

1.1 Our Responsibilities

- We will treat you fairly and act within the law with regard to both our fees and conduct of your case.
- We will always act in your best interests, and will distinguish between the needs of individual clients, taking account of capability, vulnerability or other factors which may affect the manner in which instructions and advice are given.
- We will ensure you are in a position to make an informed decision about the services you need, how your case will be handled and the options available to you.
- From the outset and throughout the conduct of your case, we will review the matter to ensure we have the necessary resources, skills and procedures to carry out your instructions. This includes whether it may be appropriate, in your best interests, for us to continue to act.
- We will disclose to you any financial benefits that we derive from your instructions, e.g. commissions received or any fee sharing agreement with third parties.
- We will keep your affairs confidential, save to the extent that we are required or permitted by law to permit access by a third party such as the Law Society or the Solicitors Regulation Authority (*see External Audit below*).
- If, during the course of a matter, we discover any act or omission which could give rise to a claim by you against us, we will inform you.

1.2 Our Level of Service

- Telephone calls, wherever possible, will be returned on the same day, but if not within 1 working day.
- Letters and emails will be responded to, other than in exceptional circumstances, within 2 working days.
- We will update you as to progress whenever appropriate, but in any event at least every three months.
- Any change in the expected level of costs or the timescale in the matter will be notified as soon as it becomes apparent.

2. Your Responsibilities

It is essential that we have a clear understanding of the legal services required by our clients. We therefore need to have full details of your case so that we can advise you about the issues raised and how they can best be dealt with. You can help us by:

- Giving us clear instructions.
- Letting us have all relevant documentation.
- Informing us of any time limits of which you are aware.
- Dealing promptly with any important questions which arise.

3. Hours of business

The normal hours of opening of our offices are between 9 a.m. and 5 p.m. on weekdays. Messages can be left by voicemail or email outside those hours and appointments can be arranged at other times when necessary.

4. Email

Unless you tell us otherwise, you agree to us communicating with you, including sending bills and other confidential information, by normal, unencrypted email, using the email address (es) you have given us from time to time. You should be aware that there is a risk that emails (in particular when unencrypted) may be intercepted, delayed or corrupted or may fail to be delivered.

We make reasonable attempts to exclude from our emails any virus or other defect that might harm a computer or IT system. You undertake to act likewise with any electronic communications you send to us. Neither you nor we shall have any liability to each other in respect of any claim or loss arising in connection with such a virus or defect in an electronic communication other than where such claim or loss arises from bad faith or wilful default.

5. Costs

Unless we have agreed otherwise, our charges will be based on the time spent on your matter, applying our hourly charging rates as applicable from time to time as notified to you.

We reserve the right to charge separately for photocopying, printing, telephone calls, faxes, electronic funds transfers, catering and other support services, and travel, courier and other incidental expenses. Legal Assistants' time is not normally charged, except when doing original work, in which case the hourly rate is £126.

Where applicable, we will charge VAT on our charges and expenses.

6. Changes to charge-out rates

Our hourly charge-out rates are reviewed with effect from 1st January each year. We will notify you of the rates if they change and you will then be bound by them. If you do not accept the new rates after review, we reserve the right not to continue acting for you.

7. Costs Estimates and Arrangements

Any costs estimate we give at any time is a guide to assist you in budgeting. It is not intended to be fixed, unless that is specifically agreed in writing.

Any fixed fee, capped fee or other fee arrangement we agree with you, or any costs estimate we give you, is based on the scope of the work anticipated and our assumptions about the matter at the time it is agreed or given. If the scope of the work changes, or the assumptions change, it will no longer apply. In that case we will discuss a revised fee arrangement or estimate with you.

8. Administration of Estates

Where our firm or one or more of its directors are appointed as executors under a Will, we shall (on request) give information as to the likely legal costs in dealing with the eventual probate. Such legal costs cannot be accurately predicted as the work may take place some years in the future; but currently we charge between approximately 1% and 3% of the gross value of the estate plus VAT.

9. Billing

Unless agreed to the contrary we will normally bill monthly for the work performed to date together with any disbursements or other fees that we have incurred on your behalf.

10. Payment

10.1 In some cases, and particularly when litigation is involved or when we may need to incur substantial expense on your behalf we may require you to provide a payment on account of the future likely costs and disbursements.

10.2 It is a condition of our retainer that all bills, interim and final, are paid within 14 days. If a bill is not paid in full within that period we may charge you interest on any amount outstanding from the date of the bill until the date the bill is paid at the rate of interest of 8% above Bank of England base rate. In the case of commercial clients we reserve the right to claim interest and recovery costs pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 as amended.

10.3 Where an account is overdue we are entitled to retain any files and documents belonging to you which are in our possession until our account is settled. We also reserve the right to cease working on this and any other matters on which we are acting for you.

10.4 If an account remains unpaid and we commence legal proceedings against you in order to recover the sums you owe us then we will be entitled to recover from you the legal costs that we incur in connection with those proceedings at our standard hourly rates, together with all disbursements (including fees of counsel and any other lawyers engaged by us in our attempts to recover payment from you).

10.5 If instructions for a piece of work are given by more than one person or company, we may recover our fees, disbursements and Value Added Tax from any one or more of them. This includes situations where one person or company instructs us on behalf of another. This is because all clients are jointly and severally liable for our fees, notwithstanding any agreement between you as to how you will share the costs. This means that we will be able to look to one client only or to each of our clients to pay the whole of or any balance of any unpaid fees.

10.6 We may deduct our fees and disbursements from funds held on your behalf (or on behalf of an estate or trust).

10.7 If you have legal expenses insurance which may cover all or part of our costs, please advise us immediately.

10.8 If arrangements are made for a third party to pay any of our fees or disbursements, or if in Contentious matter a court orders a third party to pay any part of our fees or disbursements, you remain liable to pay them to the extent that the third party does not pay them when due.

10.9 In Contentious Matters you should also be aware that our costs are likely to exceed the sum which you could recover from any other party to the proceedings so you would be liable for any shortfall. You may also be ordered to pay the costs of the other party if the claim is wholly or partly unsuccessful or if a costs order is made against you.

11. Cash

We are normally only able to accept cash up to a limit of £1,000 in any 28 day period. If clients 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.

12. Interest On Funds We Hold For You

We will normally credit you with interest on any funds we hold in our client account on your behalf. Our policy on the payment of interest is as follows.

- Interest will accrue at the rate payable by HSBC Bank plc on instant access deposits held for business customers. This may be less than the rate at which you could have invested the money yourself.

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- We will credit you with interest only if the amount of interest involved is more than £30.
- If we hold sums of money for you in relation to different matters we will normally treat the money relating to each of the different matters separately.
- We will not account for interest on money held for the payment of a professional disbursement, once the intended recipient has requested a delay in settlement. Nor will we account for interest on money held for The Legal Aid Agency.

13. Cancellation Rights (non-commercial clients only)

For the purposes of The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 we confirm that if your contract with us is an off-premises or distance contract you will be given a Notice of your Right to Cancel and Cancellation Form. The Notice will explain your rights in detail. No such right to cancel applies to on-premises contracts.

14.1 Ending Our Services

You may end your instructions to us at any time by letting us know in writing.

We may decide to stop acting for you only with good reason, for example, if you do not provide us with funds on account, there is a conflict of interest, or you mislead us. We will give you reasonable notice if we decide to stop acting for you. If we do have to stop acting for you we will explain your options for pursuing the matter, and will work with you to minimise disruption to your matter. However if we stop acting for any reason you will be required to pay for the expenses we have incurred and for the work we have done, even if the original agreement or understanding had been that we would only bill you on completion of the matter.

14.2 Termination of Services

Our lawyer-client relationship will be considered terminated upon our completion of the specific services that you have retained us to perform, or if open-ended services are to be provided, when more than six months have elapsed from the last time we furnished any billable services to you.

The fact that we may inform you from time to time of developments in the law which may be of interest to you, by e-mail, newsletter or otherwise, should not be understood as a revival of a lawyer-client relationship. We have no obligation to inform you of such developments in the law unless we are specifically engaged to do so.

14.3 Your Documents

After the end of the relevant matter please let us know if you would like us to send your file of papers to you.

Otherwise we will keep our file of your papers in storage. We will normally destroy it six years or after an appropriate period after the date of the final bill we send to you for the matter without further reference to you, and by agreeing to these terms you authorise us so to do. We will not destroy documents you ask us to hold in safe custody, such as deeds, wills and other important original documents.

We will take care of your deeds, documents and other papers as long as they remain in our possession. However should any of them be lost or damaged as a result of events beyond our reasonable control we will not be liable for their replacement or for any resultant loss.

Although we make no charge for secure storage of your documents we reserve the right to charge a fee (usually £75 + vat) if we need to retrieve your document(s) from secure storage because you have or are intending to take advice from another adviser or to deal with matters yourself. This fee will however normally be waived if you instruct us to carry out further chargeable work on your behalf.

15.1 Force Majeure

We shall not be liable to you if we are unable to perform our services as a result of any cause beyond our reasonable control.

15.2 Limitations on our Liability

We limit our liability to you for claims for breach of contract, breach of duty, negligence and for claims otherwise arising out of or in connection with our engagement or the services we provide, in the ways described below.

Our liability to you shall be limited to £3 million unless a higher amount is set out in the letter accompanying these Terms of Business. This liability cap will apply to our aggregate liability to you together with any associated party for whom you are acting as agent in relation to the relevant matter on any basis.

15.3 Professional Indemnity Insurance

Under the Indemnity Insurance Rules we are required to take out and maintain qualifying insurance. Details of our insurance (including the name and address of the insurer and the geographical coverage) are available on request.

15.4 Proportional Liability

In addition to the other limitations in this document, where we and/or third parties are responsible for any loss suffered by you, our liability for that loss will be limited to a fair proportion of your total loss calculated by reference to the extent of our responsibility. If you have engaged others to represent or advise you on a matter in which we are involved and you agree with any of them that their liability to you will be limited, in order that our position is not adversely affected by any such limitation of their liability, you agree that our liability to you will not exceed the amount which would have applied in the absence of that limitation.

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15.5 Third Party Liability

If you start proceedings against us for loss or damage and there is another person (for example, another adviser) who is liable (or potentially liable) to you in respect of the same loss or damage, then you will (if we so request) join them into the proceedings. This is subject to any legal prohibition against your joining them in that way.

15.6 No claim against individual employees/directors.

We have an interest in limiting the personal liability of employees, consultants and partners. Accordingly you agree that you will not bring any claim against any individual employee, consultant or director in respect of losses which you suffer or incur, arising out of or in connection with our engagement or the services we provide. The provisions of this paragraph will not limit or exclude the firm's liability for the acts or omissions of our employees, consultants or directors.

The provisions of the above paragraph are intended for the benefit of our employees, consultants and directors but the terms of our engagement may be varied without the consent of all or any of those persons.

15.7 Limitation on exclusions

The above exclusions and limitations will not operate to exclude or limit any liability which cannot lawfully be limited or excluded. In particular they do not limit liability for fraud, nor for causing death or personal injury by negligence, nor for negligence in contentious business, insofar as the Solicitors Act 1974 s 60(5) precludes the exclusion of such liability.

16. Any Concerns

As explained in our accompanying engagement letter, if you are not happy with our service or the bill, we hope to be able to resolve the matter to your satisfaction. Details of our [Complaints Handling Policy](#) are available to view online or in writing, by request. However, if you are not satisfied with our handling of your complaint you may be able to ask the Legal Ombudsman (address: PO Box 6806, Wolverhampton WV1 9WJ, Website:www.legalombudsman.org.uk Telephone: 0300 555 0333) to consider your complaint. 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 and within twelve months of the act or omission complained of.

Note that the Legal Ombudsman service cannot be used by businesses or most other organisations, unless they are below certain size limits. As well as your right to complain about any of our bills under our complaints procedure, you can also apply for the bill to be assessed by the court under Part III of the Solicitors Act 1974, in which case the Legal Ombudsman may not consider your complaint. If you are a consumer 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. That is at <http://ec.europa.eu/odr>.

17.1 Instructions

If instructions are given on behalf of a client, we are entitled to assume that the person giving the instructions has lawful authority to instruct us. If not, then that person will be liable to us as if they were our client.

17.2 Joint Instructions

Instructions are understood to be for the purposes of all of those instructing us. We will act on instructions from any one of those clients unless you instruct us otherwise

17.3 Third Parties

Our advice is for your benefit only. Save as expressly set out, our agreement with you is not intended to confer rights on any third parties whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

18.1 Investment and Insurance Advice

Thomson Hayton Winkley Limited is not authorised by the Financial Conduct Authority ("FCA"). We are regulated by the Solicitors Regulation Authority ("SRA"), which is the independent regulatory arm of the Law Society of England and Wales. If you are unhappy with any investment advice or insurance advice you receive from us you should raise your concerns with the SRA.

18.2 Insurance Distribution

We are 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 distribution 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/firms/financial-services-register

19. Financial Services and Markets Act ("FSMA")

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 some limited investment advice services where these are closely linked

to the legal work we are doing for you. This is because we are regulated by the SRA, which is a designated professional body for the purposes of the FSMA.

Our role in any transaction is that of legal adviser and it is not part of our function to give advice on the merits of any transaction in investments. When providing our services we will assume that you have decided or will decide to negotiate or enter into any such transaction solely on the advice you may receive from a person authorised under the FSMA. No communication from us is intended or should be construed as an invitation or inducement to you or to anyone else to engage in investment activity.

20. Financial Services Please note that the directors of Thomson Hayton Winkley Limited have a financial interest in Thomson Hayton Winkley Financial Services Limited which is an authorised representative of Network Direct Ltd which is regulated and authorised by the Financial Conduct Authority. Clients of Thomson Hayton Winkley Financial Services Ltd do not enjoy the statutory protections attaching to solicitors' clients, but do enjoy the protection of the Financial Services Compensation Scheme.

21. Tax Advice

We will not give advice on issues relating to tax or tax planning arising from the work we do for you except where this is specially referred to other correspondence from us. Any work that we do for you may have implications on your liability to pay tax or necessitate the consideration of a tax planning strategy. If you have any concerns about the tax implications of the work that we do for you, you should consult an accountant or other qualified tax advisor. We would be happy to put you in touch with someone suitable.

22. Estate Agents

Please note that the directors of Thomson Hayton Winkley Limited have a financial interest in THW Estate Agents Ltd (trading as Thomson Hayton Winkley Estate Agents). Clients of Thomson Hayton Winkley Estate Agents do not enjoy the statutory protections attaching to solicitors' clients, but do enjoy other protection.

23. Governing Law and Jurisdiction

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by the law of England and Wales, and the Courts of England and Wales shall have exclusive jurisdiction over any such dispute or claim.

Payment

24. Your Affiliates

Our client is only the person or entity designated in our engagement letter, and not its affiliates (whether shareholders, parent, subsidiaries, partners, members, directors, officers or otherwise). Accordingly for conflict of interest purposes, we may represent another client with interests adverse to your affiliates. Our engagement for you does not create any rights in or liabilities to any of your affiliates.

25. International Work

We may in the course of our engagement, as agent on your behalf, engage other firms in other jurisdictions to provide certain services. These services will be provided on their standard terms of business which will be supplied to you on request.

Where advice or assistance is required in other jurisdictions, or in areas of law in which we do not practise, we will discuss with you the selection of appropriate advisers and will engage them as agent on your behalf. You will be directly liable to them for their fees and expenses in accordance with the terms agreed with them. Unless otherwise agreed, our advice will relate to English law only.

26. Insider Lists

The following applies if you are a listed company and are required to maintain an insider list in respect of any transaction. For the purposes of the FCA Disclosure Rule Sourcebook ("Sourcebook") your principal contact at Thomson Hayton Winkley Limited will be the director in charge of your matter. You should inform us when you provide us with any information in relation to your company which you consider to be inside information for the purposes of the Sourcebook. We will draw up and maintain an insider list of personnel and third parties whom we instruct who have access to inside information in relation to your company, and will provide you with a copy on request. We will take necessary measures to ensure that those whose names are on the insider list acknowledge the legal and regulatory duties entailed (including dealing restrictions) and are aware of the sanctions for misuse or improper circulation of inside information.

27. Monies Held In Our Client Account

We will not be liable to repay any money that we hold for you in our client account at Handelsbanken or any other bank or building society where we hold client monies (a list of which is available upon request) which is lost as a result of a failure of the bank.

28. Severability

If any provision in these terms of engagement or our accompanying letter is or becomes invalid, illegal or unenforceable then it shall, to the extent required, be severed and shall be ineffective and the validity of the remaining provisions shall not be affected in any way.

29.1 Data Protection

We use the information you provide primarily for the provision of legal services to you and for related purposes including:

- updating and enhancing client records;
- analysis for management purposes and statutory returns; and
- legal and regulatory compliance.

Our use of that information is subject to your instructions, data protection law and our duty of confidentiality. Please note that our work for you may require us to disclose information to third parties such as expert witnesses and other professional advisers, including sometimes advisers appointed by another party to your matter. We may also give such information to others who perform services for us, such as typing or photocopying. Our practice may be audited or checked by our accountants or our regulator, or by other organisations. Data may be shared with or obtained from an ID verification company TransUnion. Click on this link for more information about TransUnion. <https://www.transunion.co.uk/legal-information/bureau-privacy-notice> All such third parties are required to maintain confidentiality in relation to your files.

You have a right of access under data protection legislation to the personal data that we hold about you. We seek to keep that personal data correct and up to date. You should let us know if you believe the information we hold about you needs to be corrected or updated. If you send us personal data about anyone other than yourself you will ensure you have any appropriate consents and notices in place to enable you to transfer that personal data to us, and so that we may use it for the purposes for which you provide it to us. If you have a data enquiry, please contact John Cooke, one of the directors, on 01539 721945

Thomson Hayton Winkley Limited (solicitors), who are authorised and regulated by the Solicitors Regulation Authority, are separate entities from Thomson Hayton Winkley Estate Agents LLP and Thomson Hayton Winkley Financial Services Limited. Some of the directors of Thomson Hayton Winkley Limited (solicitors) are also directors of Thomson Hayton Winkley Estate Agents LLP and shareholders of Thomson Hayton Winkley Financial Services Limited. Thomson Hayton Winkley Financial Services Limited is an appointed representative of Network Direct Limited which is regulated by the Financial Conduct Authority (and not regulated by the Solicitors Regulation Authority). Thomson Hayton Winkley Estate Agents LLP are regulated by the Royal Institution of Chartered Surveyors (and not regulated by the Solicitors Regulation Authority).

Thomson Hayton Winkley Limited (solicitors) may share data with Thomson Hayton Winkley Estate Agents LLP and/or Thomson Hayton Winkley Financial Services Limited for the purpose of advancing your matter (or a related matter) and/or to enable useful information to be given to you. If you do not wish Thomson Hayton Winkley Limited (solicitors) to share data with either Thomson Hayton Winkley Estate Agents LLP or Thomson Hayton Winkley Financial Services Limited please inform us of this in writing.

29.2. External Audit of Files

From time to time our practice may be audited or checked by our accountants or our regulator, or by other organisations. These organisations are required to maintain confidentiality in relation to your files. We do not normally copy such information to anyone outside the European Economic Area, however we may do so when the particular circumstances of your matter so require. All such third parties are required to maintain confidentiality in relation to your files.

29.3 Confidentiality and Money Laundering

Any personal data we receive from you for the purpose of our money laundering checks will be processed only for the purposes of preventing money laundering and terrorist financing or as otherwise permitted by law or with your express consent. Solicitors are under a professional and legal obligation to keep the affairs of clients confidential. This obligation, however, is subject to a statutory exception: recent legislation on money laundering and terrorist financing has placed solicitors under a legal duty in certain circumstances to disclose information to the National Crime Agency. Where a solicitor knows or suspects that a transaction on behalf of a client involves money laundering, the solicitor may be required to make a money laundering disclosure. If, while we are acting for you, it becomes necessary to make a money laundering disclosure, we may not be able to inform you that a disclosure has been made or of the reasons for it. Where the law permits us to do, we will tell you about any potential money laundering problem and explain what action we may need to take.

29.4 Mortgage Fraud

If we are also acting for your proposed lender in this transaction, we have a duty fully to reveal to your lender all relevant facts about the purchase and mortgage. That includes any differences between the mortgage application and information we receive during the transaction and any cash back payments or discount schemes that a seller is giving you. You agree to us so doing.

30.1 Equality and Diversity

Thomson Hayton Winkley Limited is committed to 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.

30.2 Diversity in the Legal Sector Report You can view a copy of [Diversity Data 2017](#) here.

Version date: 27.5.20