

INFORMATION FOR CLIENTS OF HUGH SMITH PERRY

Rules 3.5 & 3.6 Rules of Conduct & Client Care

1. Fees

The basis on which fees will be charged is set out in our Letter of Engagement. When payment of fees is to be made is set out in our Standard Terms of Engagement.

We may deduct from any funds held on your behalf in our trust account any fees, expenses or disbursements for which we have provided an invoice.

2. Professional Indemnity Insurance

We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We will provide you with particulars of the minimum standards upon request.

3. Lawyers Fidelity Fund

The Law Society maintains the Lawyers Fidelity Fund for the purposes of providing clients of lawyers with protection against pecuniary loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is limited to \$100,000. Except in certain circumstances specified in the Lawyers & Conveyancers Act 2006 the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

4. Complaints

We maintain a procedure for handling any complaints by clients, designed to ensure that a complaint is dealt with promptly and fairly.

If you have a complaint about our services or charges, you may refer your complaint to the person in our firm who has overall responsibility for your work.

If you do not wish to refer your complaint to that person, or you are not satisfied with that person's response to your complaint, you may refer your complaint by letter, email or telephone Mr Craig O'Connor of Gresson Dorman & Co. He may be contacted as follows:

Craig O'Connor

- PO Box 244, Timaru 7940
- craig@gressons.co.nz
- Ph: (03) 6878004

The Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact The Law Society as follows:

New Zealand Law Society

- 26 Waring Taylor Street, Wellington
- P O Box 5041, Lambton Quay, Wellington 6145
- Ph 0800 261 801
- email inquiries@lawsociety.org.nz

5. Persons Responsible for the Work

The names and status of the person or persons who will have the general carriage of or overall responsibility for the services we provide you are set out in our letter of engagement.

6. Client Care and Service

The Law Society client care and service information is set out below.

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.

Charge you a fee that is fair and reasonable and let you know how and when you will be billed.

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.

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

If you have any questions, please visit www.lawyers.org.nz

7. Limitations on extent of our Obligations or Liability

Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our letter of engagement, or as from time to time is set out in our correspondence to you.

STANDARD TERMS OF ENGAGEMENT

WITH HUGH SMITH PERRY

These Standard Terms of Engagement ('Terms') apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing.

1. Services

1.1 The services which we are to provide for you are outlined in our Letter of Engagement.

2. Fees

2.1 We will charge a fee which is fair and reasonable for the services provided having regard to your interests and our interests. In determining the fee, the following may be taken into account:

- The time and labour expended at an hourly rate.
- The skill, specialised knowledge, and responsibility required to perform the services properly.
- The importance of the matter to you and the results achieved.
- The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you.
- The degree of risk assumed by us in undertaking the services including the amount or value of the property involved.
- The complexity of the matter and the difficulty or novelty of the questions involved.
- The experience, reputation and ability of the members of our firm working on your matter.
- The possibility that the acceptance of the particular instructions will preclude employment of us by other clients.
- Whether the fee is fixed or conditional.
- Any quote or estimate of fees given by us.
- Any fee agreement entered into between you and us.
- The reasonable costs of running our firm.
- The fee customarily charged in the market and locality for work similar to yours.

2.2 Unless otherwise stated all fees are plus GST.

2.3 In providing services we may incur disbursements or have to make payments to third parties on your behalf such as search and registration fees, valuation fees etc. These will be included in our invoice to you when the expense is incurred.

2.4 All work done by us is charged on a fees basis apart from:

- (a) a commission of 7.6% of the gross interest which is taken on all interest accruing on funds deposited with our bank through our Solicitors Deposit Scheme;
- (b) an administration fee of 6% of our fee (inclusive of GST)– refer to clause 2.5 for further details;
- (c) we reserve the right to charge a storage fee for files and documents held on your behalf but this is usually only charged if documents are voluminous.

2.5 Expenses – Administration Fee – Unless otherwise agreed with you, we will not charge you for minor expenses such as every phone call and photocopy. Rather we charge a set fee of 6% of our total fee (inclusive of GST) for each file opened as a file administration fee. This fee covers the costs of setting up your file (both the physical file and through our trust accounting software), AML compliance, photocopying, tolls and cell phone calls, faxes and postage. We will however pass on to you larger expenses such as courier fees, search fees, LINZ registration fees, probate filing fees, valuation fees and, if incurred, mileage and travel expenses.

2.6 Where it is applicable, you may wish to apply for legal aid. In the event that legal aid is not granted you will be liable for our account charged at the private rates referred to above.

3. Payment of Fees

3.1 Invoices, whether interim or final, are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us. Failure to pay an interim bill may mean that work on your file stops.

3.2 We reserve the right to issue interim accounts where appropriate.

3.3 Our final account will be sent to you shortly after we have completed your matter.

3.4 You authorise us to deduct any fees, expenses or disbursements for which we have provided an invoice from funds held on your behalf in our trust account.

3.5 We may ask you to pay fees in advance, but in those instances your payment will be held in our trust account and only paid to us by deduction when an account has been forwarded to you.

- 3.6 Disbursements are to be paid by you immediately upon request but substantial disbursements will be asked for in advance.
- 3.7 Interest will accrue on unpaid accounts at the rate of 18.5% per annum as from the due date until payment. Other action to recover unpaid fees may also be taken and the cost of such recovery may be added to the account due by you.

4. The Lawyers' Fidelity Fund

- 4.1 Details of the Lawyers' Fidelity Fund are set out in our *Information for Clients* document.

5. Professional Indemnity Insurance

- 5.1 We hold current Professional Indemnity Insurance which meets the minimum standards from time to time specified by the New Zealand Law Society.

6. Limitation of Liability

- 6.1 We do not accept liability for any loss arising from non receipt of any communication including email communications.

7. Files and Documents

- 7.1 You authorise us (without further reference to you) to destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) 7 years after our engagement ends.
- 7.2 The work papers produced by Hugh Smith Perry in the course of its work in providing services are the property of Hugh Smith Perry. Hugh Smith Perry shall be entitled to retain its work papers and copies of any documents provided to it in the course of performing its services. Work papers will also include documents or deeds relevant to your affairs although not necessarily relevant to the services.
- 7.3 You are welcome to uplift your file provided that all fees and expenses have been paid. Please give us reasonable notice before collecting your file should you wish to do so.
- 7.4 Storage Fee – We reserve the right to charge a storage fee of up to \$300.00 per annum for files and documents stored on your behalf but usually only charged if documents are voluminous.

8. Termination of Retainer

- 8.1 You may terminate our retainer at any time.
- 8.2 We may terminate our retainer in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.
- 8.3 If our retainer is terminated you must pay us all fees due up to the date of termination and all disbursements incurred up to that date.

9. Suspension of Service

- 9.1 We reserve the right to stop work on your retainer if interim accounts are not paid on time or a request for information or action remains unsatisfied. This includes Hugh Smith Perry's right to refuse to settle a property, loan, commercial or other transaction. All reasonable fees up to suspension or termination shall be and remain payable, notwithstanding the suspension or termination.

10. Privacy and Confidentiality

- 10.1 We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you. We will not disclose any of this information to any other person except:
- (a) to the extent necessary or desirable to enable us to carry out your instructions; or
 - (b) to the extent required by law or by the Law Society's *Rules of Conduct and Client Care for Lawyers*.
- 10.2 Confidential information concerning you will as far as practicable be made available only to those within our firm who are providing legal services for you.
- 10.3 We will not disclose to you confidential information which we have in relation to any other client.

11. Conflicts of Interest

- 11.1 We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises we will advise you of this and follow the requirements set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.

12. Duty of Care

12.1 Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this.

13. Complaints

13.1 Our complaints process is set out in our *Information for Clients* document.

14. Trust Account

14.1 We maintain a trust account for all funds which we receive from clients (except monies received for payment of our invoices). As far as practicable, if we are holding significant funds on your behalf we will lodge those funds on Interest Bearing Deposit (IBD) with a bank. In that case we will charge an administration fee of 7.6% of the gross interest derived. However, unless the interest earned is likely to be more than \$75.00 it is unlikely investment would warrant the administrative costs involved and in that case funds will be held in our ordinary trust account. Please note the Bank does not pay any interest on funds held in our ordinary trust account to us

15. Verification of Identity and Tax Status

15.1 Government legislation in respect of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and compliance with US Legislation directed at reducing tax evasion by US tax payers (which is in force in New Zealand), means lawyers are now required to collect and retain certain information from you to verify your identity and tax status. We are therefore required to sight original documents verifying your identity, such as a passport, proof of address and your IRD number. We may retain copies of these documents. If required we may also perform such other customer verification checks as to your identity and checks as to the source of any funds associated with any transaction to which our services relate as we consider to be required by law and you consent to us releasing that information to ANZ Bank New Zealand Ltd or any Government/Regulatory agency if required. (Refer clause 10. above – Privacy and Confidentiality)

16. Urgency

We have a premium charge for urgency of 25% above our usual hourly rate.

Below are the reasons why this charge is necessary, to assist you in understanding our position. As we are sure you can appreciate, when for one reason and another one clients' work needs to be given priority over all other clients' work, in order to accommodate the request it often necessitates us having to:

- a) Cancel and reschedule existing commitments to other clients.
- b) Work particularly long hours, usually in the evenings and on weekends. This might not mean we are working overtime on your particular matters, but are trying to 'catch up' on other matters to avoid letting down other clients who have been pushed down the queue.
- c) Take professional staff off other projects they are working on to expedite completion in accordance with your urgent request.

In order to avoid the need for urgency and therefore avoid premium charges you could do the following:

- a) Contact us early. We can at least then plan our work load in the knowledge that you may have a particular matter coming up that requires our assistance.
- b) Provide us with all information whether you think it is relevant or not.
- c) Once you have instructed us, continue to keep us fully informed. You may have a clear understanding of what is occurring but if we are not party to those conversations or correspondence we will not know what is happening and what you require from us.

We assure you that regular contact is more cost effective in the long run. Moreover, such contact doesn't need to be time-consuming and as often as not, a quick e-mail from you to us to keep us up to date from time to time is all that is required.

17. General

17.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.

17.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.

17.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non exclusive jurisdiction.