



HESKETH HENRY
The Art of Law

Standard Terms of Engagement

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. If you have any questions, please contact the partner responsible for your work.

1. Services

1.1 The legal services which we are to provide for you as your New Zealand lawyers are outlined in our engagement letter. We are not qualified to provide investment advice to you.

1.2 You agree that when we act for you, we can accept instructions from any of the following unless you expressly advise us otherwise in writing:

- a. If we act for a company, we can accept instructions from any director or officer of that company or any employee or other person whom you have authorised to work with us;
- b. If we act for a trust, we can accept instructions from any trustee or officer (if applicable) of that trust;
- c. If we act for a partnership we can accept any instructions from any partner or officer (if applicable) of that partnership;
- d. If we act for a couple in a transaction, we can accept instructions from either party.

Client Teams

1.3 One of our partners will be responsible for looking after your work and our relationship with you. This responsible partner will be one whom we believe will be most suited to our relationship with you.

1.4 Each assignment, or parts of it, may be performed by other lawyers and legal assistants. In this way we can provide special expertise in an efficient and timely manner.

2. Financial

2.1 Fees:

- a. Subject to any arrangements set out in any engagement letter, the factors we will take into account in determining the fees which we will charge are:
 - the time and labour expended;
 - 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 any property involved;
 - the complexity of the matter and the difficulty or novelty of the questions involved;

- the experience, reputation, and ability of the lawyer;
- the possibility that the acceptance of the particular retainer will preclude our engagement by other clients;
- whether the fee is fixed or conditional (whether in litigation or otherwise);
- any quote or estimate of fees given by us;
- any fee agreement (including a conditional fee agreement) entered into between you and us;
- the reasonable costs of running our practice; and
- the fee customarily charged in the market and locality for similar legal services.

b. If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Unless otherwise agreed, work which falls outside that scope will be charged on the basis set out in paragraph 2.1.a. above. 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 fees.

c. If the engagement letter specifies an estimate of our fee, that estimate is based on the agreed scope of our services and our professional judgment. Unless otherwise agreed, work which falls outside that scope will be charged on the basis set out in paragraph 2.1.a. above. 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 fees.

d. Where our fees are calculated on an hourly basis, the hourly rates are set out in our engagement letter. The differences in those rates reflect the experience and specialisation of our professional staff. We adjust these rates from time to time to reflect levels of legal experience and changes in overheads. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.

Disbursements and expenses

2.2 In providing services we may incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice to you when the expense is incurred. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf.

GST (if any)

- 2.3 Goods and services tax (GST) is payable by you on our fees and charges at the rate prescribed by the Goods and Services Tax Act 1985, except where you are zero rated or exempt.

Invoices

- 2.4 We will send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. We may also send you an invoice when we incur a significant expense.

Payment

- 2.5 Payment is due by the 20th of the month following the date of our invoice.
- 2.6 We may charge you interest at the current ANZ National Bank Visa interest rate on any amount remaining unpaid after the due date for payment. We are happy to talk to you about payment of any overdue invoice. If an invoice remains unpaid, we reserve the right to start proceedings to recover the overdue amount plus the interest at the rate noted above, cease to act for you and retain your files until the overdue amount is paid.

Security

- 2.7 We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:
- to debit against amounts pre-paid by you; and
 - 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.

Third Parties

- 2.8 Although you may expect to be reimbursed by a third party for our fees and expenses, and although our invoices may at your request or with your approval be directed to a third party, nevertheless you remain responsible for payment to us if the third party fails to pay us.
- 2.9 If the third party has not paid us within the time frames set out in these Terms for payment, we reserve the right to issue you an invoice for the outstanding amount. You must then pay the invoice in accordance with these Terms and seek reimbursement from the third party.

3. Confidentiality

- 3.1 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:
- to the extent necessary or desirable to enable us to carry out your instructions; or
 - to the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.
- 3.2 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.
- 3.3 We will, of course, not disclose to you confidential information which we have in relation to any other client.

4. Termination

- 4.1 You may terminate our retainer at any time.
- 4.2 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.
- 4.3 If our retainer is terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.

5. Retention of files and documents

- 5.1 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, or earlier if we have converted those files and documents to an electronic format.

6. Conflicts of Interest

- 6.1 We have procedures in place to identify and respond to conflicts of interest. Before undertaking your work, we take steps to ascertain if there is any conflict of interest. If a conflict of interest arises we will advise you of this and follow the requirements and procedures set out in the Law Society's Rules of Conduct and Client Care for Lawyers.

7. Duty of Care

- 7.1 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.

8. Trust Account

- 8.1 We maintain a trust account for all funds which we receive from clients (except monies received for payment of our invoices). If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank. In that case we will charge an administration fee of 7% of the interest derived up to a maximum of \$250 for each quarterly period or part of a quarterly period.

9. General

- 9.1 We may from time to time send you material that we believe is relevant to you or your relationship with us.
- 9.2 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 9.3 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 9.4 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

10. Client Satisfaction

- 10.1 Achieving client satisfaction is a major priority at Hesketh Henry. Feedback is taken very seriously and considered to be extremely important in our pursuit of delivering excellent legal service.
- 10.2 If you are not completely satisfied with any aspect of our work, please contact the responsible partner or the firm's General Manager (please refer to our complaints procedure in our Information for Clients).



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Information for Clients

Set out below is the information required by the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society ("Law Society").

Fees

Subject to any arrangements set out in any engagement letter, the factors we will take into account in determining the fees we will charge and 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.

Professional Indemnity Insurance

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

Lawyers' Fidelity Fund

The Law Society maintains the Lawyers' Fidelity Fund for the purpose 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 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.

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 partner in our firm who has overall responsibility for your work.

If you do not wish to refer your complaint to that partner, or you are not satisfied with that partner's response to your complaint, you may refer your complaint to the team leader of the responsible partner, through our General Manager.

Our General Manager may be contacted as follows:

- by letter at Private Bag 92093, Auckland Mail Centre, Auckland 1142;
- by email at justin.cox@heskethhenry.co.nz;
- by telephoning him at (09) 375 8747.

The Law Society also maintains a complaints service and you are able to make a complaint to that service. Please phone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.

Persons Responsible for Your Work

The names and status of the person or persons who will carry out or be responsible for the services we provide for you are set out in our letter of engagement:

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; and
- 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.lawsociety.org.nz or call 0800 261 801.