights to challenge whether the account is reasonable.

#### Money Payable to You

Where we have to pay money to you we will pay you by cheque or bank transfer. We will not pay you in cash and we will not pay a third party. Where we pay by bank transfer, the cost of the transfer will be payable by you as a disbursement.

#### Cash

Newtons' policy is that we do not accept cash from you unless the circumstances are exceptional, in which case the prior approval of the partners would be needed.

If you circumvent this policy by depositing cash direct with our bank, we reserve the right to charge for any additional checks we deem necessary regarding the source of the funds and at our discretion refuse to continue to act.

#### 5. Right to a lien

There may be circumstances in which we are entitled to exercise a lien for unpaid costs. This is a legal right over your assets in our possession. This means that we may retain your papers and other assets in our possession pending payment of those costs. The right does not give us an automatic right to sell the assets.

#### 6. Costs Awarded by the Court

In English law it is likely, but not certain, that the Court will order an unsuccessful litigant to pay some of the costs incurred by you where you succeed. This is unlikely to be more than 60-75% of the costs which you are liable to pay us from your own funds (the difference in the sum awarded and our own account) although we will, of course, strive for a higher recovery sum. You should bear in mind that there are instances where the unsuccessful party may not be capable of paying what they have been ordered to pay and that it may not be possible to recover fully against them. In any event, we will look to you to settle our fees, disbursements and VAT (at the current rate in force) in full, in the first instance, upon the rendering of our account.

If you are unsuccessful, in addition to our fees and expenses, it is likely (although again not certain) that you will be ordered to pay a proportion of the costs of the successful party or parties on the same basis. Under the Civil Procedure Rules provisions, you may be required to pay the costs of any unsuccessful interim application promptly.

In litigation matters apart from private funding there are several alternative methods of funding which will be explained to the client in greater detail in a client care letter dealing with litigation.

#### 7. Custody of Client Money and Interest payable

If we receive money from you that is not in payment of our account then we will hold it in our Client Account under the strict rules of the Solicitors Regulation Authority and in accordance with the Solicitors' Accounts Rules in force from time to time. Any money received on your behalf will be held in our Client Account. Interest will be calculated and paid to you on a fair and reasonable basis in relation to your matter in all the circumstances. The period for which interest will be paid normally runs from the date(s) when funds are received by us until the date(s) on the cheque(s) issued to you. No interest will be payable if the amount calculated on the balance is below £1,000.00.

If interest is accrued on the funds held in Newtons Client Account as per the Solicitors Regulation Authority guidelines, interest will be credited to you gross as per the bank interest rate. You will be responsible for declaring these amounts for tax purpose and for paying any tax due.

#### 8. Conflicts of Interest

A conflict of interest may arise between you and Newtons which could stop us acting. A conflict of interest can also arise between you and one or more of our clients.

We are obliged to check whether there is a conflict of interest before acting on any particular matter. Newtons and the individual fee earner will have to check this in our request for identification and at the first meeting. We will also have to ask you whether you are aware of any previous or present connection which does involve a conflict of interest and which would prevent us from acting. This is an ongoing obligation on both sides and if at any time anything comes to the attention of Newtons and/or the fee earner as well as yourself then Newtons may have to stop acting immediately

In the event of a conflict of interest coming to our attention or arising at any time, we will inform you immediately and waive any duplicated fees at that point and transfer our file of papers in accordance with instructions we receive to other lawyers of your choice.

#### 9. Money Laundering

- (a) Money Laundering Regulations 2007; Outcome 7.5 of the SRA Code of Conduct 2011.
- (b) Our current Money Laundering Officer is Richard Schmidt.

- (c) There is a substantial amount of anti-money laundering legislation that has been extended to the proceeds of all crimes which, as with many other businesses, applies to all law firms and their staff.
- (d) We are required to obtain, as soon as possible after contact has first been made between us, satisfactory evidence of your identity and that of any ultimate beneficial owner(s). We may also need to enquire into the source of funds and the legitimacy and purpose of the transaction you have instructed us on.
- (e) Legal requirements may mean that we have to report to NCA (the National Crime Agency) any knowledge or suspicion we may have of money laundering and disclose confidential information if circumstances override legal professional privilege. We are prohibited from informing you that we have or are proposing to make a report. This is ongoing unless we may at any time request you to provide us with further information.
- (f) The above stated obligations in fact continue for as long as we act for you and at any time we may contact you for further identification and further information to satisfy the statutory obligations on us.
- (g) Failure on your part to comply with this legislation will have the above stated consequences.

10. The Provision of Services Regulations 2009

Pursuant to the above Regulations inter alia we have set out on these Terms our VAT number and our Professional Indemnity Insurance details as set out in paragraph 11 below to inform clients of the role of the Legal Complaints Service as set out in paragraph 23 of our Terms of Business.

11. Professional Indemnity Insurance Cover

From 1<sup>st</sup> October 2018 to 30 September 2019, our professional indemnity insurance cover is held by Underwriters at Lloyd's. Syndicate details are available on request. The market reference number is: B0880BELSNW3  
Cover: £3m

Any liability in connection with work we undertake is restricted to the amount of cover

12. Cancelling this Contract Pursuant to the Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008.

Pursuant to the above Regulations you are advised that in the event of instructing us during a home visit you have seven days from the date of those instructions to cancel this contract. You will need to inform the person named as being responsible for your work of this in writing.

13. Cancelling this Contract Pursuant to the Consumer Protection (Distance Selling) Regulations 2000)

Pursuant to the above Regulations, if you instruct us by letter, telephone or email you have seven working days from the date of those instructions to cancel this contract. In the event of you instructing us to proceed within this period, then you will no longer have the right to cancel the contract

between us within that period. You will be responsible for our fees for any work carried out on your behalf during that period.

#### 14. Financial Services

Sometimes conveyancing/family/probate/company work involves investments. We are not authorised by the Financial Services 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 we are regulated by the Solicitors Regulation Authority and complaints and redress mechanisms are provided through the Solicitors Regulation Authority and the Legal Complaints Service.

#### 15. Termination of Representation

If you instruct us on a matter we will assume that you want us to complete it but you may end your instructions at any time.

We may stop acting for you at any time and will do so e.g. if there is a conflict of interest, or if you do not pay our fees, or if you fail to give us adequate and proper instructions in a timely manner, or you do not follow or accept our advice or in regard to paragraph 9 above or you fail to provide us with information we have to provide to others (see paragraph 25) – in any of these circumstances we will terminate the retainer on such terms as we deem appropriate in the circumstances.

If we stop acting for you, or if we cannot complete the work, we will charge for all of the work we have done but this will not exceed the estimate provided from time to time. Where appropriate, we will charge fees and disbursements for transferring the matter to another adviser.

#### 16. Papers and documents

##### Storage

We will keep your papers for seven years after the work is finished. After this, we may destroy them.

We may keep information connected with the work we have done for you so we can refer to it in future cases if we need to.

If we keep important original documents such as title deeds, trust deeds and wills, we will store them in our strong room. Unless we tell you otherwise, there is no charge for this service.

If however a file is requested from archives then there will be a retrieval charge.

By keeping your papers, including original documents such as title deeds, trusts deeds and wills, we are not assuming any responsibility to give you up to date advice.

## Archives

If a client requests the retrieval of their file from archives, a fee is charged by the Archive Storage Company which will be charged to the client.

## 17. E-mails

Unless you instruct us not to, we may use e-mails to contact you or anyone involved in the work we do for you.

The nature of the internet and e-mails means that we cannot guarantee how secure the e-mails will be, or when they will arrive. Any liability on the part of the firm for:

- e-mails arriving late;
- loss or damage caused by e-mail security being broken; or
- damage to your computer systems caused by electronic communications with us.

is hereby excluded.

## 18. Data Protection Act

We are registered, as a "data controller" under the Data Protection Act 1998. This means we will collect and use your personal information only in line with the Data Protection Act 1998. We will use it to deal with your case, and our own products and services (including marketing e-mails) and will keep to any relevant regulations. Other than as needed for the purposes of delivering our services to you or for regulatory or legal reasons, we will not release your personal information to anyone without your permission. By accepting these terms of business you are accepting that we will collect and use your personal information as described in this paragraph.

## 19. Third Party Rights

A party who is not a party to these terms shall have no right to enforce any term or terms pursuant to the Contracts (Rights of Third Parties) Act 1999.

## 20. Applicable Law

These terms and any Client Care letter issued from time to time are governed by and shall be construed in accordance with English law and will be subject to the exclusive jurisdiction of the English Courts.

## 21. Limiting our Liability

We will only be liable to you for any loss arising out of or in connection with our work for you if the loss is caused by our negligence, breach of contract or misrepresentation.

Please note the following:

- (a) Please see Clause 11 above (Professional Indemnity Insurance and maximum liability).
- (b) We will not be liable for any losses if they arise from our reasonably relying on any information or documents that are misleading, incomplete or not correct and it is not reasonable for us to have known that this was the case.

Unless the paragraph below applies, we will not be liable for any losses caused by the acts or neglect of any person other than Newtons.

- (c) If you have also instructed other advisers we will not be liable for any loss you suffer for any advice you received for which the other advisers alone are responsible. If you suffer a loss for which we and the other advisers are jointly and individually responsible, we will pay our share of the loss (up to the limit shown above).

## 22. Confidentiality

We will keep your affairs confidential except where disclosure is required or permitted by law or by you. We will inform you of all information of which we are or become aware which is material to your matter unless such is prohibited by law or for other reasons as set out in the Solicitors' Code of Conduct 2011. Unless you tell us otherwise, we will assume that we are authorised to reveal information about you to other advisers.

We will at all times act in compliance with the obligations of confidentiality and disclosure set out in the Solicitors' Code of Conduct 2011. If at any time you would like a more detailed explanation, please let us know.

## 23. Complaints

### **Our complaints policy**

We are committed to providing a high-quality legal service to all our clients. When something goes wrong, we need you to tell us about it. This will help us to improve our standards. If you have a complaint on any matter including billing, please contact the Partners with the details.

If you would like more information on our complaints procedure, please contact us and we will send you our written complaints policy highlighting how you can raise your complaint, the action the Partners will take and information on the Legal Ombudsman.

## 24. Equal Opportunities

We are an equal opportunities firm and, in line with the Equality Act 2010 and the Solicitors' Code of Conduct 2011, we adopt a policy that wholly avoids discrimination of race, sex, age, disability, religion, gender reassignment, marriage and civil partnership, pregnancy and maternity and sexual orientation. For more information please contact us and we will send you our written Equality & Diversity Policy.

## 25. Disclosure and Compliance Requirements

### (a) The Foreign Account Tax Compliance Act

This US legislation is applicable to US Citizens and Taxpayers and to financial entities in which US taxpayers hold a substantial interest wherever located, including the United Kingdom. We are required to disclose information about your status under this non-UK Law, and we will ask you to provide us with evidence to show that this law applies to you and in what capacity, or does not apply to you. We may require you as a condition of continuing to act for you, to disclose returns and information you have made to or via others regarding your status. Detailed information and guidance about this law can be found here:

<https://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>

(b) Specific UK Laws

Certain UK laws also require us to disclose information about you and transactions you undertake. An example of this are property purchases where information is required to complete a Land Transaction Return for Stamp Duty Land Tax purposes. There are other circumstances where information is required. Where this occurs we are acting as your agents, and information supplied by you will be forwarded to the appropriate authorities. If you are unable or unwilling to supply the information requested for these purposes, we will be entitled to cease to act for you, and to be paid for the work done to the point of cessation.

(c) Costs of Compliance

In all cases, the costs of complying with these requirements (including time spent by this firm in dealing with these matters) are payable by you, the client. We will advise you of the amount of these costs and will add this to our next invoice, whether interim or final.

26. Accepting these terms

Signature of our Engagement Letter denotes acceptance of these Terms of Business. Whether or not you sign our Engagement Letter, if you continue to instruct us after receiving these Terms of Business, you have accepted these Terms of Business.