

# GREGSONS

## Terms of Business

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This document is designed to provide you with information about how we work and about our relationship with you. The information provided may not answer all your questions so if there is anything you would like to know please ask.

### 1. Office hours

Monday to Friday 9:30am to 5:30pm. The office is manned during the lunch hour 1:00pm to 2:00pm and our switchboard operates until 6:00pm but fee earners and secretaries will not necessarily be available outside office hours.

### 2. Parking

There are a limited number of spaces available in our car park at the rear of our office. Any vehicles using the car park are at the owner's risk.

### 3. Telephone calls

Callers are put through to the person they ask for, if available. If not available there is the choice of leaving a message upon the person's voicemail or diverting the call to the person's assistant. Callers are asked, please, to leave messages and make enquiries using the voicemail or assistant rather than the switchboard. This ensures that messages reach the appropriate person more quickly and can be dealt with more efficiently.

Assistants are under instructions to take detailed messages but not to divulge information unless they know the caller personally and are sure it is in order to do so. If an assistant is reluctant to provide information it is because we are protecting your interests.

### 4. Communication

When using e-mail communications for clients, the firm does so on the basis that the clients accept the breach of confidentiality risk involved in this "open" communications system. Clients must also recognise and accept the risk that there is no verification that the sender is the purported signatory and both an e-mail and a fax message can be incomplete or not received at all although recorded as having been transmitted. We shall act upon that which we receive, in good faith but at our clients' risk. If you require letters to be marked as confidential or if you wish to be contacted before an e-mail or fax is sent then you must tell us.

### 5. Client identification/Proceeds of Crime Act

The compliance regime has become more onerous and applies to all solicitors. The law requires us to verify the identity of every client with whom we carry out any financial transaction. In the case of a company we need to verify the identity of the person instructing us. To comply, we often have to ask existing clients for proof as well as new clients. Normally, the production of a passport or photo driving licence and utility bill confirming your address, not more than three months old is required. We must take and keep copies. Sometimes we have to carry out these checks again on behalf of organisations with whom we are dealing on the clients' behalf. This cannot be avoided.

The law also requires that if, in the course of our business, we learn something which should make us suspect that a client, or another person, has committed a crime and benefited financially, we must report what we suspect to the National Criminal Intelligence Service. We must do this without giving any hint to the client that we have made a report.

### 6. Partners' responsibility

The Partners whose names are listed on the firm's letters are the solicitors who own and who are responsible for the firm.

Existing clients will usually regard one of the Partners or another member of our professional staff as their normal contact. We encourage this relationship and this is the person to contact initially even though the work might be outside their speciality. They will ensure in liaison with you that your work is dealt with by the right person for the job and that you are introduced as soon as possible.

Matters handled for you are dealt with either by a Partner (possibly assisted by other professional staff) or by professional staff under the supervision of a Partner. We shall tell you (usually in an initial letter) who is the Partner and which members of staff are involved in your work. Any changes will be notified to you.

### 7. Client care

At the beginning of a new matter clients will receive a letter confirming the instructions received, the action proposed, the name of the supervising Partner responsible, the

other professional staff involved and information about costs. This information is updated as the situation merits. There are regular clients to whom much of the information is very familiar and who often do not appreciate receiving it again and again. In these cases, only information specific to the matter being handled is confirmed.

Please check our letter confirming instructions carefully because we shall be relying upon it and any misunderstanding needs to be dealt with at the outset.

You should never feel short of information but if you do, ask and it shall be supplied.

Please communicate with us promptly and accurately. Lack of openness, neglecting to follow advice and delay are the commonest causes of inappropriate advice, poor results and escalation of costs.

#### 8. Clients' responsibility

*We depend upon clients:*

- *Giving clear instructions;*
- *Making prompt responses to communications;*
- *Providing full and accurate information;*
- *Carrying out any agreed course of action;*
- *Being open and frank in dealings with us; and*
- *Providing money promptly, when required.*

Fixed fees, quotations and estimates of costs are conditional upon these requirements. Where we feel that our relationship with the client is not working we are entitled to end the engagement and charge for work done up to that point. The same applies if a client's non-compliance gives us ethical or professional problems.

Any person giving instructions on behalf of a company or organisation warrants to us that he or she has the authority to give those instructions on its behalf and that it is financially able to meet the commitments. If that is not true then the person giving the instructions is himself or herself liable to us.

If you, your company or your organisation wants us to act only on the instructions of specified people you must let us know in writing so that the position is clear. Otherwise we assume and you authorise us to assume that those representing you, your

company or your organisation are duly authorised to give us information and instructions.

#### 9. Concerns

There are occasions when a client has a problem with our service which has not been satisfactorily sorted out with the person dealing with the matter. In that case please contact the Partner supervising the matter. If your concerns are not resolved then please contact our Client Care Partner, Alexandra Adam, who will provide you with our Complaints Procedure and investigate and respond to your complaint. We are committed to prompt, efficient, fair and courteous handling of any problems of this nature. If for any reason we are unable to resolve a problem between us the Legal Complaints Service can assist in resolving complaints.

#### 10. Money

All money held and handled by the firm for you goes through a client bank account. It takes one working week to clear a personal cheque or banker's draft drawn on a UK clearing bank. Should it be necessary for us to pay out on your behalf by bank transfer or banker's draft we need cleared funds at the time that the payment is made. You will be asked to give us your cheque the requisite number of days in advance to allow for clearance or to arrange a bank transfer in time.

Where we hold your money for a time and in circumstances which would enable deposit interest of more than the Solicitors' Deposit Rules limit (currently £20) to be earned on it we will pay that interest to you.

We will not handle amounts of cash which exceed £500 per payment.

#### 11. Money transfers

Bank Electronic Funds Transfer (sometimes called CHAPS) has become the normal method of payment for transactions involving a substantial amount of money. Money transmitted before 3:00pm on a business day should arrive as cleared funds in the recipient's bank account the same day. We have an in house banking terminal to facilitate the process.

Most of the time it works better than other methods of payment. However banks do not

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guarantee that a payment will arrive by a particular time of day even if sent early in the morning. The system sometimes breaks down. Whilst, when working normally, this system is the most efficient way of transmitting cleared funds quickly, it is important that you know that the system can fail or be delayed. The implication for you may be that your transaction will not complete on time. When a problem occurs we do our best to sort it out but what we can do is very limited.

Your transaction may depend upon people transferring money to us and doing so in good time. That does not always happen. A chain of transactions involves money moving more than once a day. The system does not guarantee that this will work. You are at risk therefore if money does not arrive when it should do. Elimination of this risk usually involves the arrangement of bridging finance at some expense, with your bank. Should you require us to make an electronic money transfer then we must have the full bank account details from you in writing.

### **12. Financial Services and Investment Business**

The firm does not provide in house investment advice or discretionary investment management. We believe it is better to work with independent FSA authorised organisations (stockbrokers, insurance brokers, investment advisors etc.). The same applies to pensions and insurances.

We advise upon estate and tax planning and financial strategy and we provide administration and liaison services in relation to investments. We are authorised to do this where it is incidental to the legal services we are providing to you.

We are not authorised by the Financial Services Authority. However we are included on the register maintained by the FSA so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts.

This part of our business is regulated by the Solicitors Regulation Authority. The register can be accessed via the Financial Services Authority. The Law Society is a designated professional body for the purposes of the Financial Services and Markets Act 2000 but responsibility for regulation and complaints

has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory authority of the Law Society and the Legal Complaints Service is its' independent complaints handling body.

### **13. Safekeeping of Documents and Storage**

We store clients' files on the understanding that we have your authority to destroy them after six years. They are then destroyed. Clients wishing us to send their papers to them rather than having them destroyed must let us know. This applies also to anything recorded by us in electronic or other non-paper form. We may need at some point to change to electronic or photographic recording of files (destroying the originals). You are agreeing that we may do this by engaging us.

We store clients' deeds and securities in our strong room and those documents are never destroyed.

Our storage facilities are provided at the clients' risk and at the moment, free of charge. Clients should arrange their own insurance of valuable items.

After completing your work we are entitled to keep all your papers and documents whilst there is still money owing to us for our charges and expenses.

### **14. Confidentiality in use of data**

In engaging us you accept that we must comply with the following requirements.

We are required to give access to all client records and data both to the Law Society and our reporting accountants in respect of compliance with professional and financial standards and reporting.

We are required to give access to client records and data to the Financial Services Authority in carrying out its functions as our regulator.

We are required to report to the Inland Revenue upon interest paid to clients and in accordance with the Taxes Management Act 1970, Section 17.

From time to time there may be other authorities or organisations to whom we are required to give access to client records and

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data because of compliance requirements for the carrying on of our practice.

We keep records about clients of the type which are covered by the Data Protection Act. From time to time we use these records to contact clients about our services or changes in the law but this information is not given to others for marketing or similar purposes unless we have the client's authority or consent.

### 15. Intellectual property rights

We retain the copyright in all material produced by us both in writing and in electronic form. The client is licensed to use the material for the purpose for which it is produced in accordance with the client's engagement but not for any other purpose without our prior written consent.

Opinions obtained from barristers and others, where it is we who engage the barrister or other expert, are also likely to be copyright and the question of use of that copyright is between us and the barrister or expert.

### 16. Fees

Solicitors' fees are governed by the Solicitors Act 1974 and Regulations made under it. Charges depend upon the level of staff involved, the value (financial and personal), the difficulty and urgency. Some work is undertaken on a fixed fee basis or a conditional fee basis. Most is undertaken on the basis of the time involved, the value of the transaction or a combination of these.

When a fixed fee is agreed it will be confirmed in writing and is for dealing with the matter in accordance with the initial instructions/heads of agreement/particulars first received, in the normal course of matters of that type. Usually the work covered will be summarised for you at the same time.

If the matter requires work outside the normal course or the requirements change we shall advise you that the work is outside the fixed fee and endeavour to explain the implications.

An estimate or budget figure received is not a fixed fee but our best estimate at the time, of the likely cost of a matter, being charged upon a time basis, usually based on our experience of comparable cases. There is

bound to be a compromise between your need for an indication of cost at the outset and the uncertainty about how the matter will develop. Our duty is to tell you if and when the way a matter develops means the estimate is inaccurate, and to give an updated estimate, if practicable.

Where a conditional fee is permitted that is another way of financing the cost. If acting for you on that basis then we shall agree with you our basic fees plus a percentage success fee. Special terms and conditions apply to such arrangements and can be discussed with you if appropriate to the case.

Please note:

- You are entitled to complain about your bill;
- You may also have the right to complain about your bill to the Legal Complaints Service (or the Office for Legal Complaints) and/or by applying to the court for an assessment of the bill under Part III Solicitors' Act 1974; and
- If all or part of the bill remains unpaid we are entitled to charge interest.

### 17. Costs and charges

Unless an exemption applies VAT is added to our charges at the current rate. Fixed fees or estimates of fees do not include VAT. We are also obliged to add VAT when billing clients for most of the expenses we incur on their behalf.

When a time basis of costing applies we record the time taken in units of one-tenth of an hour to the nearest one-tenth of an hour. The charge is based on the units recorded. Time taken includes research, drafting, meeting with clients and others, telephone calls, letters received and sent, e-mails, preparation and dictation, making notes of conversations, meeting compliance requirements, travelling, waiting and time spent in court. Time rates are renewed from time to time and in respect of a member of staff if that person is upgraded. Time is costed at the current applicable rate of the person concerned. When a fixed fee matter stops before being completed the work to date is charged on a time basis but the total will not exceed the applicable fixed fee.

Fixed or estimated fees do not include expenses incurred on your behalf such as stamp duty, search fees, barristers' and

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experts' fees, court fees, bank charges and travelling expenses unless specifically stated. Normally telephone costs and photocopying are included in our charges but will be charged separately if particularly large.

If we are charging on a time basis you may in an appropriate case set an upper limit on our fees and you will not then be liable to pay more than that limit (plus disbursements and VAT) unless you agree otherwise. If we reach that limit then we shall stop all further work and advise you that the limit has been reached. You may then set a new limit or just pay for the work which has been done so far. It is not usually appropriate to set a limit in a contentious case once proceedings have been issued as it may prevent us from taking necessary steps in the proceedings.

### 18. Billing arrangements

Unless other arrangements have been agreed with you:

- (a) For continuing work the terms of business are that we will send bills periodically (monthly, bi-monthly, quarterly, half-yearly or yearly) depending on what we decide is appropriate to the case. When a rapid escalation of costs occurs in a case it may be billed more frequently. Short term matters or those relating to a one-off transaction are billed when substantially completed.
- (b) In respect of routine conveyancing transactions the normal terms of business are that you are billed and payment is due at the time of completion. Some mortgage lenders insist upon this. If sufficient funds are available on completion and we have sent you a bill you agree that we may deduct our charges from the funds we hold.

Any special arrangements with regard to billing agreed between you and us will be confirmed to you in writing.

Unless otherwise stipulated or agreed payment of a bill is due within one month of our sending the bill to you. Interest accrues on overdue bills at the Judgment Debt Rate.

In many cases an advance payment on account of costs or expenses to be incurred is required. That money is held in a client ledger in your name. Money held on account of costs is not taken in payment until a bill has been rendered to you.

### 19. Credit/debit card payment

We accept payment of our bills by MasterCard debit, MasterCard credit, Maestro, Visa debit, Visa credit, Solo or American Express. Debit card transactions are free. For credit card transactions there is a charge which will be added at the rate current at the time of payment.

### 20. Third party costs

Sometimes a client will have to pay a third party's costs e.g. when ordered by a court in a litigation claim or in some non-contentious transactions such as taking a commercial lease. Where a client is at risk of being ordered to pay another party's costs in litigation we shall advise on that risk and the implications of the same. The reforms brought about by the Civil Procedure Rules 1999 place an obligation upon parties to a dispute and their advisers, to seek to resolve matters speedily and efficiently and not to pursue claims of little merit. Alternative Dispute Resolution e.g. mediation, must be considered in most cases. Penalty costs can be awarded against a party to a dispute who does not comply with these requirements. Our acceptance of a retainer to act in a dispute on the basis that the client agrees to our conducting the matter in the way we think necessary to comply with these requirements.

The Court has discretion to award costs in proceedings. The general rule is that the loser pays the winner. The Court must however take into account a range of matters relating to conduct, willingness to negotiate and make offers and whether a winner has been successful on all the issues raised. It is very rarely the case that a party awarded their costs will receive the full amount that party will have had to pay their own legal advisers. Thus a client may not be able to recover from an opponent the charges which we may properly require a client to pay us. In some circumstances we are asked to provide an undertaking to pay a third party's costs on behalf of a client e.g. in lease matters. An undertaking is a

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personal obligation on the firm, which it has to meet. It is in our discretion whether or not we are prepared to give a requested undertaking in a particular case. Whenever we do so it will be limited in amount and we shall require that amount to be deposited with us in our client account, in cleared funds, before the undertaking is given. The money is deposited with us on the basis of irrevocable instructions to apply it to meet the undertaking if and when the undertaking has to be complied with.

### 21. Payment of costs by Third Parties

When you engage us to undertake work, you are the person responsible for the payment of our bill. When a third party is liable to pay or contribute towards your legal costs it is your right against the third party. You are liable to pay our bill whether or not the third party pays you. If it is part of our instructions from you, we will do what is reasonably practicable to recover payment from the third party. As a matter of law, we have no legal right ourselves to enforce payment by the third party. Only you can do that. Our estimated fee assumes payment by the third party when due. Enforcement action will incur additional cost.

### 22. Relationships with Third Parties

Authorities, institutions and the courts make mistakes and are often slow in their responses. Third parties and their advisers do not always deal with matters promptly or efficiently. Sometimes apparently agreed terms are re-opened. Not everybody acts honestly and with integrity. Problems can occur through no fault of yours.

This creates additional work which means an additional charge in both fixed fee and time based charge cases. The additional work is charged for at our current charging rates for the professional people involved.

In such instances it is our responsibility to ensure that the client knows that additional cost is being incurred. You the client are responsible for deciding:

- (a) whether or not to continue;
- (b) whether to make contingency plans;
- (c) the extent to which you want to try to deal with the problem yourself with a view to saving cost.

It is a hard fact of life that in most cases of additional work caused by the fault of others,

it is not possible or cost effective to attempt to recover the cost from the offending third party.

### 23. Legal Aid

Gregsons has terminated its Legal Aid Franchise because it became uneconomic to provide the level of service with which we feel comfortable. If your case may be eligible for Legal Aid we can refer you to the Law Society who will be able to provide you with a list of Legal Aid firms in your area.

### 24. Termination

Except in conditional fee cases, you can terminate your instructions to us in respect of any matter, at any time. You should notify us of this in writing. If our retainer is terminated whilst the matter is still current we shall be entitled to do whatever is necessary to comply with our professional obligations in respect of the matter. The passing of papers to you, or to other legal representatives, will be subject to those obligations and fees and expenses due to us having been paid. We may retain your papers and documents until our fees and expenses are paid. In court matters we shall require to be removed from the record as acting.

Once we have accepted instructions from you to deal with a matter we will stop dealing with it and terminate the retainer only with good reason. This may occur if for example; a conflict of interest arises; if we are prevented from continuing due to Practice Rules or ethical code; in the event of non-payment of our bills or expenses; if there is a breach of good faith; or if you refuse to accept our advice and there is a breakdown of the solicitor/client relationship. In cases funded by insurance we have the right to terminate the retainer if the insurance cover is withdrawn.

### 25. Service Quality

We work to quality standards. We welcome comments from our clients as to how our services can be improved. We also like to know if you think we have done well.

**These Terms of Business  
are also available in  
larger print.**