

## **Terms of Service**

Thank you for using Barr Ellison. This document describes how we will work with you when delivering our services. Okay, it is boring! But it is an important document, designed to promote transparency and certainty in our relationship.

It sets out our terms of business and the basis upon which we calculate fees. It will help you understand how we work and enable you to make the most effective use of our resources whilst keeping costs down.

We aim to inspire the confidence and trust necessary for a successful solicitor/client relationship. Experience shows that by putting client care first, we achieve our aim.

### **1. Who we are**

Barr Ellison LLP is a limited liability partnership. Any reference in our correspondence and other communications to a “partner” is a reference to a “member” of Barr Ellison LLP. In these terms of business “we” or “our” refers to Barr Ellison LLP.

Your relationship is solely with the LLP, and the LLP has sole legal liability for the work done for you and for any act or omission in the course of that work. No Member, Consultant or Employee of the LLP will have any personal legal liability for that work whether in contract, tort or negligence.

In particular, the fact that an individual Member, Consultant or Employee signs in his or her own name any letter or other document in the course of carrying on that work, does not mean he or she is assuming any personal legal liability for that letter or document.

### **2. Our ethos and policy**

The firm’s ethos is to treat all clients with unfailing courtesy, integrity and responsibility. We are committed to maintain the highest possible standards to all our clients.

We are obliged to make our files available for inspection by authorised auditors. All such inspections are carried out on a strictly confidential basis. We shall assume you have no objection to this unless you advise us to the contrary.

Set out below is the manner in which we will provide you the client with our services for each matter entrusted to our care.

### **3. Providing services to you**

We will receive and carry out work in accordance with your instructions.

We anticipate gaining an insight into your personal and business requirements, resulting in a positive working relationship with you.

There may be occasions when, as a result of legislation and/or our overriding professional duties and obligations, we are not able to immediately report to you or take further steps with your matter. On these occasions, we will revert to you as soon as we are able.

#### **4. Understanding your instructions**

It is vital that we understand your instructions and what you as the client are seeking to achieve. At the outset we will confirm to you the business with which we are to deal, the service you require and our anticipated course of action.

It will assist us to be provided with clear concise instructions at the outset. We ask that you deal promptly with requests for information. We need to know if there are important time constraints within which you wish us to work.

Please note that we may temporarily record telephone conversations to assist case progress.

#### **5. Email policy**

It is our duty as solicitors to keep your affairs as our client confidential. We have the facility to send and receive communications by e-mail. This form of communication is not secure and you should be aware of the risk to the confidential nature of information sent in this way being the subject of attack from the outside.

We will only send emails provided you accept the risks associated with this form of communication. This includes the risk of fraud. Increasingly we communicate by email in the course of professional business.

Unless you instruct us to the contrary it is implied that we may conduct your affairs by email.

We cannot accept responsibility once an e-mail with any attachments leaves us. We have an anti-virus system installed in our Network and therefore any communication sent by email will be checked for known viruses. We reserve the right not to receive an email until checked for viruses and provision may be made for an incoming e-mail and attachments to be quarantined.

#### **6. Advising you of progress**

We will advise you at appropriate intervals of the progress of your matter. You agree to notify us of any changes and significant developments in your matter.

## **7. Fees**

Our fees will be based on the time taken to deal with your matter. This will take into account the degree of responsibility and level of skill of those involved. The exception will be when a fixed fee is agreed. We do however reserve the right to revise that level of fees if it becomes apparent that more work is required than was originally envisaged.

The hourly rate to be charged to you is shown in your engagement letter. The rates will be revised annually, normally in August. You will be notified of any such change.

They will also be adjusted to take account of a matter which is dealt with urgently or during “unsocial hours”.

It is often difficult at the outset of a legal transaction to know exactly how much time will be spent and therefore what the final fees will be. At the outset of your matter we will give you an estimate of what our fees may be, where it is possible to do so, and based upon the information then available to us.

We will inform you if any unforeseen additional work and additional charges become necessary (for example, due to unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter).

You may set a limit on the costs and expenses to be incurred. This means that you must pay those incurred up to an agreed limit without our needing to refer back to you. You will be informed when a fee limit is reached, and this will not be exceeded without first obtaining your consent.

As well as our charges, VAT and payments to third parties (disbursements) are payable in addition. You will be notified of any significant disbursements. Payments to others are charged at cost.

When we have rendered an interim or final bill, and are holding money in client account, the Solicitors Regulation Authority requires us to promptly transfer client money into our office account to pay the bill. It is our practice to promptly transfer in these circumstances, but such action will not undermine your ability to question the level of our fees.

## **8. Travel**

Where we are required to travel to and from the office, we will charge for the time spent in travelling and also the reasonable travelling costs.

## **9. Payments on account**

We normally ask that you make a payment on account of the costs to be incurred on your behalf. This will be covered in your engagement letter.

We will offset any such payments against your interim and final bills.

Payment on account of disbursements will normally be requested before any payment is made on your behalf but otherwise an account for disbursements incurred on your behalf will be sent to you as appropriate. We ask to be reimbursed promptly.

## **10. Payment of our invoices**

Our invoices are due for payment on presentation. We reserve the right to charge interest on any invoices outstanding after 28 days at the statutory rate pursuant to The Late Payment of Commercial Debts (Interest) Act 1998. We are sure you will understand that, in the event of a payment not being made, we must reserve the right to decline to act any further.

We will send to you interim bills, typically on a monthly basis.

Even if it has been agreed that another person is paying your fees you should bear in mind that you are still responsible for payment of our fees in the interim. If all or any part of those fees is then recovered from that other party we will remit them to you by way of reimbursement.

You are entitled to complain about the bill-see complaints below. You may object to the bill by making a complaint to the Legal Ombudsman [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) and/or by applying to the court for an assessment of the bill under Part III of the Solicitors' Act 1974;

Our VAT number is 135 6222 32.

## **11. Lien**

If any of our costs are not paid then we shall be entitled to retain any papers we hold belonging to you until such costs are paid.

## **12. Anti-Money laundering**

The Money Laundering Regulations 2007 are such that we are obliged to carry out various checks and procedures. We are required to seek information from you and formally establish your identity, usually by requesting to see and copy documents such as your passport and a utility bill. This may include conducting an electronic anti-money laundering (AML) search against you. In receiving our terms of engagement, and confirming instructions, you are consenting to such a search being carried out.

We are neither able to accept payment of any monies from sources other than UK clearing banks or building societies nor any funds in cash.

### 13. Incoming Cleared Funds

We must reserve the right not to make any payments whether to you or third parties unless or until we are in receipt of cleared funds in our bank account.

### 14. Quality of service and our complaints procedure

Barr Ellison is committed to providing a quality service, exceeding our clients' expectations. We recognise however that on occasions a complaint may arise.

We are committed to resolving problems that may arise with our service. It is therefore important that you promptly raise any concerns you may have with us. We value your instructions and would not wish you to be unhappy with us.

If you feel that you have cause for dissatisfaction about any aspect of our service, you should first take this up with the person dealing with your business. We would ask that you put your comments in writing and indicate what action you would like to be taken.

Alternatively you can refer your complaint to our Managing Partner, Robert Curry, [r.curry@barrellison.co.uk](mailto:r.curry@barrellison.co.uk) who will investigate your concerns and provide you with a copy of our complaints handling procedure.

If you are still not satisfied with the handling of your complaint you can ask the Legal Ombudsman [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) tel 0300 555 0333 to consider the complaint.

There are time limits for making complaints to the Legal Ombudsman. At the conclusion of Barr Ellison's complaint procedure, you will generally have **six months** to make contact with the Legal Ombudsman failing which you may be out of time. Please also note that the Legal Ombudsman has a separate **6 year** time limit, from the date when the complaint arose or **3 years** from the date when you became aware of it failing which you may be out of time.

If your complaint is about a bill we have rendered, and you have already applied to the court for assessment of that bill, then the Legal Ombudsman may not be able to deal with a complaint.

We are authorised and regulated by the Solicitors Regulation Authority and we subscribe to their code of conduct which is available by telephoning 0870 606 2555 or at <http://www.sra.org.uk/consumers/consumers.page>.

### 15. Our Liability to you

We are only liable for the losses we cause directly. We are not liable for your loss of profit or other indirect loss. We are not liable for matters outside our control for example any losses arising from fraudsters utilising bogus law firm identity theft.

The services we provide are only for you. Nobody else can rely on our advice (or see a copy) for any purpose, without our written permission. We owe no duties to anyone but you.

Details of our present Professional Indemnity Insurers are available on our website.

## **16. Privacy Policy and GDPR**

We endeavour to comply with all aspects of the General Data Protection Regulation and the Data Protection Act.

### **16.1 How and what information is collected about you and/or your organisation**

We may collect the following information by email, telephone call, meeting directly with you or by post:

- Full Names
- Address
- Tel/Mobile
- Email

In addition, during the course of providing services to you, we may collect other personal and sensitive data pertaining to your matter.

Barr Ellison LLP is committed to ensuring that your privacy is protected. Should we ask you to provide certain information by which you can be identified when working with Barr Ellison LLP, you can be assured that it will only be used in accordance with this privacy statement.

All information you give to us and any knowledge we acquire about your affairs are confidential to you and we shall not divulge these without your express or implied consent.

It is often necessary to divulge information in the routine conduct of a matter. Unless you tell us otherwise, we shall assume your instructions permit us to divulge relevant information to others with whom we work on your behalf e.g. Estate Agents, witnesses and cost draftsman. In the course of our normal business, we may use external providers of administration services who have signed confidentiality agreements. We will not normally expect to know whether apparently routine information is in fact to be kept confidential. If there is any information concerning you or your affairs which you think we should not divulge, you must inform us.

You do consent to disclosure to our professional indemnity insurers and auditors who make random checks of files.

## 16.2 What we do with the information we gather and what it is used for

We use personal data where it is necessary in order to:

- Enter into a contract and deliver services for you;
- Comply with a legal duty;
- Protect your vital interests or the vital interests of those around you;
- For our own lawful interests or those of other organisations, provided your rights don't override these.

We will only use personal data about you for the purpose(s) it was collected for, closely related purposes, and for marketing (see below). We will inform you or seek your consent if we need to use it for other purposes.

For marketing purposes, we may need to correspond with you to offer information on our services, send newsletters or keep you informed about events and seminars. If you tell us that you do not wish to have this information used as a basis for further contact with you, we will respect your wishes.

## 16.3 Controlling your personal information – who we share your details with

We will not distribute, sell or lease personal information to third parties unless we have your explicit permission or are required by law to do so.

Name and contact details of the Data Controller	Robert Curry – Managing Partner T: 01223 417200 E: r.curry@barrellison.co.uk
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## 16.4 Security

We are committed to ensuring that your information is secure. In order to prevent unauthorised access or disclosure, we have put in place highly encrypted electronic systems and managerial procedures to safeguard and secure the information we collect.

## 16.5 How can you access your information

You may request access to the data that we hold on you, and where appropriate we will respond to these requests within the designated timescales.

If you would like a copy of the information held on you please write to Robert Curry at Barr Ellison LLP, 39 Parkside, Cambridge, CB1 1PN.

There is no charge for this service.

Where we do not take action in response to a request, we will inform you why this is the case. If you are not satisfied with the handling of your request, you can ask the Information Commissioners Office <https://ico.org.uk/for-the-public/> to consider your complaint.

## **16.6 How long we keep your information for**

The Data Protection Act and GDPR do not set any specific minimum or maximum periods for retaining personal data. Instead, it says that: Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes. See this link:

<https://ico.org.uk/for-organisations/guide-to-data-protection/principle-5-retention/>

Barr Ellison LLP will retain personal data and files for at least 7 years, see Retention of Files below.

## **17. Outsourcing**

On occasions we utilise the services of outsourced typing, legal research, photocopying and document collation, to ensure our work for you is undertaken in the most efficient manner.

We have insurance backed confidentiality agreements in place with such providers. If you are not content with this, please notify us.

## **18. Credit Reference**

We may obtain information about you from Credit Reference Agencies. They will keep a record of our enquiries. Credit Reference Agencies share information with other organisations, enabling applications for financial products to be assessed and to assist in the tracing of debtors or to prevent fraud.

## **19. Investment Business and Insurance Distribution Activities**

If during this transaction you need advice on investments, we may have to refer you to someone who is authorised by the Financial Conduct Authority, as we are not. However, as we are regulated by the Solicitors Regulation Authority, we may be able to provide certain limited investment services where these are closely linked to the legal work which we are doing for you.

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 Ombudsman.

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 handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulatory body of the Law

Society and the Legal Ombudsman is the independent complaints handling body of the Law Society.

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 principally the recommendation of insurance contracts based on your statement of demands and needs. This is as an ancillary insurance intermediary, meaning that this is complementary to the provision of our legal services. 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/register](http://www.fca.org.uk/register).

## **20. Consumer Contracts Regulations**

On some occasions when we receive new instructions from a Consumer, we may not have actually met you. In these circumstances, it is possible that the Consumer Protection (Distance Selling) Regulations 2000 may apply to the work we undertake for you. This means that you have the right to cancel your instructions to us within 14 working days of receiving this letter. You can cancel your instructions by contacting us by post, fax or email.

Once we have started work on your file, you might be charged if you then cancel your instructions. If you would like us to commence work on your file within the next 14 working days, please:

- Sign these Terms of Service
- Return them to this office by post, fax or email
- Write on these terms “commence work now”

## **21. Commission**

If we receive commission from the providers of products which we arrange, we will disclose the amounts involved and by agreement with you, will apply these to offset our charges.

## **22. Retention of files**

At the end of a transaction we will retain the files relating to your matter for a minimum of seven years, and sometimes longer depending upon the type of matter, at no charge. Our storage facilities are maintained in a separate warehouse for safekeeping. Thereafter, we will destroy the files without further reference to you.

We do retain electronic records of files for longer periods to assist risk management.

### **23. Retention of deeds and documents**

At the end of a transaction we will retain and store your deeds and documents if appropriate and at no cost to you. We reserve the right however to make a charge for storage in the future but will only levy such a charge after notification in writing to you in advance. If you require access to a file, we will make a charge (the amount to be advised at the time of the request) to cover the cost of retrieval. Retrieval of deeds and documents can take 3/5 working days.

### **24. Copyright**

The copyright in any work we create will be owned by Barr Ellison LLP and this copyright will not be transferred to you. However, you have our licence to use our work for the purpose for which it was created. We have the right to be identified as the author of the work and to object to any misuse of it.

You agree that we may store any Counsel's opinion or other document created in the course of our work for you in our knowledge system. If we do so, we will ensure the system is secure, confidential and that any identifying references are removed

### **25. Interest**

If we recover interest for you we are required to advise the HM Revenue and Customs as to your name and present address, the amount of interest recovered and the circumstances in which it was recovered. By law we are not allowed to keep this information confidential. The HM Revenue and Customs should have these details in any event from your Income Tax returns.

Interest at a rate reasonably comparable to that available on an instant access high street business banking account will be paid on sums held by us on your behalf, if such interest exceeds £50, unless we have agreed otherwise. We reserve the right to offset interest on overdue bills or on payments made on your behalf against any sums credited to you.

### **26. Termination**

You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents while there is money owing to us for our charges and expenses.

We may decide to stop acting for you only with good reason, for example, if you do not give clear and proper instructions as to how we are to proceed. We specifically reserve the right to stop acting for you if you do not pay interim bills promptly or if you fail to pay monies on account of costs and expenses when requested. We must give you reasonable notice that we will stop acting for you.

If you or we decide that we will no longer act for you, you will pay our charges on an hourly basis and expenses for work done up to that point.

## **27. Third Party Access to Court Documents**

The Court Rules allow Third Parties (e.g. the press) to ask the Court for copies of any statement of case that we send to Court on your behalf. This could include detailed information concerning your claim or defence. We will assume, unless you tell us otherwise, that you accept this. In some cases, the Court will agree to restrict access to these documents and if you are concerned then you should advise us and we can consider an application to Court.

## **28. Jurisdiction**

These terms and our business relationship will be governed by English Law with both parties submitting to the exclusive jurisdiction of the English Courts.

## **Conclusion**

We hope this introduction to the firm is of assistance, and that it addresses your immediate queries about the day-to-day handling of your work and our terms of business.

Unless otherwise agreed, these terms of business apply to any future instructions you give us.

Your continuing instructions in this matter will amount to your acceptance of these terms and conditions of business.

This is an important document. Please keep it in a safe place for future reference.