

O'Sheas

■ Barristers & Solicitors ■

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O'Sheas Law Limited trading as O'Sheas

CLIENT ENGAGEMENT INFORMATION

As required under the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society, this booklet contains the following information:

Some of the Key Features of Our Relationship with You

and

Information for Clients

and

Our Standard Terms of Engagement

Once you have read this information please sign and return to our office your Letter of Acceptance, attached to your Letter of Engagement.

Some of the Key Features of Our Relationship with You

What we will do for you

- We will keep you informed about the work we are doing. If you have a question or concern about what we are doing, please contact us so we can discuss it.
- If you are concerned about how much the work will cost, just let us know. We will give you an estimate of our fees based on the work we believe we will need to carry out.

What we need from you

- Please take time to confirm your requirements. It is important that you do this so we can do our best to meet your expectations and deliver the service you require.
- Please keep up to date with the payments of our fees or any agreed payment arrangements so we can continue to act on your behalf.
- Please provide all the information we need to act on your behalf (including suitable identification and proof of address) and advise us of any changes to the circumstances, as this may affect the advice you require.

Our Information for Clients and Our Standard Terms of Engagement are enclosed in this booklet. Please take time to read these carefully. We are happy to discuss and explain any of these if they are unclear.

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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*”).

Throughout this material, the term “*we*” means O’Sheas Law Limited (trading as O’Sheas) and “*us*” and “*our*” have the same meaning.

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.

The time for the payment of fees is set out in our letter of engagement or otherwise on 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 \$100,000.00. 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. Persons Responsible for the Work:

The names and status of the person or persons who currently will have the responsibility for the services we provide for you are set out in our letter of engagement. Please note that from time to time we do have staff changes in our firm so that the persons who will have responsibility for the services we provide may alter from time to time.

5. Client Care and Service:

Whatever legal services the lawyer with us is providing, he or she must:

- Act competently, in a timely way, and in accordance with instructions received and instructions 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 or call (04) 472 7837.

6. 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.

7. Legal Aid:

If you are granted Legal Aid by the Ministry of Justice under the Legal Services Act 2011 for payment of our services, we advise that upon confirmation of your legal aid grant you have the following obligations to the Ministry of Justice:

- 1.1 You must tell the Ministry of Justice if your contact details, financial details, employment status, or family circumstances change.
- 1.2 You may have a prescribed repayment amount payable to the Ministry of Justice and, if you receive any proceeds from proceedings, you may need to make a lump sum final repayment towards the cost of our service.
- 1.3 Ministry of Justice invoicing for our services will be forwarded directly to the Ministry of Justice for payment a copy of which will be provided to you.
- 1.4 If we exceed the guideline hours set by the Ministry of Justice it will be necessary that we apply to the Ministry of Justice for an amendment to grant. An amendment to grant may increase your repayment obligations. If an amendment to grant is sought we will forward these to the Ministry of Justice and copies will be forward to you for your records.
- 1.5 For more information regarding legal aid you can contact the Ministry of Justice through their website at www.justice.govt.nz.

8. 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 to the attention of the Practice Manager.

They may be contacted regarding complaints as follows:

- By letter (C/- PO Box 460, Hamilton 3240);
- By email at admin@osheaslaw.co.nz;
- By telephoning (07) 838 3109.

The New Zealand 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 New Zealand Law Society:

- New Zealand Law Society, PO Box 5041, Lambton Quay, Wellington 6145
- Phone 0800 261 801 – Email: complaints@lawsociety.org.nz.

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.

1. Services

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

2. Financial

2.1 Fees:

- (a) The fees which we will charge or the manner in which they will be calculated, are set out in our engagement letter.
- (b) If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Work which falls outside that scope will be charged in accordance with the Lawyers and Conveyancers Act, Rules of Conduct and Client Care, Rule 9 (unless otherwise agreed).

If the engagement letter does not specify a fixed fee, then the legal services provided shall be charged in accordance with the Lawyers and Conveyancers Act, Rules of Conduct and Client Care, Rule 9.

At any time you may ask us to provide you with an estimate of the likely amount of the future costs and we shall endeavour to give that estimate which may, however, be subject to our assessment of what further work may be necessary.

- (c) When determining a fee Rule 3.01 of the New Zealand Law Society Rules of Professional Conduct for Barristers and Solicitors requires us to take into account the following guidelines:
 - (i) The skill, specialised knowledge, and responsibility required;
 - (ii) The importance of the matter to the client and the result achieved;
 - (iii) The urgency and circumstances in which the business is transacted;
 - (iv) The value or amount of any property or money involved;
 - (v) The complexity of the matter and the difficulty or novelty of the questions involved;
 - (vi) The number or importance of the documents prepared or perused;
 - (vii) The time and labour expended; and
 - (viii) The reasonable costs of running a practice.

- (d) For the purposes of the factor being the time and labour expended, our current hourly rates (GST exclusive), as at this edition are:

John O'Shea	\$425
Helen Monckton	\$400
Angela Cook	\$365
Leah Caddigan	\$325
Ngaire Meredith	\$220
Denise McFall	\$220

From time to time the rates are reviewed. Some or all of the rates may be increased. If you wish to be advised of any changes that may have been made please email admin@osheaslaw.co.nz for particulars of the then current applicable rates.

The relative importance of the factors set out above will vary according to the particular circumstances of each transaction.

2.2 Disbursements, Expenses and Administration Charges:

In providing services we may incur disbursements or have to make payments to third parties on your behalf. These will be included in our statement or 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.

We have an administration charge which is calculated as an additional 6.5% of the fee being charged. This administration charge covers compliance with the Anti-Money Laundering Act, Client Identification, File Storage and Scanning charges and file set up fee. This charge would be added to all fees whether those fees are interim fees or final fees.

If we are asked by you to remit monies to an overseas account then there will be fees and bank charges. The amount of the fees will depend on where the overseas account is situated, the amount of the funds being remitted and the requirements of our bankers.

2.3 GST:

Is payable by you on our fees and charges.

2.4 Invoices:

We may, depending on the nature of the legal services provided, send (unless otherwise agreed in writing with you) interim monthly invoices to you for the legal services provided for the month previous, and also on completion of the matter or termination of our engagement.

If you would like, in any event, monthly invoices sent, please advise us.

We may also send you an invoice when we incur a significant expense, either by way of disbursements or by way of work carried out by us.

Invoices are due and payable by the seventh (7th) day after the date of the invoice. We shall require interest to be paid on any amount which is more than seven days overdue. Interest will be calculated at the rate of 1.5% per month on the account. Receipt of payment will only be sent out at the request of the client.

You authorise us:

- (a) to debit against amounts prepaid by you; and
- (b) to deduct from any funds held on your behalf in our trust account any fees, charges, expenses or disbursements for which we have issued an invoice.

We reserve the right to cease further work for you should your account be in arrears.

2.5 Security:

We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses.

2.6 Debt Recovery

If our fees and/or disbursements are not paid and we commence debt recovery action, then the costs of that recovery (including our reasonable internal and/or external legal costs and disbursements) together with any debt collection agency costs we may incur shall be to your account and payable by you.

2.7 Third parties:

Although you may expect to be reimbursed by a third party for our fees and expenses, and although our invoices may at your request and/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.

3. Confidentiality

3.1 We have a range of statutory compliance obligations, including our obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (*AML/CFT*). This means that we may be obliged to send details of your transactional history to regulatory authorities in accordance with our compliance requirements.

3.2 Notwithstanding clause 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:

- (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*.

3.3 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.

3.4 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 documents and files

5.1 Documents

We hold certain documents in the Deeds storage section of our office. These documents normally comprise Wills, Deeds, Relationship Property Agreements, Court Orders, Birth Certificates, Marriage Certificates and other documents which in our opinion should be preserved. If there are any other particular documents which you wish us to hold please advise us and we will consider that on a case by case basis.

These documents are available to be uplifted by you at any time subject only to the signing of a proper uplifting authority and payment of any outstanding invoices. If we are holding documents on behalf of two or more people then we shall require that authority to be signed by all of the persons for which we are holding the documents. You agree, that at our cost, we may copy and retain copies of those documents.

If we are holding documents on behalf of more than one person and you are unable to obtain agreement to uplift from all of the persons, then we will, provide you with photocopies of those documents either by scanning and emailing them to you or by printing. We reserve the right to impose a reasonable charge for that.

5.2 Files

We hold (and are required to hold) either physically or scanned LINZ conveyancing documentation for the LINZ regulatory period (currently 10 years).

Otherwise we hold files from completion for at least seven years again, either physically or scanned.

The files are available to be uplifted by you at any time subject to:

- (a) The signing of a proper uplifting authority;
- (b) Giving us three days' notice so the files can be retrieved from storage or printed from the scanned electronic copy; and
- (c) Payment of any outstanding invoices.

We reserve the however the right to retain documents within the file which belong to us. Those documents could include internal memos and our personal notes.

On uplifting the file (if we have retained a hard copy) we will photocopy the file for our records and charge to you reasonable photocopying fee. Alternatively if the file has been scanned and, if you wish, the scanned file we will then send it to your nominated email address. We will then reserve the right to impose a reasonable fee

Where a file is held on behalf of two or more people/companies/organisations, then we will need an appropriate authority by all of those parties. If you are unable to obtain an uplifting authority by all parties for whom we are holding the file then as one of those persons we would make available to you a photocopy of that file at a reasonable charge.

We have a policy of scanning documents and files:

- (a) We will continue to hold the original documents in our deeds storage section (the documents referred to in paragraph 5.1 above), some of which may also be scanned.
- (b) We will scan most finished files and will hold the scanned file for seven years at least, or where required, ten years. Following scanning, the hard copy file will then be destroyed.
- (c) You hereby give us authority (unless you object in writing) to the hard copy file, after scanning, or the scanned file after the period set out above, to be destroyed. Obviously, if you object or do not agree to that, you will need to contact us urgently, preferably while we are working on the file or but at the least, within one month of the file being closed.
- (d) If you give us a paper document or if we make up a paper document on your behalf or we receive a paper document on your behalf, you authorise us to destroy it in accordance with our policy set out above.

6. Conflicts of Interest

6.1 We have procedures in place to identify and respond to conflicts of interest. If you believe that there is or may be a conflict of interest please notify us immediately. 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 registered bank. The interest bearing deposits are still within our Trust account. In the case of monies lodged in an interest bearing we will charge an administration fee of 5% of the interest received.

8.2 At the present time we lodge the Trust account funds with Westpac Bank. We reserve the right to place funds at any other registered trading bank operating in New Zealand.

If you wish monies we are holding on your behalf to be lodged with a bank other than Westpac please contact our practice manager. There may be an additional administration charge in that case. We would then open an account at the bank as a designated trust account but would only do so if that bank complied with the rules of the New Zealand Law Society and our firm agreed that the bank was an acceptable institution to hold our trust account funds.

- 8.3 Each year we receive from Banks, with whom we have a Trust account, a Resident Withholding Tax Certificate in respect of monies we have placed on deposit. This is a Certificate issued by the Bank as to the tax paid portion of the interest received. If we were holding money on your behalf on deposit then a Certificate would be issued in respect of that deposit. On many occasions the interest received is relatively small as is the tax paid.

We however will hold those Certificates (or scanned copies of them) for seven years from the date of issue. Please email admin@osheaslaw.co.nz if you wish to have those Certificates (or a scanned copy) sent to you.

9. Lien

- 9.1 Where work has been done by us but we have not been paid then as a general rule we have the right to retain original documents and correspondence on your file until such time as all outstanding fees, disbursements and other expenses have been paid. This is known as a lien. This will be particularly important in circumstances where you decide for whatever reason to instruct another firm.

10. General

- 10.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 10.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms (other than the change of hourly rates).
- 10.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

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