



**PARFITT  
CRESSWELL**

# Terms of Business

1<sup>st</sup> February 2022

**Colemans, Keene Marsland, Max Barford & Co., Jevons Riley & Pope, Copley Clark and Charles Coleman & Co are all trading names of Parfitt Cresswell**

[www.parfittcresswell.com](http://www.parfittcresswell.com)

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## TERMS OF BUSINESS

These Terms of Business and the accompanying letter (known as a 'Letter of Engagement') set out the way in which we will carry out work on your behalf. These Terms of Business are effective from 18th January 2021. We reserve the right to change these Terms of Business from time to time and where we do so we will write to tell you. These Terms of Business (as updated from time to time) shall apply to all instructions given by you to this firm.

### 1. People Responsible For Your Work

The Letter of Engagement gives details of the person who will be acting for you. If you have any query, please raise it with them.

When telephoning us please ask for the person dealing with your matter. If you are unable to contact that person, please leave a message with their secretary or on their voicemail. It greatly assists the service we provide to clients if where possible you avoid leaving messages with our telephonist/receptionist. So that there is a record on the file we would also encourage you to write to us via post or by email.

We will try to avoid changing the people who handle your work but if this cannot be avoided, for example if the person acting for you is on annual leave or absent on grounds of ill-health, we will inform you promptly who will be handling the matter and why the change was necessary.

Full contact details for our firm together with other useful information can be found at [www.parfittcresswell.com](http://www.parfittcresswell.com)

### 2. Service Standards and Responsibilities

We are committed to providing a good legal service delivered in a timely manner.

We will:

- treat you fairly and with respect
- review your matter as required and keep you informed of progress by telephone or in writing;
- communicate with you in plain language;
- explain to you the legal work that may be required and likely timescales
- advise you and keep you up-to-date with the costs of your matter as it progresses
- update you on whether the likely outcomes still justify the likely costs and risks or benefits associated with your matter whenever there is a material change in circumstances

You need to:

- provide us with clear, timely and accurate instructions and advise us in writing of any changes to those instructions
- provide us promptly with the information and documents required to complete the matter including identification and source of funds documentation and safeguard in their original format any documents that are likely to be required for court proceedings
- advise us in writing if you require a response or a transaction completed within a defined period; this will be on the understanding that we cannot accept any liability for agreeing to the required response time unless (1) it is confirmed by us in advance in writing that we have agreed to act on this basis, and (2) it is not dependent upon the involvement of third parties which may be outside of our control

#### **Communication**

Unless you tell us otherwise, you agree to us communicating with you, including the sending of bills and other confidential information, by normal, unencrypted email using the email address(es) you have given us from time to time. You should be aware that there is a risk that emails may be intercepted, delayed or corrupted or may fail to be delivered. We make reasonable attempts to exclude from our emails any virus or other defect that might harm a computer or IT system. You undertake to act likewise with any electronic communications you send to us. Neither you nor we shall have any liability to each other in respect of any claim or loss arising in connection with such a virus or defect in an electronic communication other than where such claim or loss arises from bad faith or wilful default.

#### **Joint Clients**

If we are instructed by joint clients then all clients are jointly and severally liable for our fees notwithstanding any agreement between you as to how you will share the costs. This means that we will be able to look to one client only or to each of our clients to pay the whole of or any balance of our unpaid fees. If instructions are given on

behalf of a client we are entitled to assume that the person giving the instructions has lawful authority to instruct us. If not, then that person will be liable to us as if they were our client.

### **Third Parties**

Our advice is for your benefit only. Save as expressly set out, our agreement with you is not intended to confer rights on any third parties whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

### **Outsourcing**

To ensure we provide an efficient service we may from time to time outsource work, such as typing of your letters or photocopying of your documents. We will always seek to obtain a confidentiality agreement with these outsourced providers in order to protect your confidentiality. If you object to this practice, please tick this box.

For information on outsourcing in relation to your personal data, see the Privacy Notice.

### **Confidentiality**

#### **Our Duties to You**

The information and documentation you provide to us is confidential unless stated otherwise in this document or in our letter confirming your instructions or if we advise you otherwise during the course of your matter. We cannot absolutely guarantee the security of information communicated by email or mobile phone. Unless we hear from you to the contrary we will assume that you consent to us using these methods of communication.

Although it is our duty to keep your affairs and information confidential you should be aware that by accepting these Terms of Business you authorise us:

In property transactions, to provide your sales agent and others in the chain with updates in the course of a property transaction and to reveal fully to any mortgage lender all relevant facts about your property purchase and mortgage application, and any information we receive during the course of the transaction and/or any cash-back payments or price discounts from your seller;

In all matters where appropriate, to provide your barrister or expert with all relevant facts concerning you and your case (although they are required to preserve the confidentiality of all such information);

From time to time to provide external firms, our accountants, organisations or regulatory authorities with information to enable them to conduct audit or quality checks on our practice. These external firms or organisations are also required to maintain confidentiality in relation to your files. For information on external auditing and due diligence in relation to your personal data, see the attached Privacy policy.

#### **Your Duties to Us**

In working for you we will use our know-how and experience. We will share this with you by giving you advice and preparing documents on your matter. This is our confidential information. We also own other rights in material that we produce in dealing with your matter, such as copyrights and trademarks (these are called 'intellectual property'). You may not, unless you have our permission in writing, release our confidential information or intellectual property to any other person.

### **3. Hours of Business**

Our normal office hours are Monday to Friday:

Fulham, Windsor and Caversham Offices 9.30 am - 5.30 pm;

Reading Office 9.00am to 5.00pm;

Tunbridge Wells Offices Keene Marsland 9.00am to 5.15pm; Max Barford & Co. 9.00am to 5.30pm;

Haywards Heath and Uckfield Offices 9.00am to 5.00pm.

Sutton and Banstead Offices 9.00am to 5.30pm

Our offices are closed on all bank/public holidays. Should you require appointments outside our normal office hours, please contact us and we will try to accommodate your request.

### **4. Regulation of Services**

Parfitt Cresswell is authorised and regulated as a Licensed Body by the Solicitors Regulation Authority (the SRA), The Cube, 199 Wharfside Street, Birmingham, B1 1RN.

This means that we are governed by the SRA Standards and Regulations which includes the SRA Codes of Conduct, which you can access on the SRA's website ([www.sra.org.uk](http://www.sra.org.uk)).

Parfitt Cresswell Trust Corporation Limited ('PCTC') is not regulated by the SRA as it does not deliver legal services and as such is not eligible for authorisation by the SRA. In the event that 'PCTC' is appointed to act as an Executor, Trustee, Deputy or Attorney in connection with your affairs it will instruct Parfitt Cresswell, as the Licensed Body regulated by the SRA, to provide such legal services as may be necessary in connection with the performance of its duties.

## 5. Money Laundering and Terrorist Financing Precautions

Like all firms of solicitors, we are required by law to apply procedures to guard against the risk of money laundering and terrorist financing. It will help us to avoid any problems with your legal work if you bear in mind the following points.

### Identification checks

To comply with the law we will need to obtain formal evidence of your identity (and sometimes of people related or connected to you) and address as soon as possible. This may be necessary even though we have acted for you before, or even if you are known personally to a member of staff. We will tell you if such evidence is necessary, but it may help us if you are able to bring evidence to our first meeting. Normally the evidence we would ask for is your current passport or photo-card driving licence, together with two or more documents to establish your address such as recent (within the last three months) utility bills, council tax bills, or bank statements.

We may use electronic identification service providers to confirm your identity and that of any beneficial owners. If we deem this to be necessary, we will charge a fee of £20 plus VAT in the case of a UK citizen living in the UK and £50 plus VAT in the case of an overseas national or a UK citizen living overseas. It is a condition of our retainer that you consent to us doing so, on your behalf and that of any beneficial owners.

### Source of funds

At the start of any matter we will normally ask you to tell us the source or derivation of any funds you will be using. It is simplest for us if the source is an account, in your name, in a UK bank or building society. If the source is an unusual one, such as an account in another country, please tell us as early as possible. In all property transactions we have additional requirements relating to source of funds, full details of which will be provided upon acceptance of instructions.

If insufficient evidence is provided to verify your identity and/or the source of your funds, we reserve the right not to accept or to terminate instructions.

### Destination of funds

Where we are required to remit funds to you we will only do so to accounts that are held in your sole name or in the names of any joint parties where we are instructed jointly by those parties. We will not accept instructions to pay any funds that are due to you to a third party.

**National Crime Agency** We always seek to keep our clients' affairs confidential. However, we may be required by statute to make a disclosure to the National Crime Agency. In particular where we discover or suspect that a transaction may involve money laundering or terrorist financing, or has been derived from a crime, we may have to report it. This can include even small amounts of money, and covers all offences including, for example, tax evasion and benefit fraud.

If we have to make a report, we may not be able to tell you that we have done so and we may have to stop working on your matter for a period of time without being able to tell you why. A report may result in an investigation by the police, H M Revenue & Customs (HMRC) or other authorities. The law contains exceptions. If you are concerned about how this may affect you, please ask us to clarify.

## 6. Charges and Fees

### General

Our charges are generally based on the time we spend dealing with a case. Time spent on your affairs will include meetings with you and others where necessary or appropriate (including the initial meeting with you to take your instructions); any time spent travelling; file opening and the time spent in fulfilling our regulatory obligations; considering, preparing, researching and working on papers; preparation of and updating you with costs estimates, schedules and bills; court attendances; sending and receiving letters, incoming and outgoing emails and other correspondence and the time incurred in consideration of, and preparation and response to, the same; and making and receiving telephone calls. All work undertaken on your matter will be charged on a time basis in units of 1/10<sup>th</sup> of an hour.

In matters where we are charging on an hourly basis the accompanying letter sets out the hourly rates for the people who will be handling your work. These hourly rates will be reviewed periodically to reflect increases in overhead costs and inflation. Normally the rates are reviewed with effect from 1 January each year. If a review is carried out before this matter has been concluded, we will inform you of any variation in the rate before it takes effect as well as any review any estimate already provided.

In addition to the time spent, we may take into account a number of factors including (but not limited to) the complexity of the issues, any need to carry out work outside of our normal office hours, 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. If the matter becomes more complex than expected we may need to increase our charges, in which case we will notify you in writing of this.

A regulatory fee of £25 plus VAT will be charged on all new instructions and this charge will be added to the first invoice that you receive in respect of your matter.

We reserve the right to charge separately for photocopying, printing, telephone calls, faxes, travel, courier and other incidental support service expenses.

VAT at the standard rate prevailing at the time of the invoice will be applied to all of our professional charges and expenses. Our VAT Registration Number is GB 340 6677 53.

If you have any query about the level of any revised rates notified to you, please contact the person handling your matter straightaway.

The charging rates referred to above will apply to work carried out for you prior to signature and return of these Terms of Business and our accompanying letter.

### **Payments**

Where we are required to remit funds to you we will only do so to accounts that are held in your sole name or in the names of any joint parties where we are instructed jointly by those parties.

You should be aware that, for security reasons, we are unable to make payments by cheque. Where we are required to transmit funds electronically a fee of £40 plus VAT will be made for each transmission.

We will only make payments to you in Sterling and do not accept any liability for any variation or change in currency exchange rates.

Where funds are due to be remitted to you we require you to provide us with details of your bank account at the outset of your matter. In light of the increasing prevalence of fraud activity these details may only be amended in person by you and any request for changes thereto by email will not be accepted.

## **7. Funding for Litigation Cases**

There are several ways to fund a claim. In litigation matters we will enclose a leaflet entitled "Funding Your Case" giving details of how a litigation case may be funded. This sets out a number of options for funding litigation cases and we will be pleased to discuss these further with you.

## **8. Conveyancing**

In conveyancing matters, our charges will usually be based upon the work involved and a percentage of the value of the property concerned. We will provide an estimate of the likely costs at the outset of the matter.

In the event that the conveyance does not proceed, we will charge for the amount of work carried out. If it is necessary to make additional charges as a result of the complexity or circumstances of a transaction, we will discuss this with you and agree any additional fee. The accompanying letter may set out examples of additional charges that can arise.

In cases involving a property purchase we will include and charge to you the costs of chancel insurance and local, drainage plan, and environmental searches, and any other searches that we consider are required to protect you and any lender for whom we may act. It is against our advice to omit these searches and where you are relying on mortgage finance we cannot accept instructions from you unless you agree that such searches should be made or that adequate insurance is put in place.

In the event that you are borrowing from a lender in a purchase transaction, we will require the lender to arrange for the borrowed funds to be received by us at least 24 hours prior to the completion date. In the event that the money is to be transferred to us electronically, the funds must be received by us on the day before completion to

enable us to ensure that the necessary funds are available in time for completion. Your lender will charge interest from the date the funds were released to us. We will also require cleared funds for Stamp Duty Land Tax and Land Registry fees that are payable, if any. We are only able to complete your purchase transaction from cleared funds held in our client account.

Please note that we are unable to accept payment by credit or debit card for property transactions, other than for payment of searches.

### **Acting for a Proposed Lender**

In the event that we are instructed to act for your lender in any matter we will have a duty to make full disclosure to the mortgagee (i.e. the lender) of all relevant facts relating to you, your purchase and the mortgage. This will include disclosure of any discrepancies between the mortgage application and information provided to us during the transaction and any cash-back payments or discount schemes which a seller is providing to you. If a conflict of interest arises, we must cease to act for you in this matter.

### **Additional Charges**

In the event that you require us to conduct a simultaneous exchange and completion an additional charge of £300 plus VAT will be made. Where there are less than 10 working days between exchange and completion, there will be an early completion fee of £150 plus VAT for each transaction.

Where we deem it to be necessary for the protection of your funds we will undertake additional checks in order to verify the identity of the solicitor acting for the other party and the accuracy of the bank information supplied by them. Such check is normally made via Lawyer Checker to gather further information on the firm to which money is being sent enabling us to better assess the risks associated with transferring funds throughout the property transaction. In these cases, there will be an additional fee of £10 plus VAT. We will also check your bank account details as a further anti-fraud measure.

We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or lost opportunities arising from any circumstances whatsoever in relation to a conveyancing or any other matter. By way of example only, this would include circumstances relating to a property purchase transaction where the seller receives another offer for the property to be purchased by you and chooses to accept that offer prior to exchange of contracts.

### **Fraud**

If acting for you as buyer, it is the duty and responsibility of the seller or their legal representative to verify the identity of the seller or sellers as owner or owners of the property to be purchased. Accordingly we are not, and you agree that we are not, liable for any losses incurred by you arising or otherwise howsoever resulting from or in connection with:

1. Any fraudulent misrepresentation, in particular relating to the identity of the owner or owners, and ownership, of the property to be purchased, by the seller/sellers to their legal representative or for any payments made by you relating to the purchase. Reasonable reliance will be placed by us upon the seller or their legal representative's said duty and responsibility to verify the identity of the seller or sellers as owner or owners of the property to be purchased. If you have any concern or cause for suspicion as to such identity and/or ownership you must advise us immediately by telephone or email.
2. Any loss or damage caused to you arising or otherwise howsoever resulting from or in connection with any payment made by you to any third party believing the same to be made to this firm. For reasons of security this firm's bank details will not be provided via email. Accordingly you must be alert to and suspicious of any email or other communication purporting to be sent by this firm stating or suggesting a change of such bank details.

## **9. Administration of Estates**

In probate matters, in addition to the hourly rate to be charged to you our charges may be calculated on a percentage basis, as outlined in the accompanying letter for matters involving the administration of estates. This letter sets out our charges and the basis upon which we have calculated our estimate of costs.

## **10. Expenses and Disbursements**

There may be certain other expenses or disbursements (which include payments we make on your behalf, such as court fees, search fees, taxes, fees for medical reports and barristers' fees etc.) which you will have to pay. Unless you have in advance provided us with the funds to do so we are under no obligation to make these payments. Where applicable VAT will be charged on these expenses. As the matter progresses we will try to give you a guide to these, and will not incur substantial expenses without your prior knowledge.

In accepting our terms of business you acknowledge and agree that (a) you will be liable to pay all disbursements, taxes and other third party costs required as part of your instructions or transaction at the rate in force at the time of completion; (b) we are not liable to you for any additional sums you may incur as a result of increases imposed by the HM Land Registry or HM Revenue & Customs or any other relevant authority; and (c) we are not liable to you for any costs, losses or damages whatsoever arising from any change in the cost of disbursements or changes in taxation rates or legislation or other third party costs that may arise during the course of your instructions or transaction and cannot be held responsible for any delays which may result in increases in such costs.

## **11. Other Charging Information**

You may set a limit on charges and expenses to be incurred. This means that you must pay the charges and expenses incurred up to that limit without our needing to refer back to you. We will inform you as soon as it appears that the limit may be exceeded and we 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 our charges and/or expenses which are expected in the following weeks or months. We find this helps clients in budgeting for costs as well as helping to avoid delay in the progress of your case. The accompanying letter will tell you how much, if anything, we require on account before we start work on your matter. As the matter progresses we may request further payments on account for charges and expenses to be incurred. We will offset any such payments against your final bill, but please note that your total charges and expenses may be greater than any advance payments.

If instructions are given by more than one person or company we may recover our fees, expenses and VAT from any one or more of them. This includes situations where one person or company instructs us on behalf of another. Please also refer to the sub-heading 'Joint Clients' at clause 2 above.

If arrangements are made for a third party to pay all or part of our fees or expenses, or a court orders a third party to pay all or part of our fees or expenses, you remain liable to us for such fees and/or expenses to the extent that the third party does not pay these when due.

If we have considered, but dismissed as unavailable or inappropriate, the possibility of other methods of funding your case, it is your sole responsibility to let us know if you wish us to reconsider the possibility of any alternative to you instructing us as a private fee-paying client.

## **12. Estimates**

The accompanying letter may give an estimate or forecast range of the likely charges and expenses in your matter. If it is not possible to do so at this stage, the letter will explain why. Please note that all estimates and fixed or capped fee arrangements are based on the scope of work anticipated and upon our assumptions about the matter at the time it is agreed or given. These may therefore be subject to revision should unforeseen additional work become necessary (for example, due to unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter). Should we need to increase the fee or estimate we will inform you in writing of this as soon as possible.

If for any reason this matter does not proceed to completion or conclusion, we reserve the right to charge you for work done to date and for any expenses incurred.

## **13. Billing and Fee Payment Arrangements**

In all matters, we will send you a final bill towards the conclusion of the matter. We may also send interim bills at regular stages (usually monthly) during the course of the matter. As a condition of working on or continuing to work on your matter we are entitled at any time to require you to make a payment to us on account of our fees and other costs. In cases involving courts, tribunals, mediation or arbitration we will require from you an advance payment in full on account of our fees for preparation and attendance together with any other third party costs that may arise in connection with your matter.

Payment is due to us within **14** days of the date of our bill. Where payment is not made within this time, interest will be charged on a daily basis from the date of the bill at four per cent over the Lloyds Bank plc base lending rate from time to time until the date the bill is paid in full and we may suspend work on your matter until all overdue bills have been paid. If payment is not made within **14** days, we reserve the right to decline to act further for you on this and any other matters on which we are acting for you. In the case of commercial debts, we reserve the right to claim interest and recovery costs pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

We may retain any funds held on account upon completion or conclusion of your matter to contribute towards settlement, in full or in part, of any fees, disbursements and/or expenses owed in relation to your matter as well as any other matter of yours, and your acceptance of these Terms of Business shall authorise us to debit such monies.



We operate a strict credit control policy and overdue invoices will be subject to recovery proceedings. This may include us instructing a debt collection agency to recover debts due by you to us.

In all property transfers, we require our final bill to be paid before we complete the transaction. If we are holding monies on account on your behalf, we will deduct our fees and disbursements from such monies before forwarding any balance to you.

Payments can be made by the following methods. For ease of reference the current clearance time of each payment is as stated in parentheses.

- 1) Cheque or bankers'/building society draft (eight working days).
- 2) Credit/debit card (up to three working days including the day payment is received); Please note that we do not accept payment by American Express (also known as Amex).
- 3) Bank Transfer: telegraphic transfer (immediate); BACS (three working days).

### **Cash Policy**

Please note that you should never make payments in cash either directly to us or direct into our bank account.

Our policy is not to accept cash of any amount from clients other than in exceptional circumstances (the definition of which is in our absolute discretion) and strictly only with our prior written approval. Please do not deposit cash directly with our bank as it may result in us incurring costs in order to prove the source of such cash payment. Any costs incurred will be charged to you.

## **14. Recovery of Legal Costs from Third Parties**

You are primarily liable for the fees and disbursements charged by this firm, no matter what the result and even if someone else is ordered to pay your legal costs in court proceedings. Even in this event, it is unlikely that the other party will be ordered to pay all of your legal costs and you will still have to pay any shortfall.

There can be additional problems with orders for legal costs, for example:

1. The person who has been ordered to pay such costs may not do so. If they do not pay, you will have to try to enforce the costs order (such as by sending in the bailiffs under a Warrant of Execution or obtaining a Charging Order secured against a property owned by them) and this itself costs more money and takes time.
2. The other party in your case may have little or no money and for this reason the court may not order them to pay your legal costs.
3. The person who has been ordered to pay your legal costs may not have any money or they may disappear and be untraceable.

Further, and in any event, no matter how successful you are at the final hearing of your case and no matter that the other person is able to pay the legal costs which they are ordered to pay, unless the amount of such costs are agreed, they will only have to pay those which the court assesses as reasonable and proportionate. This will vary from case to case but may amount to as little as 60% of your costs or less. You will still remain liable to pay the remainder of your legal costs and disbursements. You will also have to pay our fees and disbursements for seeking to recover any legal costs that the court orders another party to pay you. If the other party is publicly funded (legal aid), it is unlikely they will be ordered to pay legal costs, no matter what the outcome of the case.

In the event you are unsuccessful in your court case, in addition to your own legal costs and disbursements you may be ordered to pay the other party's legal costs. You may be able to insure against liability for the other party's legal fees. For further information, please discuss this with the person dealing with your case.

## **15. Valuations**

During the course of providing legal advice in any transaction, unless you advise us otherwise, we will assume that you have satisfied yourself that any transaction value/price is reasonable and appropriate.

**16. Tax Advice**

During the course of providing legal advice, tax implications may arise that require further advice and the consideration of tax planning strategy. Unless we state specifically otherwise in our Letter of Engagement the solicitor or person dealing with your case will not be qualified to advise on taxation or the tax implications arising from your transaction or our advice on your instructions. As a result we do not accept any responsibility for and will not be liable for any losses which arise therefrom. If you have any concerns over the tax implications arising from your instructions to us or our advice to you, please discuss them with the person dealing with your matter and, if necessary, we will refer you to a list of potential tax advisers. If we have not specifically agreed in writing to advise you on the tax implications of your instructions, or you do not raise any concerns with us at the time of your instructions and in any event before the conclusion of the matter, we will assume that you have taken such advice as may be necessary from an appropriate tax adviser and satisfied yourself of all the taxation implications of the transaction and/or our advice to you.

**17. Personal Guarantee**

Where you are instructing us on behalf of another person or entity such as a limited company or partnership, or in your capacity as a trustee, attorney or executor, by doing so you personally guarantee the prompt and full payment of all monies due to us from time to time by our client. Such guarantee will not be invalidated by any time or other indulgence that we may give to, nor by any compromise that we may agree with, our client.

**18. Storage of Papers, Files and Documents**

We will normally keep your file in electronic or paper form (or any combination thereof at our sole discretion), except for any that you request be returned to you, for not less than six years from the date of completion or conclusion of your matter. After that time, we will keep the file only on the understanding that we have your unconditional authority to destroy the file after such period as we consider reasonable. We will not destroy documents you ask us to deposit in safe custody. We may also retain electronic copies of your papers, files and documents for such period as we consider may be appropriate. We will retain evidence of your identity for at least five years.

We reserve the right to charge for the storage of your documents but if we do so then we will notify you in writing.

We reserve the right to make a charge for the time spent in retrieving, collating and copying stored papers or documents for you or for another at your request. We may also charge for reading and reviewing papers, writing letters or other work necessary to comply with the instructions given by you or on your behalf.

We do not accept liability for loss of any papers or documents stored and, as such, it is a requirement that you must ensure that you maintain an adequate level of insurance to cover any deeds, wills, documents, personal effects, securities or other items that are held by us on your behalf.

After completing the work, the subject of your instructions, we are entitled to keep all your papers, files and documents while there is money owing to us: this is known as a solicitors' lien.

**19. Termination**

You may terminate your instructions to us in writing at any time but (as stated at clause 18 above) we are entitled to keep all your papers, files and documents while there is money owed to us for fees and/or disbursements. If you or we decide that we should stop acting for you, you will be required to pay in full all unbilled fees to the date of termination at the rate or rates referred to in clause 6 above, and any disbursements, incurred on your behalf. In addition, you will be required to pay in full any invoices outstanding at the date of termination.

Our lawyer-client relationship will be considered terminated upon our completion of the specific services that you have retained us to perform, or if open-ended services are to be provided, when more than six months have elapsed from the last date on which we furnished any billable services to you.

The fact that from time to time we may inform you by e-mail, newsletter or otherwise of developments in the law which may be of interest to you should not be taken as, or understood to be, a revival of a lawyer-client relationship. We have no obligation to inform you of such developments in the law unless we are specifically engaged to do so.

We will only decide to stop acting for you with good reason and we will give you reasonable notice of such a decision. Examples of when we might do this include if you do not pay an interim bill on time; or if you fail to comply with our request for a payment on account of fees and/or disbursements; or where a conflict of interest arises; or where by not doing so would result in a breach of the Solicitors Code of Conduct; or where there is a

breakdown in trust and of confidence between you and us; or where you do not within a reasonable time (having regard to all the circumstances of your matter) provide us with instructions in relation to such matter.

In litigation cases, we will require all clients to sign a "Notice of Acting in Person" which we will send to the court and all other parties which will avoid having to attend court for this reason. We will let you know in advance if we have to make use of this.

### **Right to Cancel**

If you are a consumer (as opposed to a business) AND our first substantive meeting with you took place somewhere other than at our offices, you have a statutory right to cancel your contract with us within 14 days. If this right applies to your case, we will have provided you with a cancellation notice. Where the right applies and you sign and return these Terms of Business before the cancellation period expires, by so doing you are informing us that: your instructions are urgent; you wish us to commence work on your behalf immediately; and even if you should choose to cancel our contract within the cancellation period you agree to pay for the work done by us at the rate or rates referred to in clause 6 above up to the point of cancellation.

## **20. Money Held on Your Behalf**

In the event that we are paid interest by our banks on money that we hold in our client account on your behalf it is our general policy to pay interest to you on such sums held from time to time at the rate payable by Barclays Bank plc on their Business Banking Instant Access Account (or equivalent account in the event that that account is withdrawn), provided that such interest earned exceeds £20. This may be less than the rate at which you could have invested the money yourself. The period for which interest will be calculated will normally run from the date on which cleared funds are received by us until the date on which the payment to you is issued. If we hold sums of money for you in relation to different matters, we will normally treat the money relating to each of the different matters separately. We will not account to you for interest on money held for the payment of disbursements or professional fees. In certain circumstances (for example where large sums are held for long periods) we may, but only by prior agreement with you in writing, pay interest at a higher rate. Please note that no tax will be deducted from interest payments and that you must declare any interest received to HMRC as part of your income for the tax year in which it is received.

In the event that, at the time of holding money in our client account on your behalf at any of our banks, such bank(s) make a charge to us for the holding of such funds we reserve the right to pass such charges on to you.

Should any bank with which we place client funds notify us of their intention to apply negative rates of interest to that account, then Parfitt Cresswell reserves the right to revise the terms upon which it pays and or charges interest in accordance with the Solicitors Accounts Rules 2019. Should any such change materially prejudice any client or their case or transaction then that client will be informed of the change as soon as is reasonably practicable.

Our clients' money is currently held at Lloyds Bank, Barclays Bank, Santander Bank and Metro Bank who are regulated by the Financial Conduct Authority. We hold your money strictly in accordance with the Solicitors Accounts Rules. We are not liable for any losses you suffer or to repay any money that we hold for you in our client account which is lost as a result of any such banking institution being unable to repay depositors in full.

In the event of a bank failure the upper limit of compensation payable from the Financial Services Compensation Scheme (FSCS) is currently £85,000. The compensation limit applies to the individual, therefore if you hold other personal monies with Lloyds Bank, Barclays Bank, Santander Bank or Metro Bank in addition to our Lloyds, Barclays, Santander and Metro client account the limit will remain £85,000 in total. You should be aware that some deposit-taking institutions operate under several brands. Furthermore, you should be aware that if the deposit holder is a corporate body and it is not considered to be a small company by the FSCS then it will not be eligible for compensation.

Please note that we will assume that we hold your unconditional consent to the disclosure to the FSCS of client details in the event of a failure of a deposit-taking institution with which we have deposited clients' funds.

For further up to date information on the Financial Services Compensation Scheme we would refer you to: [www.fscs.org.uk/what-we-cover/products/banks-building-societies](http://www.fscs.org.uk/what-we-cover/products/banks-building-societies)

## **21. Raising Queries or Concerns with Us**

Parfitt Cresswell is committed to high quality legal advice and service.

We have a procedure in place which details how we handle complaints; this is available on request from our Complaints Officer Anne Chambers whose contact details are:

Telephone: 020 7381 8311

Email: [anne.chambers@parfittcresswell.com](mailto:anne.chambers@parfittcresswell.com)

Post: Parfitt Cresswell, 593-599 Fulham Road, London SW6 5UA

We have eight weeks in which to consider your complaint. If we have not resolved it within this time, or if you are not satisfied with our handling of your complaint, you can ask the Legal Ombudsman (LeO), PO Box 6806, Wolverhampton WV1 9WJ Tel. 0300 555 0333, to consider the complaint. Full contact details for the LeO and other information can be found at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk).

Normally, you will need to bring a complaint to the LeO within six months of receiving a final written response from us about your complaint. The LeO will accept complaints up to six years from the date of the alleged act/omission, or three years from when you should have known about the complaint. However, this time limit will be introduced gradually so currently the alleged act/omission must have occurred on or after 6 October 2010 (the date on which the responsibilities of the LeO commenced) or, if the problem happened earlier than that, you must not have been aware of it before 6 October 2010.

You are advised that some clients may not have the right to complain to the LeO. These include most businesses (unless they are defined as micro enterprises), charities or clubs with an annual income of more than £1m or trustees of trusts which have an asset value of more than £1m.

Where we have instructed a barrister on your behalf and you are not satisfied with the service provided by the barrister you may complain to the LeO. You should however raise your concerns with the chambers (i.e. the barrister's office from where he/she practices) in question beforehand to see if they can resolve your complaint to your satisfaction.

You should also be aware that you have the right to challenge our charges by applying to the court for assessment of a bill under Part III of the Solicitors Act 1974. The usual time limit for making such an application is one month from the date of delivery of the bill. If the application is made after one month but before twelve months from the date of delivery of the bill, the court's permission is required for the bill to be assessed. Unless there are special circumstances the court will not usually order a bill to be assessed after: twelve months from delivery of the bill; or a judgement has been obtained for the recovery of the costs covered by a bill; or the bill has been paid, even if this is within twelve months.

## 22. **Limitations on Our Liability**

Under the Indemnity Insurance Rules, we are required to take out and maintain qualifying Professional Indemnity Insurance (PII). Details including contact details of our PII provider and the territorial coverage of our insurance may be obtained on request from our offices.

We limit our liability to you for claims for breach of contract, breach of duty, negligence and for claims otherwise arising out of or in connection with our engagement or the services we provide, in the ways described below.

Our maximum aggregate liability to you shall be limited to £3 million including interest and costs or such other amount as is set out in the accompanying letter. This liability cap will apply to our aggregate liability to you together with any associated party for whom you are acting as agent in relation to the relevant matter on any basis.

We will not be liable for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or lost opportunities arising from any circumstances whatsoever.

We shall not be liable to you if we are unable to perform our services as a result of any cause beyond our reasonable control. Whilst every reasonable effort will be made to deal with and conclude your matter either (a) within the time previously advised, or (b) if no such time was provided, as quickly as reasonably possible, we shall not be liable to you for any consequential, special, indirect or exemplary damages, costs or losses or any damages, costs or losses attributable to lost profits or lost opportunities resulting from any inability either to adhere to such time or, if no such time was provided, within a reasonable time, in concluding your matter.

If, while we are acting for you, you need advice on other matters we may refer you to an advisor who is authorised to provide the necessary advice. In so doing we are not recommending that their service is suitable for your needs and we do not accept any liability for such an introduction.

### **Proportional Liability**

In addition to the other limitations in these Terms of Business and accompanying letter, if we and/or third parties are responsible for any loss suffered by you, our liability for that loss will be limited to a fair proportion of your total loss calculated by reference to the extent of any such responsibility. If you have engaged others to represent or advise you on a matter in which we are involved and you agree with any of them that their liability to you will be limited, in order that our position is not adversely affected by any such limitation of their liability, you agree that our liability to you will not exceed the amount which would have applied in the absence of that limitation.

### **Third party liability**

If you start proceedings against us for loss or damage and there is another person (for example, another adviser) who is liable (or potentially liable) to you in respect of the same loss or damage, then you will (if we so request) join them into the proceedings. This is subject to any legal prohibition against your joining them in that way.

### **No claim against individual employees or partners**

We have an interest in limiting the personal liability of employees, consultants and partners. Accordingly, you agree that you will not bring any claim against any individual employee, consultant or partner in respect of losses which you suffer or incur arising out of or in connection with our engagement or the services we provide. The provisions of this paragraph will not limit or exclude the firm's liability for the acts or omissions of our employees, consultants or partners.

The provisions of the above paragraph are intended for the benefit of our employees, consultants and partners but the terms of our engagement may be varied without the consent of all or any of those persons.

### **Limitation on exclusions**

The above exclusions and limitations will not operate to exclude or limit any liability which cannot lawfully be limited or excluded. In particular they do not limit liability for fraud, nor for causing death or personal injury by negligence, nor for negligence in contentious business, insofar as the Solicitors Act 1974 s 60(5) precludes the exclusion of such liability.

## **23. Equality and Diversity**

This firm is committed to promoting equality and diversity in all its dealings with clients, third parties and employees. A copy of our equality and diversity policy may be obtained on request from our offices.

## **24. General Data Protection Regulations**

The attached Privacy Policy explains how and why we collect, store, use and share your personal data. It also explains your rights in relation to your personal data and how to contact us or supervisory authorities in the event you have a complaint. Please read it carefully.

Our use of your personal data is subject to your instructions, the EU General Data Protection Regulation (GDPR), other relevant UK and EU legislation and our professional duty of confidentiality. Under data protection law, we can only use your personal data if we have a proper reason for doing so. Generally, we process your personal data:

1. To comply with our legal and regulatory obligations
2. For the performance of our contract with you or to take steps at your request before entering into a contract, or
3. For our legitimate interests or those of a third party

However, this does not apply to processing sensitive personal data about you such as your medical records. If it is necessary to process this data for example to confirm you have capacity to change your Will or make an LPA we will need your explicit consent for doing so. You can withdraw your consent at any time by contacting the Privacy Officer by email to [privacy@parfittcresswell.com](mailto:privacy@parfittcresswell.com) or by post to 593-599 Fulham Road, London SW6 5UA

For information on how long we will hold your personal data, see the a Privacy Notice and Privacy Policy available on our website.

## **25. Foreign Account Tax Compliance Act**

The Foreign Account Tax Compliance Act (FATCA) is United States legislation which as a result of an agreement between the UK and US governments has effect in the UK. The intention behind the legislation is to ensure US citizens disclose their worldwide income to the US tax authority (the Internal Revenue Service).

The FATCA regime requires certain financial institutions to identify and report (to HMRC) payments made to a:

- specified US person, or
- non-US entity with one or more controlling person who is a specified US person.

To comply with the law, we may have to share some of your information, including your FATCA status and, if applicable, your Global Intermediary Identification Number (GIIN) with financial institutions.

It is vital that we keep your information current at all times. You are responsible for communicating to us any changes in circumstances that may alter your FATCA status.

## 26. Promotional communications

We may use your personal data to send you updates and communications (by email, text, telephone or post) about legal developments that might be of interest to you and/or information about our services. You have the right to opt out of receiving promotional communications at any time, by:

1. Contacting us by email to [privacy@parfittcresswell.com](mailto:privacy@parfittcresswell.com) or by post to 593-599 Fulham Road, London, SW6 5UA
2. Using the 'unsubscribe' link in emails or 'STOP' number in texts
3. Updating your marketing preferences on <http://www.parfittcresswell.com/mydetails/>

## 27. Investment Advice, Insurance Distribution Activities and Consumer Credit Services

This firm is not authorised by the Financial Conduct Authority. If, while we are acting for you, you need advice on investments we may refer you to an adviser who is authorised to provide the necessary advice. In so doing we are not recommending that their service is suitable for your needs and we do not accept any liability for such an introduction.

However, we may provide certain limited investment advice services where these are closely linked to the legal work we are doing for you. This is because we are members of the Law Society of England and Wales which is a designated professional body for the purposes of the Financial Services and Markets Act 2000.

We are included on the register maintained by the Financial Conduct Authority so that we are permitted to undertake certain limited insurance distribution activities. However, unless specifically agreed in writing with you to the contrary, we will not provide you with any advice or recommendation in relation to insurance products. If we do provide you with such advice or recommendation you should be aware that we are unable to research the whole market and that it will remain your responsibility to take such advice as may be necessary from specialist advisers to ensure that any such products or advice is appropriate to your circumstances. We have no association with any insurance providers nor do we receive any commission therefrom. 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.fsa.gov.uk/register/home.do](http://www.fsa.gov.uk/register/home.do)

We are not authorised by the Financial Conduct Authority in relation to consumer credit services. We may, however, provide certain limited consumer credit services where these are incidental to the professional services we provide. This is because we are members of the Law Society of England and Wales, which is a designated professional body for the purposes of the Financial Services and Markets Act 2000.

## 28. Legal Status

If at any time in the future Parfitt Cresswell converts into a Limited Liability Partnership or a Limited Company these Terms of Business shall remain in full force and effect substituting Parfitt Cresswell LLP or Parfitt Cresswell Ltd or such other name(s) for Parfitt Cresswell and/or any of its trading names as the partners shall from time to time decide.

## 29. Jurisdiction

These Terms of Business and the accompanying letter shall be interpreted in accordance with the laws of England and Wales. The English Courts shall have exclusive jurisdiction in any dispute arising out of our acting for you.

**Parfitt Cresswell is authorised and regulated by the Solicitors Regulation Authority (SRA). SRA registration number 71480.**