

## **INFORMATION AND TERMS OF ENGAGEMENT OF ADVOCATE**

These terms of engagement apply to you working with an Advocate at Community Law Waikato.

Community Law Waikato Advocates are not practicing lawyers, but are supervised by a lawyer and some of your work may be delegated to others in the office including Lawyers. The following terms of engagement apply to both the Advocate working on your file and the Lawyers. There are additional terms of engagement for Lawyers working on your file. These are included under “Information and Terms of Engagement – Lawyers”

**If you require help to understand or clarify any of these terms, please contact us.**

### **1 General**

- 1.1 These Standard Terms of Engagement (Terms) apply to the current engagement (the current matter we are helping you with) and any future engagement (any matter we help you with in future). We do not need to send you another copy of these terms if we help you again.
- 1.2 We can change these Terms and if we do, we will tell you and send you the changes.
- 1.3 New Zealand law governs our relationship with you. New Zealand courts have exclusive jurisdiction.

### **2 Services**

- 2.1 We are a community organisation with limited resources. We have eligibility criteria. We use the eligibility criteria to decide whether you can use our services. Our eligibility criteria includes your income and the type of legal matter you need help with. We ask you for this information when you first contact us. If you are not eligible for our service, we will refer you on to other lawyers or legal aid.
- 2.2 If your circumstances change, you must tell us as soon as possible.
- 2.3 We have outlined in the letter of engagement the service we have agreed to provide. The service can extend to further instructions that you give us in writing (or that we record in writing).
- 2.4 The main contact and person responsible for your file is in your letter of engagement. In order to provide efficient services, other staff at Community Law Waikato may need to do some of the work on your file. For example, a legal assistant may do research and draft documents.

### **3 Fees / Charges**

- 3.1 Our service is effectively free. You do not have to pay us, but we may seek payment from third parties for your legal issue. Third parties include but are not limited to ACC, employers and the Ministry of Social Development. If we seek payment from a third party, we will send you an invoice. The invoice will not be more than the award of costs/agreed costs. The costs will be paid direct to us by the third party.
- 3.2 You pay for the cost of disbursements (courier fees, visa fees etc.) We will require you to pay these to the agency directly. If you request, and we agree to pay for the disbursement up front, you agree to refund the actual cost of the disbursement when you receive an invoice from us.

## **4 Client Care & Professional Duty**

- 4.1 Our duty of care is to you and not to any other person. We do not have any liability (legal responsibility) to any other person, including for example any directors, shareholders, associated companies, employees or family members. We do not accept any responsibility or liability to any third parties who may be affected by the service we give you or who may rely on any advice we give.
- 4.2 Our advice is opinion only, based on the facts known to us and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable (responsible) for mistakes in or information missing from any information provided by third parties.
- 4.3 Our advice relates only to each particular matter for which you ask our help. Once that matter is at an end, we will not owe you any duty or liability for any related or other matters unless you specifically ask us (and we have the resources and agree) to help with those related or other matters.

## **5 Communications**

- 5.1 You give us your contact details, including email address, postal address and telephone numbers. We may give documents and other communications to you by email (or other electronic means). You need to tell us if any of your contact details change.
- 5.2 We will keep you up-to-date on the progress of your file. We will tell you if there are any important and unexpected delays, significant changes or complications in the work we undertake.
- 5.3 We expect our clients to talk to us in a reasonable time, which includes (but is not limited to) the following:
- To give us your details (name, contact, income etc.) completely and accurately
  - To give us the name of the other party (person, company) in your matter so we can check for any conflict(s) of interest
  - To give us all relevant information and documents within a reasonable time
  - To respond to our letters, phone messages and emails in a timely manner
  - To attend appointments/hearings on time

## **6 Conflicts of Interest**

- 6.1 We must protect and promote your interests and not the interests of third parties or ourselves. This is set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules). This may mean a situation where we have a conflict of interest.
- 6.2 We have procedures to identify and respond to conflicts of interest or potential conflicts of interest. If a conflict of interest happens, we will tell you there is a conflict of interest. We will follow the requirements and procedures set out in the Rules. This may mean we cannot help with your matter anymore and we will close your file. We will provide you with referrals to other lawyers.

## **7 Confidentiality and Personal Information**

7.1 **Confidentiality:** We keep all information confidential that we obtain about you when you are our client. We will not disclose any of this information to any other person except:

- to the extent necessary or desirable to enable us to carry out your instructions; or
- as expressly or impliedly agreed by you; or
- as necessary to protect our interests in respect of any complaint or dispute; or
- to the extent required or permitted by law.

7.2 **Personal information and Privacy:** In our dealings with you, we will collect and hold personal information about you.

7.3 We will use that information to carry out the work for you and to make contact with you about issues we think will interest you. You have the choice to give us your personal information but if you do not give full information this may affect our ability to help you.

7.4 In order to do the work for you, your personal information may need to be disclosed to third parties. We will not unnecessarily disclose any personal information about you.

7.5 We keep the information we collect about you at our office and/or at secure file storage sites elsewhere. Our office is mainly paperless and most of our client's information is stored electronically. We have a privacy policy and privacy statement which outlines our privacy obligations in detail. If you would like a copy, please contact us.

## **8 Documents, Records and Information**

8.1 We will keep a record of all important documents which we receive or create on your behalf on the following basis:

- We may keep a record electronically and destroy originals.
- At any time, we may dispose of documents which are duplicates (exact copies), or which are trivial (such as emails which do not contain substantive information), or documents which belong to us.
- We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records.

8.2 You can request copies of all documents which you are entitled under the Privacy Act 1993 or any other law and we will provide these to you. We may charge you our reasonable costs for doing this.

8.3 If we have documents that belong to a third party you will need to provide us with that person's written permission to get a copy of that document.

8.4 Seven years after we close your file, we will destroy (or delete in the case of electronic records) all files and documents in respect of your file. This excludes documents that we hold in safe custody for you or documents which the law says we must keep for longer. We may keep documents for longer at our option but not unnecessarily.

8.5 We may return documents to you (in either hard or electronic form) rather than keep them.

8.6 We own copyright in all documents or work we create in the course of helping you with your matter but grant you a non-exclusive licence to use and copy the documents for your own personal use. However, you may not let any third party copy, adapt or use the documents without our written permission.

## **9 Professional Indemnity Insurance**

9.1 We hold professional indemnity insurance.

## **10 Limitations on our Obligations or Liability**

10.1 To the extent allowed by law, our aggregate liability (the total of our responsibility) to you (whether in contract, tort, equity or otherwise) in connection with our Services is limited to the amount available to be payable under the Professional Indemnity Insurance held by the firm.

## **11 Termination**

11.1 You may end this engagement at any time.

11.2 We may terminate this engagement at any time if we are unable to assist you further including in situation where there is a conflict of interest and failure to provide instructions.

## **12 Feedback and Complaints**

12.1 One of our main goals is client satisfaction and feedback from clients is helpful to us. If you would like to comment on any part of the service given by us, including how we can improve our service, you can do that at any time by asking our reception for a feedback form or a link to our online survey. We often send a request for feedback when we close a file.

12.2 If you have any concerns or complaints about our services, please contact us. The Legal Services Manager will look into your complaint. If your complaint is not resolved, you can complain to the Chairperson of our Board, in writing to PO Box 1319, Hamilton. We will inquire into your complaint and endeavour in good faith to resolve the matter with you in a way that is fair to all concerned.

## **INFORMATION & TERMS OF ENGAGEMENT – LAWYERS (In addition to the above)**

### **13 Client Care & Professional Duty**

13.1 The *Rules of Conduct and Client Care for Lawyers* sets out the professional standards for legal services. Whatever legal services your lawyer is providing, he or she must:

- Act competently, in a timely way, and in accordance with instructions received and arrangements made.
- Protect and promote your interests and act for you free from compromising influences or loyalties.
- Discuss with you your objectives and how they should best be achieved.
- Provide you with information about the work to be done, who will do it and the way the services will be provided.
- Give you clear information and advice.
- Protect your privacy and ensure appropriate confidentiality.

- Treat you fairly, respectfully and without discrimination.
- Keep you informed about the work being done and advise you when it is completed.
- Let you know how to make a complaint and deal with any complaint promptly and fairly.

13.2 The Rules of Conduct and Client Care for Lawyers describe the obligations lawyers owe to clients. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

#### **14 Professional Indemnity Insurance**

14.1 We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society.

#### **15 Lawyers Fidelity Fund**

15.1 The Law Society maintains the Lawyers Fidelity Fund to provide clients of lawyers with protection against pecuniary loss (the loss of money) caused by lawyers theft. An individual who is the victim of theft by their lawyer can claim a maximum of \$100,000.00 from the Lawyers Fidelity Fund. Except in certain circumstances which are listed in the Lawyers and Conveyancers Act 2006, the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is told to invest on behalf of a client.

#### **16 Termination**

16.1 We may end this engagement in any of the circumstances set out in the *Rules of Conduct and Client Care for Lawyers* which include circumstances such as a conflict of interest or the failure to provide instructions (we cannot contact you).

#### **17 Feedback and Complaints**

17.1 If you are not satisfied with the way we have dealt with your complaint, the New Zealand Law Society has a complaints service to which you may refer the issue. You can call 0800 261 801 for guidance, lodge a concern or make a formal complaint.

