

Terms of Engagement

1. Services

1. These standard terms and any covering letter ("our terms") together cover everything we do for you.
2. The services we are to provide for you will be outlined by letter or email.
3. **You do not need to sign anything in order to accept our terms. Simply continuing to use our services will indicate acceptance.**
4. Before we start work for you, however, we need to establish your identity. Like banks and other institutions we are obliged to check the identity of all clients to comply with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
5. It is important to us that we understand your requirements and expectations. If there is anything about our terms you do not understand – or you have other special requirements – please talk to us as soon as you can.

2. Fees, Office Services and payments on your behalf

2.1 Fees

1. [Clause 9.1](#) of the [Rules of Conduct and Client Care for Lawyers](#) sets out the factors that we will take into account when we work out your fees.
2. If we have agreed to a fixed fee, we will charge this for the agreed work. Work which falls outside that scope will be charged on an hourly rate basis. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope, and, if requested, give you an estimate of the likely amount of the further costs.
3. Where our fees are calculated on an hourly basis, time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.
4. The time recorded will include any initial meeting or meetings and all ID checks and other enquiries we are obliged to or consider we should make before we act for any client.
5. In addition to fees as above, we also charge an office services fee of \$50 per file (plus GST where applicable) to cover costs of setting up your files, forms, postage, phone calls and retention of your file.
6. Deeanah Winders', a director of this firm, hourly rate is \$400 plus GST.
7. If a director or employee of Trust Law & More Limited acts as executor or trustee, a trustee responsibility fee may be charged in addition to any fee for legal services (if permitted under the terms of the will or deed). The factors referred to in paragraph 2.1.1 will apply.
8. We charge commission of 5% on the gross interest earned on funds held on deposit through our trust account.

2.2 Disbursements and expenses

1. In providing services we may incur expenses or have to make payments to other people or organisations on your behalf. These will be included in our invoice to you when the expense is incurred.
2. These expenses include any accommodation and travel costs connected with the work we do for you – for example airfares, taxis and use of private motor vehicles (at IRD rates).
3. These expenses also include expenditure incurred when making any checks or enquiries in order to comply with our legal obligations when you instruct us to act for you.
4. Our policy is to require money, in advance, to cover disbursements such as court filing or service fees.

2.3 GST (if any)

1. Goods and Services Tax is payable by you on our fees.

2.4 Invoices

1. We will send interim invoices to you, usually monthly, and on completion of the work or termination of our relationship. We may also send you an invoice if we incur a significant expense.

2.5 Payment

1. You must pay our fees and expenses upon receipt of our invoice being sent to you. Sometimes we may ask you to pay money in advance or to provide security. If so, we will hold your payment in our trust account and deduct our fees and expenses when we send you an account. We reserve the right to charge interest on accounts not paid within two (2) months at a rate of 1.5% on the balance of accounts outstanding at the end of each month.
2. If you pay an invoice by credit card a surcharge of not less than 2.75% will be added to offset the commission charged by the credit card provider.
3. In order to minimise the risk of cyber crime, we require you to call us to verify our bank details before paying funds into our trust account; we will also call you to verify your bank details before paying money out.

2.6 Deduction of fees and disbursements

1. You authorise us:
 1. to debit against amounts pre-paid by you; and
 2. to deduct from any funds held on your behalf in our trust account any fees, expenses or disbursements for which we have provided an invoice.

2.7 Third Parties

1. Although you may expect someone else to cover our fees and expenses, you will still remain responsible for payment to us if the other person or organisation fails to pay us, even if you have asked us to send the invoice to that other person or organisation.

3. Confidentiality and Privacy

1. How we comply with our obligations under the Privacy Act 2020 and collect and share your personal information is set out more comprehensively in our privacy policy on our website. Please click this [link](#) or let us know if you cannot access it so we can share it with you in another way.

4. Further information

1. If we ask you to do so at any time, you will give us any further information we believe is required so that we can:
 1. give you full advice and carry out your instructions; or
 2. meet our obligations to provide information to our bank or any government body in New Zealand or overseas.
2. We may refuse to act for you (or to continue to act) if you do not provide this information when requested.
3. This information may, among other things, include:
 1. certified copies of identity documents such as a passport or drivers licence;
 2. confirmation of where funds have come from; and
 3. deeds and other relevant documents.

5. Who can authorise us to do work

1. It is important that we are clear about who may authorise us to carry out any work, once we have accepted the initial instruction from you.
2. If we are doing work for a couple (married or not), either of them may authorise the work.
3. If we are doing work for a partnership, any partner or officer of the partnership may authorise the work.

4. If we are doing work for an estate or trust, any executor or trustee may authorise the work.
5. If we are doing work for a company, any director or employee may give authorisation – or anyone the company allows to speak on its behalf.

6. Termination

1. You may terminate our authority at any time.
2. We may terminate our relationship in any of the circumstances set out in the [Rules of Conduct and Client Care for Lawyers](#).
3. If our relationship is terminated (whether by you or us), you must pay us all fees due and all disbursements and office services incurred up to the date of termination.
4. We may suspend (temporarily stop) your work if you have not:
 1. paid our accounts on time;
 2. given us information that we have asked for; or
 3. done something that we have asked you to do.

7. Files and Documents

1. You authorise us to hold all your information electronically and by way of secure cloud based systems provided by Apple Inc., Microsoft and other companies as used by us from time to time.
2. Where we do hold paper based files and documents, you authorise us to destroy all files and documents automatically seven years after we finished that job. We may destroy all files and documents earlier, if we keep an electronic copy of them. However, we will not destroy any documents we hold in safe custody for you.
3. We will own the copyright – and any other intellectual property rights – in the papers and documents we produce for you. However, you have the right to use these documents for their intended purpose provided you have paid our fees.
4. If you collect your files or documents from us at any time, we may make copies before they are collected.
5. Before you collect your records, you need to pay our fees for the work we have done for you.

8. Obligations to disclose to banks and others

1. Because of the laws designed to detect financing of terrorism and money laundering, banks and other institutions have duties to enquire about the source of funds in some situations. Even if we have no reason for any suspicion or concern, we may be obliged to report and provide information to banks and public authorities.
2. In addition, overseas legislation may mean there is a need to report – for example because of US legislation called the Foreign Account Tax Compliance Act (FATCA) and the associated inter-government agreement signed by the New Zealand government. We will release information required in these situations.

9. Conflicts of Interest

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 and procedures set out in the [Rules of Conduct and Client Care for Lawyers](#).

10. Duty of Care

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 specifically agree to this.
2. We may communicate with you and other people by email or some other electronic process. We will not be liable for any damage or loss to your computer system. We will also not be liable for any interference, interception, virus, delay or failure of delivery.

11. Scope of Work

1. Our primary areas of work are trusts and asset protection, wills and estate planning, estates, elder law, enduring powers of attorney, and residential property. We do not provide advice about:
 1. tax or the tax consequences of any arrangement; or
 2. whether you should buy, hold on to or dispose of any investment or asset.
2. We will act for you in respect of everything covered by your instructions, whether or not they are given in writing. This includes the usual authority of solicitors to do everything necessary or incidental in order to carry out your instructions.
3. Our involvement is limited to advice about legal matters under New Zealand law.
4. If you obtain a specialist report, or some other research such as a Land Information Memorandum (“LIM”), we do not give advice about this. If you believe you should get a specialist report, we can suggest reputable specialists for some types of report, but will not give further advice on that aspect.

12. General

1. Our terms apply to all current work and also to any future work we carry out for you, whether or not we send you another copy of them.
2. We are entitled to change our terms from time to time. If we do so, will send you a new document.
3. Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction. Neither you nor we may claim that the New Zealand Courts are not a convenient forum.
4. We will take your initial and continued instructions as your acceptance of our terms.

Information for Clients

Set out below is the information required by the *Rules of Conduct and Client Care for Lawyers*

1. **Fees:** Unless we have agreed otherwise and in writing, our fees will be calculated on a time basis as set out in our Standard Terms of Engagement. When payment of fees is to be made is set out in our Standard Terms of Engagement.
2. **Professional Indemnity Insurance:** We hold current professional indemnity insurance that meets or exceeds the Law Society’s minimum standards. We will provide you with details of the minimum standards on request.
3. **Lawyers Fidelity Fund:** The Law Society maintains the Lawyers’ Fidelity Fund for the purpose of providing clients of lawyers with protection against financial loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual complainant is limited to \$100,000. Except in certain circumstances, specified 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 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 service or charges, you may refer your complaint to Deeanah Winders as the person who has overall responsibility for your work. If you do not wish to refer your complaint to Deeanah Winders, or you are not satisfied with her response to your complaint you may refer your complaint to Joshua Garnett of Kemps Weir. Joshua Garnett may be contacted by email: joshua@kempsweir.co.nz. Joshua is a lawyer who is not associated with us, and who is experienced in the areas

of work that we do. Joshua will independently assess your complaint and work with us to ensure that it dealt with promptly and fairly.

The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, telephone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint. Website www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form
Email: complaints@lawsociety.org.nz

5. **Person Responsible for the Work:** Deeanah Winders as principal of the firm will carry out or have overall responsibility for the services provided for you.
6. **What we are responsible for:** The limits of our liability are set out in our Standard Terms of Engagement and any letter of engagement.
7. **Client Care and Service:** The [Rules of Conduct and Client Care for Lawyers](#) provide the following client care and service information – Whatever legal service 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