



Terms of Service

January 2016

DEBENHAMS OTTAWAY
SOLICITORS

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These terms are to be read in conjunction with our retainer letter and any subsequent amending letters.

Introduction

In these terms, "We," "us," "our" and "the firm" means Debenhams Ottaway LLP, a limited liability partnership. Our registered office is at Ivy House, 107 St Peter's Street, St Albans, Hertfordshire AL1 3EW and our registration number is OC373542. "You", "your" and "client" refers to the client(s) to whom we provide our professional services. The following terms, and those contained within our retainer letter or any subsequent amending letter, set out the basis upon which we agree to provide our professional services to you (together the "Terms of Service"). Your contract for our services is with Debenhams Ottaway LLP and not with any individual LLP member (hereinafter referred to as "partner"), employee or agent of the firm. These Terms of Service apply to all of the services we provide to clients.

Service Standards

Our Responsibilities

It is our aim to provide every client with a high quality of service. This includes providing you with regular updates by telephone or in writing about your matter. The frequency of these updates will depend upon the particular circumstances. We will aim to tell you when you can expect the next step in the case to occur. If you would like an update at any time, then you should not hesitate to contact us but do bear in mind that there may be periods of time when there is nothing to report.

We will aim to communicate with you in plain language avoiding jargon. However, if at any time you consider that we have not explained something clearly, then please let us know. We shall endeavour to provide you with the best information possible about the likely overall cost of your matter and will update you in writing or by telephone at appropriate intervals as the matter progresses or if there has been a change in the circumstances which may or will affect the cost of your matter. Any estimate of costs provided by us is not intended to be fixed. If you would like a costs update at any time, then please let us know. We will aim to discuss with you, if appropriate, whether the likely outcome of your case justifies the likely costs and risks associated with it.

If the timescale which we have given you appears likely to change significantly, then we will inform you. Please contact us if you would like an updated time estimate at any stage.

If you are going to be away during your matter, then it is important that you tell us at the earliest opportunity so that we can plan your matter to take account of your absence. However there may be occasions when we cannot alter a timetable to take account of your absence.

We will review your matter regularly. We will advise you of any circumstances and risks of which we are aware or consider to be reasonably foreseeable that could affect the outcome of your matter.

Your Responsibilities

To enable us to meet our responsibilities to you, we require you to:

1. provide us with clear, timely, accurate and non-misleading instructions and tell us promptly of any change of circumstances or developments;
2. provide all documentation which we require to complete the matter in a timely manner;
3. look after any documents which are likely to be relevant to your matter so that they are available to give to us when we need them;
4. inform us if you are going to be away or un-contactable as explained above.

Hours of Business

Our normal opening hours are 9 a.m. to 5.15p.m. Monday to Friday (except on public holidays and certain days in the Christmas/New Year holiday period). Outside those hours you may leave a voicemail message or send an email to the lawyer dealing with your matter.

Equality and Diversity

We are committed to promoting equality and diversity in all our dealings with clients, third parties and employees.

Anti Money Laundering

Identity

The law requires us to obtain satisfactory evidence of the identity of our clients and sometimes people related to them or others. This is because firms of solicitors who deal with money and property on behalf of clients can be used by criminals wanting to launder money from the proceeds of crime. You will also have to verify the source of your funds. To comply with the law we need to obtain evidence of your identity straightaway. Please arrange to bring into the office your passport or photocard driving licence and a recent utility bill or bank statement (no more than 3 months old) bearing your name and address.

If you are unable to provide us with a passport or photocard driving licence and utility bill or bank statement, then please telephone us as soon as possible to discuss other ways to verify your identity. If you are not willing to supply evidence of your identity, then we cannot act for you.

We will also require evidence of identity of those who provide funds for a transaction. If our requirements are not met we will not be able to accept the funds which may mean that the transaction cannot be completed.

We may also verify identities through an independent verification company, which will carry out a search of names against various databases held by the government and other agencies. These are standard searches that are used in many industries.

Confidentiality

We are professionally and legally obliged to keep your affairs confidential. However, we are required by law to make a disclosure to the National Crime Agency where we know or suspect that a transaction may involve money laundering or terrorist financing. If we make a disclosure in relation to your matter, we may not be able to tell you that a disclosure will be or has been made. We may have to stop working on your matter for a period of time and may not be able to tell you why.

Cash

Our firm's policy is not to accept more than £500 in cash. If you deposit more than £500 cash directly with our bank we may carry out such additional checks as we consider are necessary to prove the source of the funds, for which your will be charged. When we pay money to you, it will be paid by cheque or bank transfer. It will not be paid in cash or to a third party.

Confidentiality

All the work we carry out is on a confidential basis subject to our obligations under the anti money laundering legislation referred to in the section above. When discussing your affairs with your other advisers such as accountants, agents or financial advisers we will be free to discuss with them any matters relating to your affairs unless you have specifically instructed us not to.

We are subject to regulatory requirements which include auditing by our accountants. As part of their work they will normally need to have access to our files and therefore to confidential information. Similarly, files may be subject to external auditing for accreditation, quality assessment programmes or costs assessment. If this could cause any problem for you, you should let us know.

You agree to waive your rights to claim confidentiality, so that we are able to disclose and rely on any relevant information and documents if a third party brings a claim against us, or in relation to an application to any Court or Tribunal for a "wasted costs order" against us. This is so that full information is available to the Court or Tribunal.

Where we are instructed to act for you in a matter which is funded under a legal expenses insurance policy, you agree to waive confidentiality so that we may disclose all and any information and documents to your insurers.

In the event that you raise a complaint or criticism about our handling of your case which we consider should be reported to our professional indemnity insurers, you agree to waive confidentiality so that we may disclose information about you and your case to our insurers and their solicitors.

Outsourcing of Work

We use other companies and people to do typing, photocopying and other work to ensure that these are undertaken promptly. Where appropriate we have or will seek a confidentiality agreement with these outsourced providers.

Scope of Liability

We provide our advice solely to you. We do not accept any liability for any other person or organisation except where we have agreed to accept such liability.

Subject to and without prejudice to the other provisions of this section, should we breach our duties to you, whether in contract, tort (including negligence), breach of statutory duty or otherwise, our total liability for any loss, liability or damage caused by Debenhams Ottaway LLP will be limited to your direct costs and damages only and will be limited to an amount of £3,000,000 (three million pounds) or, where such liability is covered by any of our insurance policies, the amount which we actually recover from such insurance policy or policies in respect of such liability (whichever is the higher).

Where we are acting for more than one person in a matter then each agrees that the limitation will be allocated amongst you in such proportions as you agree between you.

If, for whatever reason, you do not agree on an allocation, then you agree not to dispute the limit of liability on the grounds that no allocation was agreed.

The limitation applies whether the breach affects just one piece of work that we do or several, so long as it is the same or a similar breach. For the purpose of the limitation, more than one breach on a matter or transaction is considered as one breach.

If we become liable to you in relation to any services and any other persons or organisations are also responsible for any loss, damage, cost or expense you suffer, we will only be liable for the proportion of loss, damage, cost or expense incurred by you which is ordered against us by a Court after taking into account the extent of responsibility of others including in appropriate circumstances your other advisers and/or any other third party responsible to you and/or liable in respect of such loss. If you have accepted any express exclusion or limitation of liability in respect of any other person, no account shall be taken of any such exclusion or limitation for the purpose of assessing the contribution of such other person to your loss, damage, cost or expense.

You agree not to bring any claim in respect of loss or damage suffered by you arising out of or in connection with our engagement, against any of our individual partners, employees, consultants, or agents even where our partners, employees, consultants or agents have been negligent. Any duty of care which, as a matter of law, would be owed to you by any of our partners, employees, consultants or agents is excluded from our contract with you. This does not however, alter or reduce any liability which Debenhams Ottaway LLP may have to you.

We will not be liable, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with your matter.

We will not be liable to the extent that our liability results from something you have done or failed to do (including but not limited to providing incorrect or insufficient information).

The provisions of this section shall continue to apply even if our engagement is terminated for any reason.

Where in these Terms of Service a cap on or exclusion of liability is drafted for the benefit of our partners, employees, consultants or agents, you agree that such partners, employees, consultants and agents shall be entitled to rely on and enforce such clauses as if they were a party to this contract, pursuant to the Contract (Rights of Third Parties) Act 1999. Except as provided for previously, nothing within these Terms of Service is enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.

Nothing in these Terms of Service shall limit or exclude our liability for death or personal injury caused by our negligence, or the negligence of our partners, employees, consultants or agents or for fraud or fraudulent misrepresentation or any other matter in respect of which it would be unlawful for us to exclude or restrict liability.

The unenforceability of any part of these Terms of Service will not affect the enforceability of any other part.

Professional Indemnity Insurance

Our professional indemnity insurance is arranged through Lockton Companies International Ltd of The St Botolph Building, 138 Houndsditch, London EC3A 7AG.

The territorial coverage of our professional indemnity insurance is worldwide.

Data Protection

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

1. updating and enhancing client records
2. analysis to help us manage our practice
3. statutory returns
4. legal and regulatory compliance.

Our use of that information is subject to your instructions, the Data Protection Act 1998 and our duty of confidentiality. Please note that our work for you may require us to give information to third parties such as expert witnesses and other professional advisers. You have a right of access under data protection legislation to the personal data that we hold about you.

We may from time to time send you information which we think might be of interest to you about our services and the firm's activities. If you do not wish to receive that information please notify us in writing.

Email and Post

If you wish us to write to you and to forward attachments to you by email, then please provide us with the email address which you would like us to use. Bear in mind that emails and electronic information sent over the public network are not an entirely safe and confidential means of communication. You accept that they may be lost, delayed, intercepted, corrupted, altered or accessed by unauthorised parties.

Our emails are not encrypted. We do not accept any responsibility for viruses which may unknowingly be included in any email or any attachment which we send to you. Emails will not be given greater priority than letters and if the person to whom the email has been sent is absent, the email may not be opened during their absence.

We may use emails to communicate with third parties during the course of the matter unless you instruct us in writing not to do so.

We may not accept delivery of any underpaid items of post if to do so we would incur a charge.

Distance Selling and Off-Premises Contracts

If we have not met you in our office to take your initial instructions, The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 may apply.

If this is the case we will provide you with the relevant information and forms required by the Regulations.

Your Funds

Any money which we hold on your behalf will be paid into one of the firm's client accounts. The firm currently holds accounts with the Royal Bank of Scotland, Clydesdale Bank and Handelsbanken, although these may change at our discretion from time to time. In the event of the failure of a bank the Financial Services Compensation Scheme (FSCS) will cover deposits belonging to clients who are individuals or small companies (for these purposes a small company is a company which meets 2 of the following criteria: turnover does not exceed £6.5 million p.a.; balance sheet total is less than £3.26 million; average number of employees does not exceed 50), of up to £75,000 per client per bank. If you hold funds with any such bank independently of any monies that the firm is holding on your behalf in one of those banks, then those funds are included within the £75,000 limit. Bear in mind that some banks have several brands and you may have money invested with one of the banks trading under a different name. You should check with your bank, the Financial Conduct Authority (FCA) or a financial adviser for more information.

If any of our banks were to fail, then we would contact the FSCS with your details and the total amount held for you in the firm's client accounts. We would need your consent to give your identity to the FSCS. If you were unwilling to consent to your identity being disclosed, then you would not be able to receive compensation. We would not be held liable for losses resulting from the failure of a bank even though the amount invested in the bank by the firm on your behalf may exceed £75,000.

Interest on monies held in our client account will be paid in accordance with our Interest Policy, a copy of which is available on request, which meets the requirements of the Solicitors' Accounts Rules.

Our Charges

Details of our charges are set out in our retainer letter or elsewhere in writing at the outset of your matter. If you have any concerns about our charges please tell us. We will deal with any complaint you raise about our charges under the firm's complaints procedure (see Raising Concerns with Us overleaf). If we cannot resolve matters you have a right to apply to a Court for an assessment of our charges under Part III of the Solicitors Act 1974.

Our VAT number is 229 1591 56.

We accept payment of our charges by debit or credit card. However, in the case of payment by credit card we reserve the right to make a charge of 2% plus VAT of the amount paid, which at the current standard VAT rate of 20% equates to a 2.4% charge.

Financial Services

Sometimes Conveyancing/Family/Probate/Company work involves investments. We are not authorised by the Financial Conduct Authority and so may refer you to someone who is authorised to provide any necessary advice. However, we can provide certain limited services in relation to investments, provided they are closely linked with the legal services we are providing to you, as we are regulated by the Solicitors Regulation Authority (SRA) under number 567621.

If you have a problem with the service we have provided for you, then please let us know. We will try to resolve any problem quickly and we operate an internal complaints handling system to help us resolve the problem between ourselves. If for any reason we are unable to resolve the problem between us, then as we are regulated by the SRA, complaints and redress mechanisms are provided through the SRA and the Legal Ombudsman. More information about contacting the Legal Ombudsman is set out opposite in the section on Raising Concerns with Us.

Insurance

We only select insurance products from a limited number of insurers. The issue of insurance is most likely to arise in the event that we have to arrange indemnity insurance in respect of the property you are selling or buying, when we may use a broker to assist in the process.

This firm is not authorised by the Financial Conduct Authority (FCA). However, we are included on the Register maintained by the FCA 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, including arrangements for complaints or redress if something goes wrong, is regulated by the Solicitors Regulation Authority. The Register can be accessed via the FCA website at www.fca.org.uk/register.

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.

Instructions – Receipt and Termination

At the outset of your matter you will be sent or given our retainer letter and requested to return a signed copy. After being sent or given our retainer letter, your continuing instructions will amount to your acceptance of these Terms of Service.

Where we are instructed by a limited company, we may require personal guarantees from one or more directors or others for our fees at any time during the retainer.

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 money is owed to us for our charges and expenses.

We may decide to stop acting for you where we have good reason, for example, if you do not pay an interim bill or comply with our request for a payment on account, or if we are unable to obtain clear instructions from

you or we consider that there has been a serious breakdown in confidence between us or we cannot continue to act without being in breach of the rules or principles of conduct governing solicitors. Where appropriate we will give you reasonable notice that we will stop acting for you. If you or we decide that we should stop acting for you, you will pay our charges up until that point, which will be calculated in accordance with the provisions in our retainer letter.

Storage of Papers and Documents

After completing the work we are entitled to keep all your papers and documents while money is owed to us for our charges and expenses. After this, we will arrange for our file of papers to be electronically scanned and digitally stored. Our file of papers will then be destroyed, except for any of your papers which you ask to be returned to you.

If we need to retrieve digitally stored documents in relation to continuing or new instructions to act for you, we will not normally charge for such retrieval. However, we may charge you for reading, correspondence or other work necessary to comply with your instructions in relation to the retrieved papers. If you ask us to retrieve documents which are not required for continuing or new instructions to act for you, then we may charge an administration fee for producing the papers that you have requested which is currently £25 plus VAT plus photocopying charges.

If you would like us to store your deeds in safe custody then we charge a one off fee which is currently £35 plus VAT per envelope or packet regardless of the length of time for which this is held.

Professional Rules

We are regulated by the Solicitors Regulation Authority (SRA). The professional rules to which we are subject are set out in the SRA handbook which you can access at www.sra.org.uk/handbook.

Raising Concerns with Us

You should raise with the person dealing with your matter straight away any concerns you have about our service, the work we are doing for you or our charges. This could include a complaint about our bill. Normally, a complaint will be considered to be out of time if it is made more than six years after the cause for complaint or three years after you should reasonably have known that there was cause for complaint.

If any problems arise which the person dealing with your matter is unable to resolve to your satisfaction, please contact the supervisor (who is named in the retainer letter you received at the outset) by letter, telephone or email. If that does not resolve the problem to your satisfaction, then please contact our client care partner, Denis Keegan, at our St Albans office. His email address is dk@debenhamsottaway.co.uk and his telephone number is 01727 735624. We have a complaints handling policy and procedure which is available to view on our website. Please ask the supervisor or Mr. Keegan if you would like us to send you a copy.

If you are not satisfied with our handling of your complaint you have the right to complain to the Legal Ombudsman who can be contacted at PO Box 6806, Wolverhampton WV1 9WJ, on 0300 555 0333 or by email at enquiries@legalombudsman.org.uk. Normally, you will need to bring a complaint to the Legal Ombudsman within six months of receiving the final written response from us about your complaint.

You may also have a right to object to our bill by applying to the Court for an assessment of the bill under Part III of the Solicitors Act 1974. If all or part of a bill remains unpaid, the firm may charge interest. If you refer the bill to the Court for assessment then the Legal Ombudsman may be unable to deal with your complaint about the bill.

Conclusion

As stated above, after being sent or given our retainer letter, your continuing instructions will amount to your acceptance of these Terms of Service. Unless otherwise agreed, these Terms of Service apply to all future instructions you give us.