

BANNERMANS

LAWYERS

STANDARD TERMS OF ENGAGEMENT

When do these terms apply?

These terms apply in respect of all work carried out by us for you. In the event of any conflict between the terms set out in our letter of engagement and these standard terms, the terms set out in the engagement letter will prevail.

Our Services

The services which we are to provide for you will be outlined in a separate engagement letter.

Our Duty of Care

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.

Professional Fees

In setting our fees we take into account the following factors:

- (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 your 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 lawyer undertaking the services;
- (h) the possibility that the acceptance of the particular retainer will preclude engagement of us by other clients;
- (i) whether the fee is fixed or conditional;
- (j) any quote or estimate of fees given by us;
- (k) any fee agreement entered into between us and you;
- (l) the fee customarily charged in the market and locally for similar legal services;
- (m) the reasonable costs of running a practice.

We will charge you a fee that is fair and reasonable having regard to these factors. GST is payable by you on our fees.

Commission on Funds and Trust Account Reporting Fees

Commission will be charged at 4.5% on all interest accrued on funds held by us in an interest bearing trust account.

In respect of transactions that are not completed within 12 months we are required by the Law Society to provide you with a Trust Account Reporting Statement. A minimum fee of \$180.00 plus GST will be charged for providing this report.

Accounts

Our accounts are due for payment 14 days after the date of the account unless prior arrangements are made with us in writing. If any account is not paid within 21 days, interest will be charged on the outstanding balance at the rate of 18% per annum from the date upon which payment was due, and you will be responsible for any reasonable debt collection costs (including legal costs on a solicitor/client basis) that we incur in recovering outstanding amounts due to us.

If you are instructing us as director or shareholder of a company, you personally guarantee payment of our costs and disbursements in the event that the company defaults in payment.

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

If your accounts remain outstanding after 60 days, no further work will be undertaken by any lawyer of the firm until appropriate arrangements are made.

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, expenses or disbursements for which we have provided an invoice.

Disbursements

Our charges include disbursements incurred on your behalf. Disbursements include out of pocket expenses such as the cost of routine copying, printing, binding, telephone, fax, postage, deliveries, courier expenses and matters of a similar nature.

Disbursements also include payments made on your behalf such as court filing fees, travel and accommodation expenses, the fees of agents, experts and other professionals and are charged at the amount charged to us. When you have instructed us to engage outside counsel then you will, upon demand pay to us the fees billed to us by that outside counsel.

You are responsible for reimbursing our firm for disbursements. Disbursements may be included with our accounts or may be billed separately. Firm policy requires us to obtain from you funds in advance for significant disbursements.

Legal Aid

You may be eligible to apply for a grant of Legal Aid. If you are, we will inform you of this. Not all of our lawyers work on legally aided matters. In the event that Legal Aid is not granted, you will be liable for our account charged as outlined above.

Retainer

Before commencing work on your behalf, we may require you to prepay amounts to us (a retainer) or to provide us with security. The retainer will be deposited in our trust account and you authorize us to debit against amounts pre-paid by you used on account of fees and disbursements. Any unused portion of the retainer will be returned to you upon completion or termination of our services. Further retainers may be necessary as the matter progresses and the earlier retainer has been used.

Trust Account

We maintain a trust account for all funds which we receive from clients. If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank.

Termination of Legal Services

At all times you have the right to terminate our services by giving us written notice to that effect. You must pay our fees for work done and for other charges incurred up to the time of termination.

We may (subject to our ethical obligations and in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*) end our engagement at any time before the completion of your matter by giving you reasonable written notice. We may end our engagement if our fees and charges are not paid when due.

In the event of termination, you are responsible for fees and disbursements incurred up to the time of termination (plus any costs of obtaining Court approval to withdraw as your lawyer, when necessary).

Files and Documents

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

You are welcome to uplift your file provided that all fees and costs have been paid. Please give us reasonable notice before collecting your file should you wish to do so.

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 New Zealand Law Society's *Rules of Conduct and Client Care for Lawyers*.

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Privacy Information

Over the course of your involvement with us, we may collect and hold personal information concerning you. Failure to provide us with information may preclude us from providing services to you or limit the quality of the services provided.

Information concerning you will be held at our office. Under the Privacy Act 1993 you have the right of access to, and correction of, your personal information held by us.

Information concerning you will be used by us to provide legal services, to obtain credit or other references, to undertake credit management and to inform you of issues and developments that may be of interest to you. You authorise us to obtain from any person, or release to any person, any information necessary for those purposes, and you authorise any person to release information to us that we require for those purposes.

General

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

Our Commitment to you

Our firm is committed to serving you professionally and ethically. We make the following commitments to you:

- We will provide you with the legal services that you request or that we agree on and in doing so we will protect and promote your interests and act for you free from compromising influences or loyalties, unless a conflict of interest or other factors prevent us from doing so. If this is the case we will contact you immediately.
- We will treat you fairly, respectfully and without discrimination.
- We will protect your privacy and will ensure appropriate confidentiality.
- We will act competently, in a timely way, and in accordance with instructions received and arrangements made. We will give you clear information and advice. In turn we will need your full and timely cooperation to help us represent you.
- We will discuss with you your objectives and how they should best be achieved.
- We will provide you with information about the work to be done, who will do it and when you will be billed
- We will communicate with you and keep you informed about work being done. We will use our best endeavours to return your telephone calls promptly. We will send to you copies of significant correspondence and other documents. We will advise you when the work is completed

Our commitments to you are consistent with the obligations lawyers owe to clients described in the *Rules of Conduct and Client Care for Lawyers*. Those obligations and our commitments to you 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 or call (04) 472 7837.

Responsibility for Providing Services

The names and status of the people in our firm who will have the general carriage of or overall responsibility for the services we provide for you will be outlined in a separate engagement letter.

Verifying Your Identity

Please do not be offended if we ask you to show us documents verifying your identity. We are legally required by the Financial Transactions Reporting Act 1996 and for the on-line land titles system to take a copy of documents verifying the identity of clients.

Limitations on the extent of our obligations or Liability

Any limitations on the extent of our obligations to you or any limitation or exclusion of liability will be set out in a separate engagement letter.

Communications

If you have a preferred method for our firm communicating with you, please let us know.

We regularly communicate with clients by email. If you would prefer us not to in your case, please let us know so that other arrangements can be made. As emails are not always secure, or may have defects (such as viruses),

We do not accept responsibility and will not be liable for any damage or loss caused by an email that is intercepted, misdirected, or has a virus or other defect.

We do not accept any liability for loss arising from non-receipt of any communication, including computer email communications.

If you have any doubts about the authenticity of any communication or documents purportedly sent by us, please contact us immediately.

Changes by others to our work product

If we transmit or provide any document to you or another party, and changes are made to that document by someone other than us, we are not responsible for any loss caused by the changes unless we have specifically approved them.

The Lawyers' Fidelity Fund ("the Fund")

The New Zealand Law Society maintains the Lawyers Fidelity Fund for the purposes of providing clients of lawyers with protection against pecuniary loss arising from theft by a lawyer of money or other valuable property entrusted to that lawyer while they are providing legal services to the public or while they are acting as a solicitor-trustee. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is limited to \$100,000. Except in limited circumstances 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.

Professional Indemnity Insurance

We hold current Professional Indemnity Insurance providing cover when acting as lawyers. As with all insurances this cover has limitations and is subject to certain exclusions, terms and conditions. Our Professional Indemnity Insurance meets or exceeds the minimum standards specified by the New Zealand Law Society.

If you have a Complaint

We maintain a procedure for handling any complaints by clients, designed to ensure that a complaint is dealt with promptly and fairly.

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.

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 one of the partners of the firm, John Bannerman, John Sheddan or Neil Pritchard. They may be contacted as follows:

- by letter to P O Box 185, Gore;

- by email to

john@bannermans.co.nz;
john.sheddan@bannermans.co.nz;
neil@bannermans.co.nz; or
law@bannermans.co.nz

- by telephoning 03 209 0180

The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.