



In these terms and conditions, we refer to McDaniel & Co. McDaniel & Co. is the trading name of McDaniel & Co. Limited (Company No. 07226957) Registered Office 23 Portland Terrace, Jesmond, Newcastle Upon Tyne, United Kingdom NE2 1QS. (Please note 'Partner' denotes Director of the Limited Company).

### **Terms of Business**

We will carry out all of the necessary work in respect of the matters you have instructed us upon to the best of our ability and in accordance with our professional rules and standards. As solicitors our overarching duty is to the Court. Subject to that, our primary duty is to you, the client.

### **People responsible for your work**

You will be advised in the initial client care letter who is working on your matter at the outset of the case. However we do operate in teams. This is for your benefit as it ensures that there will always be someone available to help you with a matter.

We will try to avoid changing the people who handle your work but if this cannot be avoided, we will inform you as soon as is reasonably practicable who will be handling the matter and why the change was necessary.

### **Communication**

The normal hours of business at our offices are between 8.30am and 5pm on weekdays. Appointments or telephone calls can be arranged outside of those hours to suit you.

It is the Firm's policy to ensure telephone calls are returned by the end of the day but you will appreciate that a lot of time during the day is taken up with personal attendances upon other clients and external appointments; there might sometimes be a delay in the return of telephone calls.

Wherever possible the use of e-mail is encouraged and usually results in a quicker response time addressing specific matters you may have raised in writing. When communicating by e-mail or fax we cannot accept any responsibility for computer generated viruses or for the security of the transmission.

The Data Protection Act requires us to advise you that your particulars are held on our database. We may, from time to time, unless you advise otherwise use these details to send you information that we think might be of interest to you.

## **Money Laundering Regulations 2007 and Serious Organised Crime Agency (SOCA)**

As from 15 December 2007 the Government introduced new Money Laundering Regulations which require us to complete a Client Due Diligence (CDD) process which involves assessing the risk of activity the client is involved in. We are required to carry out this process in order to prevent the circulation of money arising from the proceeds of crime and while we are under a professional and legal obligation to keep affairs of our client confidential, in certain circumstances we may need to disclose information to SOCA (Serious Organised Crime Agency)

To comply with these regulations we need to formally identify our clients and we do this by requesting original photographic documentation such as a passport or driving licence accompanied by a recent utility bill such as a gas or electricity bill. In commercial cases, an electronic search will be carried out for companies under normal circumstances, unless the Company is listed on one of the recognised stock markets or is registered by the Financial Services Authority who are governed by the same regulations.

While we do recognise that cash is still legal tender we do encourage our clients to pay any money due to us either by cheque/debit or credit card. Where cash is being offered as payment we will exercise our judgement on the amount of the transaction at the time.

In the event of a suspicion our Money Laundering Officer is Mr Niall Head-Rapson.

### **Charges and Expenses**

Unless we agree a fixed fee with you, our charges are based on the time spent dealing with your matter. Time spent on your affairs will include meetings with you and perhaps others; time spent travelling; considering, preparing and working on papers; incoming and outgoing correspondence including e-mails or faxes; and making and receiving calls.

We usually review our charges annually to take account of changes in our overhead costs and we will notify you in writing of any increased rate. In addition to the time spent, we may take into account a number of factors, which include the complexity of the issues, the speed at which action must be taken, the expertise or specialist knowledge that the case requires, and, if appropriate, the value of the property or subject matter involved. On the basis of the information currently available, we expect these factors to be adequately covered by the hourly rates set out above. The rates may be higher if any of the above value elements apply.

If you have any query about the level of any revised rates notified to you, please contact a partner straight away.

We will add VAT (at the prevailing rate) to our charges.

Expenses which you are likely to have to pay, when they are likely to be come due and an estimate of their costs are set out in our letter of engagement and/or estimate or fixed fee agreement.

VAT is payable on certain expenses. Any estimate is a guide only and is subject to change depending upon a variety of factors including the progress of your matter. If you instruct us as a director of a limited or public company you hereby accept that you will be

held personally responsible for the payment of our costs and expenses in the event that your company is, for whatever reason, unable to pay.

In the event of any costs or expenses not being paid we reserve the right to decline to act any further in relation to any or all matters we are dealing with for you until payment is made.

If we are asked to provide a Solicitor's undertaking on your behalf we are entitled to require you to make a deposit of funds with us or to give other security. A Solicitor's undertaking acts as a binding contract and we therefore need to be sure that we can discharge that undertaking.

### **Estimates**

Wherever possible we will give you an estimate or budget of the likely cost of the work we are doing for you. If because of the nature of the work we cannot give an estimate or budget our fees and expenses will be calculated as stated above.

We will inform you if any unforeseen additional work becomes necessary (for example, due to unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter). If, for any reason, the matter does not proceed to completion, we will charge you for work done and expenses incurred or an appropriate proportion of any fixed fee agreement.

You may set a limit on the charges and expenses you agree to be incurred. We will inform you as soon as it appears that the set limit may be exceeded and will not exceed the limit without first obtaining your consent.

It is normal practice to ask clients to pay sums of money from time to time on account of the charges and expenses that are expected during the course of your matter. This helps to avoid delay in the progress of a case. Payments on account must be cleared before we start work on your matter. We may request further payments on account for charges and expenses to be incurred as the matter progresses. When we put these payments towards your bills, we will send you a receipted bill. We will offset any such payments against your final bill, but it is important that you understand that your total charges and expenses may be greater than any advance payments and also any interim bills.

### **Billing Arrangements**

To help you budget, we will send you an interim bill for our charges and expenses at regular intervals whilst work is in progress. This will usually be monthly. We will send a final bill after completion of the work. Payment is due to us within the number of days of our sending you a final interim bill as set out in our relevant client care letter. We will charge you interest in accordance with the Late Payment of Commercial Debts (Interest) Act or County Court Act 1984. We will also reserve the right to charge an administration fee of £10.00 plus VAT for each reminder that is sent to you in relation to outstanding invoices.

If you have any query about our bill, you should contact a partner straight away.

You are entitled to have our charges reviewed by a court assessment. You have the right to apply to the Supreme Court Taxing Office within 1 month of the bill being rendered by us. After that period you will require consent from the Court to proceed.

### **Payment of Our Fees**

We do take payment for our fees but not disbursements by credit or debit card. However, if in our discretion we do accept credit or debit cards for payment of any disbursements we will charge you an amount which reflects the card handling charge. This will be notified to you at the point of agreeing to take such a payment.

If you fail to pay our fees and expenses we will retain your file of papers until such time as our fees and expenses have been discharged.

### **Insurance mediation**

This firm is not authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority 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 Financial Services Authority website at [www.fsa.gov.uk/register](http://www.fsa.gov.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 Complaints Service is the independent complaints handling body of the Law Society.

### **Third Party Funding**

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 third party funding services to the client because we are regulated by the Solicitors Regulation Authority. We can provide these 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 the Solicitors Regulation Authority and the Legal Complaints Service provide complaints and redress mechanisms.

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## **Funding Disputes**

Where appropriate we will discuss funding including public funding assistance and insurance. If at any time you wish us to recalculate whether or not you are entitled to public funding or if your circumstances change, kindly notify the person dealing with your matter.

You should always check to see whether you qualify for any legal assistance, for instance, pursuant to a home insurance policy, union membership or any other policy you may hold. This might cover our charges and any other party's charges and expenses but will generally only apply to litigation.

It is important that you understand that you will be responsible for paying our bills. Even if you are successful, the other party may not be ordered to pay your charges and expenses or these may not be recovered from them in full; if this happens, you will have to pay the balance of our charges and expenses. It is important to note that if the other party is publicly funded, you may not get back any of our charges and expenses, even if you win the case.

If you are successful and the court orders the other party to pay some or all of your charges and expenses, interest can be claimed from the date of the court order. We will account to you for such interest to the extent that you have our charges or expenses on account, but we are entitled to the rest of that interest.

You will also be responsible for paying the charges and expenses of seeking to recover any charges and expenses that the court orders the other party to pay.

In some circumstances, the court may order you to pay the other party's legal charges and expenses; for example, if you lose your case. This will be payable in addition to our charges and expenses. It is possible that our charges and expenses and your liability for another party's charges and expenses may be covered by insurance, and, if not, it may be advisable for you to have insurance to meet the other party's charges and expenses. Please discuss this with us if you are interested.

If your claim is allocated to the small claims track (for instance, if your claim is for money only and does not exceed £5,000) it is rare for any costs order being made save for fixed costs which are nominal costs stated on the claim form and/or where a party is deemed by the court to have acted unreasonably.

## **Disclosure of Documents (Disputes only)**

It is imperative that any documents that are relevant to your dispute are preserved. As part of the litigation process you will be required to disclose documents that are relevant. There are severe penalties if you either destroy relevant documents or you fail to disclose documents that are relevant to the issues between the parties.

Please advise us if you are in any doubt regarding your obligations concerning disclosure of documents. In any event, we shall provide further advice as to what may or may not be relevant and your disclosure obligations generally as the matter progresses.

## **Interest**

Any money received on your behalf will be held in our client account. Subject to certain minimum amounts and periods of time set out in the Solicitors Accounts Rules 1998, interest will be paid to you at the rate from time to time payable on Barclays Bank Client Accounts. We are not required to pay sums of interest less than £20.00 as per rule 24.3.a of the Solicitors Account Rules.

## **Third Parties**

We respect your right to privacy and confidentiality. However, it may sometimes be necessary to discuss your matter with one of your nominated advisors such as your accountant, debt collection agency, bank manager, estate agent, etc. Also, we may need to demonstrate our maintenance of certain audit standards set by appropriate authorities such as the Law Society. If you do not want us to discuss your matter or show your file as outlined above without first consulting you, please inform us immediately.

## **Storage of papers and deeds**

After completing the work we are entitled to keep all your papers and documents while money is owing to us for our charges and expenses.

We will usually keep your file of papers (except for any of your papers which you ask to be returned to you) for no more than 6 years and on the understanding that we have your authority to destroy the file at any time we consider reasonable after sending you our final bill. We will not destroy documents you ask us to deposit in safe custody.

We do not normally make a charge for retrieving stored papers or deeds in response to continuing or new instructions to act for you. However, we reserve the right to make a charge based on the time we spend on reading papers, writing letters or other work necessary to comply with your instructions.

## **Termination**

You may terminate your instructions to us in writing at any time.

Further, we must give you written notice of your right to cancel a contract within seven days under the Cancellation of Contracts made in Consumer's House or Place of Work etc Regulations 2008. We will inform you in writing if this applies to you.

We may decide to stop acting for you only with good reason. This may be, for example, if you do not pay an interim bill or comply with our request for a payment on account; if you fail to give proper instructions and/or we consider your instructions to be unreasonable; or if we feel that the relationship between us has broken down. We must give you written notice that we will stop acting for you.

We are entitled to be paid for all work done up to the point that our instructions are terminated by you or by us. We will be entitled to keep all of your papers and documents while there is money owing to us for our charges and expenses. If we hold money on account of costs upon termination we shall be entitled to discharge our outstanding invoices from such funds

## **Raising queries or concerns with us**

We are confident that we will give you a high quality service in all respects. However, if you have any queries or concerns about our work for you, please take them up with the person dealing with your matter. If that does not resolve the problem to your satisfaction or you would prefer not to speak to that person, then please take it up with a partner.

All Firms of solicitors are obliged to attempt to resolve problems that clients may have with the service provided. It is therefore important that you immediately raise your concerns with us. We value you and would not wish to think you have any reason to be unhappy with us.

## **Complaints Procedure**

Every complaint is acknowledged within seven days. This will be acknowledged by our Practice Manager.

Our aim is to respond in full within 28 days, but if your complaint is more complex we will require more time, and will let you know when you will receive a full response.

A review of your file will be conducted.

We hope to enter into a dialogue with you that aims to resolve the issues you raise.

After full investigation, we will reply to you, usually in writing, and may suggest a meeting.

We will tell you our views on your complaint and how we propose to resolve it, hopefully to your satisfaction.

If you are dissatisfied with the outcome, or the way your complaint has been handled, you may write to our Practice Manager who will make such further investigations as are necessary and refer the matter to the relevant Complaints Partner.

The complaints partner will inform you of the conclusions and any alternative proposals to resolve your complaint, usually within 28 days of this being referred to them.

If still unresolved at this stage, you may take your complaint to the Legal Ombudsman.

The Legal Ombudsman is completely independent from the legal profession and can consider complaints about legal services provided by the full range of legal practitioners registered in England and Wales (from Solicitors to Barristers) They may:-

- Investigate the quality of professional service supplied by a solicitor to a client.
- Investigate allegations that a solicitor has breached rules of professional conduct.
- Express a view on whether a solicitor's charges are fair and responsible.

The Legal Ombudsman will not:-

Determine whether a solicitor has been negligent.

Give legal advice or tell a solicitor how to handle a case.

Review the outcome of a Court case.

Review a decision of the Legal Services Commission (the body that regulates the provision of legal aid).

Before it will consider a complaint the Legal Ombudsman generally require that the firm's internal Complaints Procedure has been exhausted. If it is necessary to involve the Legal Ombudsman you must do this within six months of your last contact with your solicitor or law firm. If the Legal Ombudsman is satisfied that the firm's handling or proposals for resolving a complaint are reasonable, it may decline to investigate further.

The Legal Ombudsman address is: PO Box 6806, Wolverhampton, WV1 9WJ; telephone, 0300 555 0333; or view their website at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk).

### **Acceptance**

Your continuing instructions will amount to your acceptance of these terms of business.