

TERMS AND CONDITIONS

This document explains the basis on which we will carry out all the work necessary in relation to your criminal proceedings.

People Responsible for Your Work

The individual member of our firm whose name appears at the top right of the attached letter and under whose reference the letter is written is the person who will carry out most of the work in this case. If the individual concerned is a Partner of the firm they will be shown as such where they sign the letter. If so then obviously the work will be carried out by a Partner throughout. Partners within the firm work unsupervised on a day-to-day basis although our internal quality system means that their work is supervised on a periodic basis by other Partners within the firm. Both the Partner dealing with your work and the person supervising such Partner will be a specialist in the field of criminal law.

It may be that on occasion due to pressure of work or availability your case may be dealt with by one of our Assistant Solicitors or Clerks. Again, however, all such individuals will be specialists in the criminal field and supervised themselves under the same internal quality system and by the responsible principal, Mr J W P Gray.

If you need to telephone please ask to speak to the person whose name appears at the head of the letter. If they are unavailable another of our staff will be happy to take any message for you. We try hard to avoid changing the people who are dealing with your work but if this cannot be avoided we will notify you promptly as to who will be handling your work in the future and why such change has proved necessary.

The individual referred to will explain to you the issues raised in your case and keep you fully informed of progress. He/she will also advise you whether the likely outcome of your case will justify the likely charges and expenses and risk involved from time to time as necessary.

We appreciate that as well as the question of cost (which is dealt with below) one of the other major concerns that you will have is the time that your case will take. Regrettably, in the field of criminal law this aspect of the case is not always within our control. There are various third parties such as the Police, Crown Prosecution Service, Courts, Probation Service etc who will have an effect on the way in which your case proceeds. Assuming that the matter proceeds smoothly, however, the person referred to above will be able to provide you with specific information as to an estimated completion date for the full case or estimated completion dates for each particular stage involved.

Charges and Expenses

This document is only supplied to you if you are being advised under the Criminal Legal Aid scheme in criminal proceedings operated at present under the control of the Legal Aid Agency ("LAA")

This means that we have assessed the merits of your case (with particular regard to the seriousness of the offence) and where appropriate have also assessed your financial circumstances in accordance with the formula for public funding eligibility in criminal proceedings.

Either you are being advised in the investigation stage of your case (prior to charge) or under a Legal Representation Order granted by the Court. In either case (or both) our fees will be paid by the LAA. You would only be asked to make payment yourself if your case proceeds in the Crown Court where at the conclusion of the case costs can be assessed on your means. Special rules apply in the Crown Court (see below). For all other cases which satisfy the merits test as to seriousness there is no contribution payable by you.

For certain limited types of offence-related advice a means test applies as well. If you receive certain types of benefits you will be entitled to this assistance free of charge. If you cease to be eligible you may have to pay for our services privately. In any event it is for you to keep us informed as to any changes in your circumstances. In all cases it is essential that your National Insurance Number appears on all applications and you should therefore have it available at all times.

In relation to advice during the investigation stage you should note that this only allows for preparatory work. No Court advocacy is included. This can only be provided under a full Legal Representation Order. There is a limit on the amount of costs incurred for the offence-related advice referred to above. This is currently set at £300.00 plus VAT. Only in exceptional circumstances would this be extended in which case you will be informed. We re-emphasise however this is not the sum you pay but the maximum amount the LAA might pay us.

Under Legal Representation Orders there is no such limit. We are paid on variable standard fee rates. This is a complex system, which will not trouble you as it is essentially free of charge to you.

Crown Court trials

If your case goes to the crown court your eligibility for legal aid will depend upon your financial circumstances. The court or LAA will assess your financial circumstances based on the information provided on a fully completed legal aid application. You will be asked to provide evidence of your income and assets. If you do not, you can be ordered to pay all or part of your defence costs. If you do not tell the truth on your legal aid application about your income, assets and expenditure you could be prosecuted. You are also required to notify the court if your financial circumstances change at any point during the proceedings as any change could effect your entitlement to legal aid or any contribution payable towards your defence costs. You will not have to pay anything towards your defence costs if you are under 18 when you make the legal aid application or if you receive income support, income-based job seekers allowance, guaranteed state pension or income related employment and support allowance.

If your annual household disposable income is assessed as £37,500 or more you will not be eligible for legal aid. In these circumstances if you wish to be legally represented you will be responsible to pay your own defence costs. If you are refused legal aid you can request a review of this decision within 21 days of the decision being made. You can request a review if you believe a mistake has been made, if you have additional expenditure you would like to be taken into account or where you believe you have insufficient means to pay for your own legal costs.

If your annual household disposable income is less than £37,500 then the financial assessment carried out by the court or LAA will determine whether you have to pay a contribution towards your legal costs and if so, how much that contribution will be. This contribution can be from your income, capital or a combination of both. If you are required to pay a contribution towards your defence costs you will receive a Contribution Order from the court and will be required to make payments to a collection agent on behalf of the LAA in accordance with that Contribution Order. The first payment will be due within 28 days of your case being allocated to the crown court. You are entitled to request a review of the Contribution Order within 21 days of the decision being made. You can request a review if you believe a mistake has been made, if you have additional expenditure you would like to be taken into account or where you believe you have insufficient means to pay for your own legal costs.

If at the end of the case you are found not guilty, any contributions you have made will be refunded with interest. If you paid late or not at all and action was taken against you, the costs of this action will be deducted from the refund. If you are found guilty, you may have to pay towards your defence costs from any capital assets you may have. This would only apply if:

- you have £30,000 or more of assets, for example: savings, equity in property, shares or Premium Bonds; and
- any payments you have already made have not covered your total defence costs.

You will be told at the end of your case if you have to make a payment from capital

Billing Arrangements

As you are in receipt of public funding no bill will be submitted to you personally.

Payments to Others During Court Proceedings - Prosecution Costs, Victim Surcharge and Criminal Courts Charge

You should note that whilst you may be eligible for legal aid to cover your legal costs, in the event of any conviction during court proceedings, you will be required to make a number of other payments. The court will be asked to order that you pay the prosecution costs of the case coming to court. The amount of prosecution costs vary depending on whether your case is heard in the Magistrates Court or Crown Court and also depending on whether you plead guilty or are convicted after trial. The prosecution costs will be much lower where a guilty plea is entered early in the proceedings. The prosecution costs will generally be much higher when a guilty plea is entered late in the proceedings and in the event of a conviction after trial.

The court is also required to impose a Victim Surcharge in the event of conviction. The amount of the Victim Surcharge varies depending on the outcome of your case.

The court is also required to impose a Criminal Courts Charge in the event of conviction. The Criminal Courts Charge can be significant again depending on which court deals with your case and whether you plead guilty or are convicted after trial. You should consider the information leaflet attached which details the Criminal Courts Charge.

Costs Orders against Others

As you are in receipt of public funding costs will not be ordered against others except in exceptional and very rare cases. In such cases costs may be sought if there has been delay or negligence by the Court, Police or Prosecution. If costs are awarded they will be paid to us to minimise the cost to the CDS.

Documentation

After completion of the work for you we will keep our file of papers (except for any of your papers, which you ask to be returned to you) for no more than 6 years. We keep the file on the understanding that we have the authority to destroy it 6 years after the date of the final bill is paid. We will not usually retain documentation belonging to you.

If we have to retrieve papers or documents from storage in relation to continuing or new instructions from you we will not normally charge for such retrieval. We may charge for reading correspondence or other work necessary to comply with the present instructions given by you or on your behalf if you no longer receive public funding.

Confidentiality

As solicitors we are under a professional and legal obligation to keep the affairs of our clients confidential and to ensure that all members of our staff do likewise. Certain confidential information can never be revealed without your consent. It is "privileged" against disclosure that is covered by what is known as legal professional privilege. Not everything that solicitors have a duty to keep confidential is covered by legal professional privilege. Confidential communication for the purpose of seeking legal advice from us is covered by legal professional privilege. Confidential communication made during criminal proceedings for the giving of advice or obtaining of evidence is also covered by legal professional privilege.

When we represent you in criminal proceedings we become a participant in that case. We are required to comply with certain rules made by the court. Those rules may require us to provide the courts with certain information relevant to your case. The rules do not require us to reveal to the court anything you have told us if it is privileged, unless you tell us that we can. We are however under a duty to the court to provide information which is not privileged and which enables the court to actively manage your case. There is now a duty upon solicitors to identify the real issues in a case at an early stage. This may well involve telling the court what your defence is in general terms. We are not required to disclose any confidential discussions we may have had with you, but the rules require us to assist the court in the management of your case. You are still entitled to competent and independent legal representation and our duty is to promote and protect your best interests by all proper and lawful means.

What happens to your data (our Privacy Notice)

You will no doubt be aware that since 25 May 2018 there have been strict rules about the handling of personal data. The work we are doing on your behalf (as well as the funding requirements in cases where you have been granted legal Aid) mean we do request data from you and need to retain it. Therefore this Privacy Notice sets out how this data will be handled; the standards you can expect from us: and, your rights in relation to it.

Like most professionals from whom you seek assistance we collect data from you to assist that purpose. As such we are classified as a Data Controller under the legislation which is in force.

We collect and process personal data for the exercise of our function as your legal representatives. If you are being assisted by public funding however you need to be aware that we are obliged to share this data with the Legal Aid Agency. While we do not utilise your data in any marketing exercise you need to be aware that to fulfil its statutory function to provide public funding to individuals sometimes the Legal Aid Agency uses contact information to ask customers if they would like to complete a customer service survey to measure customer satisfaction with their services and to inform areas for improvement.

About personal information

Personal data is information about you as an individual. It can be your name, address or telephone number. It can also include the information that you have provided in any Legal Aid Agency form such as your financial circumstances and information relating to any current or previous legal proceedings concerning you.

We know how important it is to protect clients' privacy and to comply with data protection laws. We will safeguard your personal data and will only disclose it where it is lawful to do so, or with your consent.

Types of personal data we process

We only process personal data that is relevant for the services we are providing to you. The personal data which you have provided in any form or other record we retain will be used for the purposes set out below.

Purpose of processing and the lawful basis for the process

The purpose of us collecting and processing the personal data which you have provided on any record or form is for the purposes of providing you with legal representation and where relevant to obtaining legal aid for you. We will only ever use this personal data in the following ways:

- In the conduct of the specific legal matter on which you have instructed us
- Where appropriate in making any application for legal aid; deciding whether you are eligible for legal aid; and, whether you are required to make a contribution towards the costs of this legal aid;
- In conducting periodic quality audits on our files to ensure that decisions have been made correctly and accurately; and
- In producing statistics and information on our processes to enable us to improve our services to you and other clients in the future.

If we could not collect this personal information from you, we would not be able to represent you appropriately or carry out the other necessary functions referred to above.

At times (especially where public funding is involved) we also collect 'special categories of personal data' for the purposes of monitoring equality. This is a legal contractual requirement for us in our dealings with the Legal Aid Agency and some other public bodies under the Equality Act 2010. Such special categories of personal data obtained for this equality monitoring will be treated with the strictest confidence and any information published will not identify you or anyone else associated with you.

Who the information may be shared with

In order to represent you efficiently (but for no other purpose and bearing in mind confidentiality at all times) we may sometimes need to share the personal information we process with other organisations. When this is necessary, we will comply with all aspects of the relevant data protection laws. The organisations we may share your personal information include:

- The Legal Aid Agency – for any legal aid application
- HM Courts and Tribunals Service (HMCTS) – to request details of your court proceedings or past proceedings
- Department of Work and Pensions (DWP) – for proof of your benefit only

You can contact our Data Protection Officer for further information on the organisations we may share your personal information with.

Retention period for information collected

Your personal information will not be retained for any longer than is necessary for the lawful purposes for which it has been collected and processed. This is to ensure that your personal information does not become inaccurate, out of date or irrelevant.

You can also contact our Data Protection Officer for a copy of our retention policies.

While we retain your personal data, we will ensure that it is kept securely and protected from loss, misuse or unauthorised access and disclosure. Once the retention period has been reached, your personal data will be permanently and securely deleted and destroyed.

Access to personal information

You can find out if we hold any personal data about you by making a 'subject access request'. If you wish to make a subject access request please contact us at 23 Thorne Road Doncaster DN1 2RP

When we ask you for personal data

We promise to inform you why we need your personal data and ask only for the personal data we need and not collect information that is irrelevant or excessive. When we collect your personal data, we have responsibilities, and you have rights, these include:

- That you can withdraw consent at any time, where relevant;
- That you can lodge a complaint with the supervisory authority;
- That we will protect and ensure that no unauthorised person has access to it;
- That your personal data is shared with other organisations only for legitimate purposes;
- That we don't keep it longer than is necessary;
- That we will not make your personal data available for commercial use without your consent; and
- That we will consider your request to correct, stop processing or erase your personal data.
- You can get more details on:
 - Our instructions to staff on how to collect, use or delete your personal information;
 - How we check that the information we hold is accurate and up-to-date; and
 - How to make a complaint.
- For more information about the above issues, please contact us at the above address

When we ask you for information, we will comply with the law. If you consider that your information has been handled incorrectly, you can contact the Information Commissioner for independent advice about data protection. You can contact the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 0303 123

Termination

Obviously, the fact that you have instructed us does not in any way bind you to our firm or the individual dealing with your case. You may terminate your instructions to us in writing at any time but as stated above we will still be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses.

In some circumstances you may consider we ought to stop acting for you, for example, if you cannot give clear or proper instructions on how we are to proceed or if it is clear that you have lost confidence in how we are carrying out your work. Alternatively, we may decide to stop acting for you but we may only do so with good reason. For example, should some conflict arise between you and another defendant/witness/third party in the case, which means that our professional rules prohibit us from taking your matter any further forward. Should this be the case we will obviously give you reasonable notice of our intention to cease acting for you and any existing Legal Representation Order will be transferred to any new Solicitors you instruct.

Complaints

We are confident of providing a high quality service to you in all respects. If, however, you have any queries or concerns about our work for you please raise them in the first instance with the person dealing with your case. If that does not resolve the problem to your satisfaction or you prefer not to speak to the individual concerned then please contact our Complaints Partner, Mr J W P Gray, who deals with any complaints in relation to matters dealt with by the Firm. In the event that a complaint involves Mr Gray then Mr R A Wagstaff will be the nominated Complaints Partner. You can also request a copy of our Complaints Procedure. All Solicitors are committed to attempting to resolve problems that may arise with their services. It is therefore important that you immediately raise any concerns you may have with us. We value you and would not wish to think that you have any reason to be unhappy with us.

If we are unable to resolve your complaint then you can have the complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates complaints about service issues with lawyers. The Legal Ombudsman expects complaints to be made to them within one year of the date of the act or omission about which you are concerned or within one year of you realising there was a concern. You must also refer your concerns to the Legal Ombudsman within six months of our final response to you.

The Legal Ombudsman's contact details are:

Telephone: 0300 555 0333

Website: www.legalombudsman.org.uk

Post: Legal Ombudsman, PO Box 6167, Slough, SL1 0EH

Conclusion

We obviously ask you to consider carefully the contents of this documentation and to raise any difficulties you have regarding the same with the person dealing with your case without further delay. Please appreciate that your continuing instructions in this matter will amount to your acceptance of the terms and conditions of business. We hope that by sending this letter we have addressed your immediate queries about the day-to-day handling of your work and our terms of business. If you still have any queries please do not hesitate to contact the person named as dealing with your case. Finally may we point out that this is an important document. Please keep it in a safe place for future reference.

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