



# bowcock cuerden LLP

Commercial Lawyers and Private Client Team

## SOLICITORS CODE OF CONDUCT 2019

### Information and our General Terms of Business for all Clients

*This letter sets out standard provisions which will be terms of our contract of retainer with you. Please read it, and its covering "client care" letter, carefully. We draw your attention specifically to the general points about our charges (paragraph 2); limitations on our liability (paragraph 4); and the relevant provisions of anti-money laundering legislation (paragraph 6).*

#### 1. Service Level

We have high standards of Client care. Tell us if ever you think that we are not keeping to them. We will:-

- 1.1 throughout define issues, advise appropriately and tell you what steps we will take.
- 1.2 (subject to 2.1.6 (g), 2.1.6 (h) or 6.3.3) only delay if it is in your interests for us to do so.
- 1.3 otherwise :
  - 1.3.1 deal as promptly as appropriate and practical and
  - 1.3.2 arrange appointments as soon as practicable, bearing in mind the need for us to maintain a steady workflow in all matters for all clients.
- 1.4 do what we can to ensure that others deal promptly.
- 1.5 keep you regularly informed of the position.
- 1.6 word in succinct English letters to you and others and documents which we prepare.
- 1.7 when material for your purposes, copy to you substantive correspondence which we receive or send.
- 1.8 explain to you either in writing or verbally with written confirmation, the effect of any important and relevant document, letter or other item or of any step which we propose to take.
- 1.9 notify you in writing of: -
  - 1.9.1 any change in:
    - (a) the identity of the person dealing with, or the Director or other person supervising, the matter or any aspect.

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- (b) action to be taken.
  - (c) the time scale.
  - (d) the prospective amount of costs.
- 1.9.2 Court hearings and the identity of your advocate.
- 1.10 (subject to 6.3.3) notify you of any undue delay and the reason.
- 1.11 not involve you in unnecessary costs by reporting to you when there has been no progress unless:-
- 1.11.1 you give us general or particular instructions or otherwise or
  - 1.11.2 we consider that the delay is material and there is something which you can do.  
(Information is available on request from those involved in your matter at any time.)
- 1.12 at the end of the matter: -
- 1.12.1 in writing:
    - (a) confirm completion.
    - (b) comment on any salient points.
    - (c) summarise any continuing consequences or future deadlines or material dates.
  - 1.12.2 if you so request provide a narrative invoice.

## **2. Our Charges: -**

- 2.1 Unless you and we agree otherwise: -
- 2.1.1 there will be no limit on the amount of our charges which you incur.

Although we will keep you informed it will not be practical, if only on cost grounds, for you to know the day to day detail of our work.

Our charges may increase more quickly than you realise.

You may therefore wish, either initially or as the matter unfolds, to set a limit on the amount of charges which we may incur without further reference to you.

In litigation in particular you should relate this to the amount at stake, bearing in mind where appropriate any liability for your opponent's legal and related costs if you lose your case.

- 2.1.2. Our charges will include for time necessarily spent on administrative tasks (other than dealing with any complaint), or in complying with statutory or professional requirements, relating to you or your matter.
- 2.1.3 our charges will not be based on any contingency.

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- 2.1.4 they (or the balance of them) will be payable on completion of the matter (including if it proves abortive).
- 2.1.5 invoices are payable on delivery.
- 2.1.6 we reserve rights to:
- (a) invoice you monthly or as we otherwise indicate.
  - (b) review our charging rates on 1st April each year to take account of inflation generally and our overheads in particular.
  - (c) increase the charges and/or charging rates initially indicated where :
    - (i) interviews take place or other work is necessarily carried out outside our normal office hours.
    - (ii) the matter proves to be unexpectedly long, complicated or urgent.
  - (d) charge (as compensation if full payment of any invoice has not been made within 30 days after delivery of any invoice) interest calculated in accordance with and any other fee prescribed by Late Payment of Commercial Debts (Interest) Act 1998 Late Payment of Commercial Debts Regulations 2002 or any re-enactment of either of them (even if were it not for this clause their relevant provisions would not apply to the contract to which these Terms apply).
  - (e) obtain from you reimbursement of payments-out for you. We have no obligation to make them unless you put us in funds.
  - (f) charge for photocopying, fax and telephone expenditure if this proves to be exceptional.
  - (g) stop acting for you if you do not within one month settle an invoice or make to us a payment which we have requested to cover money which we have paid out for you or generally on account.
  - (h) not complete a transaction if you owe us anything.
  - (i) obtain payment of our charges from money which we hold for you. (To comply with the requirements of the Solicitors Accounts Rules we will transfer from Client Account the total amount of the invoice within 14 days after the invoice date, unless we hear from you to the contrary).
  - (j) charge for retrieving an old file from storage and delivering it or specific documents in it to you at your request.
- 2.2 A Solicitor also has to bear responsibility for the value involved. A percentage charge in this respect may therefore be appropriate and if so this will be specified in the letter to you enclosing these Terms.
- 2.3 Although time and value are usually the most important, other factors can be relevant, such as:
- 2.3.1 the complexity of the matter, or the difficulty or novelty of the questions raised.
  - 2.3.2 the skill, labour and specialised knowledge and responsibility involved.

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- 2.3.3 the number and importance of the documents prepared or perused, without regard to length.
- 2.3.4 the place where and the circumstances in which the business or any part of it is transacted.
- 2.3.5 the importance of the matter to the client.
- 2.4 If a matter continues over a period you may wish to arrange regular payments on account by Standing Order.
- If so, discuss this with the person dealing if you are interested. The arrangement would help you to budget.
- 2.5 We accept payment of our invoices by means of all major debit and credit cards, excluding American Express. However we may at our discretion decline to accept payment by that means.
- In any event we are able to accept credit card payments only in payment of our own invoices and not in payment of "disbursement-only" invoices or for any other purpose.
- 2.6 We are VAT-registered and our VAT registration number is 625204276.

### **3. Complaints**

- 3.1 We will monitor throughout the quality of the service which you receive and hope that you will never have cause to complain about us.
- If by any chance you are not completely satisfied with our services, or in connection with an invoice: -
- 3.1.1 raise the point, either verbally or in writing, with the person dealing, or (if you prefer) with their supervisor (named in the "client care" letter initially sent to you); and / or
- 3.1.2 ask for a copy of the firm's complaints procedure or view it online at [www.bowcockcuerden.co.uk/policies](http://www.bowcockcuerden.co.uk/policies)
- 3.2 If we are unable to resolve your service complaint ourselves to your satisfaction, the Legal Ombudsman can help if the complaint is from an individual, small business, charity, club, society, association or trust with a turnover of less than £1 million. They will look at your complaint independently and it will not affect how we handle your case. Before accepting a complaint for investigation, the Legal Ombudsman will check that you have tried to resolve your complaint with us first.

There are time limits for bringing a complaint to the Legal Ombudsman, linked to the date of the act or omission giving rise to a complaint or the date on which you should reasonably have known there were grounds for a complaint. The relevant time limits are set out in the version of the Legal Ombudsman's Scheme Rules in force from time to time and may only be extended by the Legal Ombudsman in exceptional circumstances. If you wish to bring a complaint to him, you should refer to the version which is in force at the time of your complaint. The Rules can be accessed at: <https://www.legalombudsman.org.uk/information-centre/corporate-publications/scheme-rules>

You must make a complaint to the Legal Ombudsman:

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- (i) Within six months of receiving a final response to your complaint, and
- (ii) No more than one year from the date of act/omission: or
- (iii) No more than one year from when you should reasonably have known there was cause for complaint.

If you would like more information about the Legal Ombudsman, please contact them.

Contact details: visit: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)

Call: 0300 555 0333 between 9.00 am to 17.00 pm

e-mail: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

Legal Ombudsman PO Box 6167 Slough SL1 0EH

- 3.3 Alternatively you and we may agree to use an alternative dispute resolution (ADR) body.
- 3.4 The Solicitors Regulation Authority can help if you are concerned about a Solicitor's behaviour. This could be for things like dishonesty, taking or losing your money or treating you unfairly because of your age, a disability or other characteristic. Visit their website to see how you can raise your concerns with the Solicitors Regulation authority. [www.sra.org.uk](http://www.sra.org.uk)
- 3.5 If your complaint relates to an invoice then you may also object to it by applying to the court under Part III Solicitors Act 1974 for it to be assessed.

## **4. Our Liability**

- 4.1 In Clients' interests we maintain Professional Indemnity Insurance of £5,000,000. Details of our insurance provider/s are available in hard copy upon request to our office.
- 4.2 If we act for you then it will be on the basis that the liability of Bowcock Cuerden LLP and of its members and employees is limited to:-
  - 4.2.1 clients with whom we have entered into a contract of retainer. We have no liability to anyone else
  - 4.2.2 that amount.

If you wish to vary these limitations we would be happy to discuss this with you but we reserve the right to vary our charges accordingly.

## **5. Interest**

Substantial amounts held for significant periods attract payments by way of interest under the Solicitors' Accounts Rules. We will account for a fair sum of interest on any client money held.

We do not make any payment if the amount which accrues is less than £50 or if the funds are held for one week or less. This is because of the disproportionate administrative costs which would be involved in such a small payment. As we do not deduct tax when making an interest payment you should include this gross interest in your tax return and (if appropriate) pay tax on it.

## **6. Terrorism Act 2000/Proceeds of Crime Act 2002/The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**

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6.1 This legislation affects most professional advisors including all solicitors. It introduces far-reaching changes and requirements. The main provisions are:

6.1.1 For specific areas of legal work, solicitors are required to carry out appropriate Client Due Diligence. This means verifying identity and making appropriate other checks and enquiries in relation to the Client and also any beneficial owner who is not the Client. This is because solicitors who deal with money and property on behalf of their Client can be targeted by criminals attempting to launder money.

To comply with the law we need to obtain satisfactory evidence of your identity as soon as possible. Our practice as regards individuals is to inspect and take copies of two prescribed ID documents and also to obtain online ID verification. Different requirements apply as regards different legal entities. If you cannot provide us with the specific identification evidence requested please contact us as soon as possible to discuss other ways to verify your identity.

Please note that any information which we obtain and the results of any searches which we carry out to comply with these requirements will be securely maintained on the file for your data and papers in pursuance of our Privacy Policy (a copy of which can be made available on request.)

The uses which will be made of the data will be to provide confirmation of the identity of the person/s providing it only.

The data will be stored for as long as required by Law only, which in most cases will be our usual file retention period of 7 years from the date of the file being archived.

The data may be stored for longer than this if necessary, such as when litigation has arisen or may be pending, and the data either has or may become relevant in proceedings.

6.1.2 If the Solicitor knows or suspects (or, in many cases, should reasonably know or suspect) that the matter involves the application of monies which result from *any* crime, then the solicitor must immediately report the suspicion to the National Crime Agency ("NCA").

6.1.3 The Solicitor commits a criminal offence for failure to report; but, having reported, commits a further offence by continuing to act in the matter, or by releasing to the Client any money held for the Client, without NCA's consent. NCA have seven working days to decide, but may effectively extend this period by a further 31 days.

6.1.4 While consent is awaited, it is a further criminal offence for the Solicitor to tell the Client, or give the Client cause to suspect, that the matter has been reported.

6.2 This means that:

6.2.1 When you instruct us, we may need to see and copy satisfactory evidence of your identity, even if we already know you.

6.2.2 If while acting for you we learn anything which gives rise to a suspicion that any monies involved in the matter derive from any crime, we must report that suspicion. The protection of solicitor-client confidentiality (sometimes called "legal professional privilege") usually taken for granted, does not apply in these circumstances.

6.2.3 If we have been required to report a suspicion then there will be a period during which we cannot deal further for you, yet are not allowed to tell you why not.

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6.3 So:

6.3.1 you agree promptly to let us have, if we request it, satisfactory evidence of your identity for inspection and copying. We may make electronic searches to verify your identity and related issues.

As above (6.1.1) the results of any such searches and copies of any documents which we obtain will be securely maintained on the file.

6.3.2 to help allay any suspicion which we may otherwise be obliged to report, you agree promptly to let us have if we request it satisfactory evidence of the source of any funds which you use in the transaction in which we are acting.

6.3.3 we may cease to act for you at any time in any circumstances if our continuing to act would mean or risk committing an offence under this legislation.

6.3.4 we will not be liable in any way for any adverse consequences arising out of compliance with this legislation.

6.3.5 We are unable to accept for any purpose (i) payments in cash greater than £250 or (ii) payment by credit card other than to settle our outstanding invoices.

## **7. UK General Data Protection Regulation (“GDPR”)**

In order to provide legal services to you it is necessary for us to collect and hold data about you. For UK GDPR purposes you are therefore a “data subject” and we are a “data controller”. Our Data Protection Officer is Carina Pennant-Williams who can be contacted by email – [info@bowcockcuerden.co.uk](mailto:info@bowcockcuerden.co.uk).

A key objective of the UK GDPR is to protect and strengthen the rights of data subjects. Relevant rights and obligations are, briefly:-

7.1 The right to information

To ensure that personal data is processed fairly, data controllers must provide, in a concise, transparent, intelligible and easily accessible form and using clear and plain language, certain minimum information to data subjects regarding the collection and further processing of their personal data.

7.2 The right of subject access

Data subjects may make a subject access request (“SAR”) and obtain from the data controller a copy of their personal data, together with an explanation of the categories of data being processed, the purposes of such processing, and the categories of third parties to whom the data may be disclosed. Data controllers must respond to SARs with additional information including details of the period for which the data will be stored (or the criteria used to determine that period) and information about other rights of data subjects.

7.3 The right to rectification

Data subjects may require the data controller to correct errors in personal data processed by (or on behalf of) that controller.

7.4 The right to erasure (the “right to be forgotten”)

Data subjects to require data controllers to delete their personal data where those data are no longer needed for their original purpose, or where the processing is based on the consent and the data subject withdraws that consent (and no other lawful basis for the processing exists). Organisations should therefore carefully review their processing activities, to ensure that they are able to permanently delete the relevant data in these circumstances.

Requests to exercise any of these rights must generally be complied with within one month.

**7.5 The right to restrict processing**

In certain circumstances in which personal data either cannot be deleted (e.g., because it is required for the purposes of exercising or defending legal claims) or where the data subject does not wish to have the data deleted, the data controller may continue to store the data but the purposes for which the data can be processed are strictly limited.

**7.6 The obligation to notify relevant third parties**

Where a data controller has disclosed personal data to third parties, and the data subject subsequently exercises any of the rights of rectification, erasure or restriction, the data controller must inform such third parties that the data subject has exercised those rights, unless that is “impossible or involves disproportionate effort”. The data subject may also request information about the identities of the third parties to whom their personal data has been disclosed.

**7.7 The right to data portability**

The data subject is entitled to receive from the data controller a copy of their personal data in a commonly used machine-readable format, and to have their personal data transferred from one data controller to another or transmitted directly between data controllers.

**7.8 The right to object**

Data subjects may object to the processing of their personal data on certain grounds, including for the purposes of profiling or direct marketing. If they do so then the data controller must demonstrate that it either has compelling grounds for continuing the processing or that the processing is necessary in connection with its legal rights, otherwise it must cease that processing activity.

**7.9 The right to not be evaluated on the basis of automated processing**

Subject to exemptions, data subjects have the right not to be subject to decisions which significantly affect them and which are based solely on automated processing.

**7.10 The right to bring class actions**

Data subjects are entitled to be collectively represented by not-for-profit bodies, to instruct them to act on their behalf and to exercise their rights, including to bring complaints and to seek judicial remedies.

**8. Criminal Facilitation of Tax Evasion**

The Firm will not facilitate any client to commit a financial offence.

We will comply with all applicable laws relating to the Criminal Finances Act 2017.

**9. Document Storage**

If we agree to store for you any will or other document this is only for safe keeping and does not imply that we are under any duty to notify you of any changes in the law which may affect the validity or effectiveness of its terms.

**10. Investments**

We are not authorised under the Financial Services and Markets Act 2000, but we are able, in certain circumstances, to offer a limited range of investment services to the client because we are regulated by the Solicitors Regulation Authority. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.



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 Complaints Service.

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 Complaints Service is the independent complaints handling body of the Law Society.

## **11. Insurance Distribution Activity**

- 11.1 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 advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim. 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).
- 11.2 If it is necessary during the course of any conveyancing transaction for any defective title insurance to be put in place we must inform you that we only arrange such insurance through one or more of First Title Insurance plc, Guaranteed Conveyancing Solutions Limited, Royal and Sun Alliance Insurance plc, Norwich Union, Stewart Title or Countrywide Legal Indemnities, but we are not contractually obliged to conduct business in this way and we receive no commission for doing so.

## **12. Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**

- 12.1 Under these Regulations, if you enter into a contract of retainer with us as a 'consumer', and that contract constitutes either an 'off-premises contract' or a 'distance contract' (in each case as defined in the Regulations) then you have a right to cancel the contract.
- 12.2 That right to cancel is exercisable by notice to us, either in writing or by email (using the email address and reference given on the letter sent to you enclosing this document) within 14 days of the date you received that letter.
- 12.3 If you exercise that right then you must pay for the cost of any work which you had already instructed us to carry out; subject to that we will return to you any monies and / or property of yours which we are holding.
- 12.4 If we have already completed the work which you have instructed us to carry out then the right to cancel is lost.

## **13. Miscellaneous**

- 13.1 You may not assign any or all of your rights under or arising out of our contract of retainer with you.

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- 13.2 Where we act for more than one client in a matter each client is both jointly and separately liable to pay invoices. In other words each individual client is liable for the full amount to the extent that the other has not paid.
- 13.3.1 You may end your instructions to us at any time by giving us written notice. However:-
- 13.3.1.1 by operation of law solicitors who are owed money by a client have a lien (a right to retain) in respect of any property, including money, belonging to that client;
- 13.3.1.2 if we were acting for you in Court proceedings in which we were on the Court record as doing so then unless forthwith upon ending your instructions you file with the Court (and serve on us) a Notice of Change of Solicitor, or Notice of Acting in person, then it will be necessary for us to make a formal application to the Court to come off the Court record as acting for you. If that becomes necessary we may seek the costs of the application from you.
- 13.3.2 We may decide to cease acting for you if we have good reason to do so, and on reasonable notice.
- 13.3.3 If you or we decide that we should cease acting for you then you will be liable to pay our charges, in accordance with the terms of our retainer, until termination of the retainer.
- 13.4 We may charge, at the same rate and on the same basis, for time spent dealing with all lawful notices and / or orders from law enforcement agencies in relation to our retainer with you or its subject-matter. We may not be able to discuss with you (or communicate in any way to you) our compliance with the notice or order.
- 13.5 Residual Client Account balances. On completion or conclusion of the matter in which we are acting for you we will account as appropriate for monies held to which you are entitled. If for any reason we have not been able to do so within a period of six months, despite our reasonable endeavours to do so (e.g., because we cannot trace you or because you do not respond to our communications) then you irrevocably authorise and instruct us to donate the monies held to a charity of our choice (having, where necessary, first obtained SRA authorisation).
- 13.6 We reserve rights to: -
- 13.6.1 review these general terms from time to time. Changes would become effective 7 days after we notified you;
- 13.6.2 produce your file to external assessors (who observe confidentiality) in connection with our Lexcel accreditation and panel memberships, unless you indicate that you do not agree, and to our professional indemnity insurers in the event of our having to make any relevant notification;
- 13.6.3 outsource specific office functions (including but not necessarily limited to cleaning, online ID verification, destruction of paper files when appropriate, IT support) to third party service providers who observe confidentiality;
- 13.6.4 store your information (including confidential information) on a Microsoft Azure cloud-based IT system, unless you indicate that you do not agree;.
- 13.6.5 destroy files (hard copy and in electronic form) when reasonably satisfied that their contents will not be of future relevance.

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- 13.7 These terms do not apply so far as they are inconsistent with what may be agreed (in writing) in particular cases. They will apply similarly to your future instructions to us.
- 13.8 You agree that we may serve formal notices, invoices and other documents (including service of any legal proceedings) upon you by email, or any other method of electronic communications permitted by law, by using any email address or other electronic identification that you have provided to us, or that you have used for communicating with us.