

# Terms of Business

Thank you for instructing Simpson Jones Solicitors LLP to act for you.

This Terms of Business contains key details about your matter and the way Simpson Jones will manage it. Please read it carefully as it forms part of the agreement between us and should be read in conjunction with any estimate of fees provided.

## 1) OUR AIM

To offer clients a friendly, professional, and personal legal service.

We will keep you fully informed on what is happening with your matter, including providing you with copies of all relevant documents and updating you on a regular basis.

We will always aim to communicate with you in plain language.

## 2) HOURS OF BUSINESS

Our offices are open from 9.00 am to 5.00 pm Monday to Friday.

Wherever possible, we will arrange home appointments for clients who are not able to get into the office.

We have an answering machine so that you may leave a message for us when the office is closed.

## 3) MONEY LAUNDERING, TERRORIST FINANCING AND TRANSFER OF FUNDS (INFORMATION ON THE PAYER) REGULATIONS 2017 (“Money Laundering Regulations”)

Money Laundering Regulations 2017 requires us, as well as banks, building societies and others, to obtain and verify satisfactory evidence of identity of their clients, anyone supplying a gifted deposit and any other persons (if any) having an interest in the property (“beneficial owners”). This is because we deal with money

and property on behalf of our clients, which could be used by criminals wishing to launder money.

As a regulated business we have a legal obligation to verify the identity of all individuals we work with. To ensure that this is done in a safe and convenient way for you we use a third-party provider of ID checks, Thirdfort.

Thirdfort provides a secure app-based solution that allows clients to remotely verify their identity, taking away the need to bring in or send in ID documents. The app is available on both smartphones and tablets and should take no longer than 3-4 minutes.

Should you have any questions you can contact the Thirdfort support team via any of the below channels:

- In app live chat
- [help@thirdfort.com](mailto:help@thirdfort.com)
- 0161 768 0083

The quickest and easiest way to get help is to chat with Thirdfort via their in app Live Chat. You can find resources, how to guides and helpful videos in their Support Hub: [info.thirdfort.com/app](https://info.thirdfort.com/app).

## **Evidence of Funds**

Under Money Laundering Regulations we are required to obtain evidence of how the funds you intend to use to the purchase the Property have been accrued. We will be unable to proceed with your transaction without verifying the source of these funds.

We require you to provide us with a minimum of **six months' bank statements** for any accounts which you will be taking money from to pay for your purchase. If these funds are held in a savings account or are being gifted by another party, we will also require six months' statements showing the account from which the money was transferred.

The bank statements provided must be complete bank statements which include your name, the sort code and account number. Please do not blank out any details on the statements as we cannot accept amended statements for money laundering purposes. We cannot accept screenshots of online bank accounts, print outs of summary screens or other similar online banking extracts. We can only accept full statements or, if your bank offers the facility, complete pdf statements which show all the above details.

We are also required to carry out the same Identity and Evidence of Funds checks for a company where the transaction is in a company name, and for any third party contributing substantial funds to the transaction e.g. a parent gifting funds to a child.

#### 4) OUR CHARGES – PRINCIPLES FEES AND PAYMENT CHARGES

Our experience has shown that the Solicitor/Client relationship works best when there is mutual understanding about fees and payment terms. The information in this section outlines briefly how we calculate fees, deal with invoices, and settle disbursements paid out by us on your behalf.

##### 4.1. OUR COSTS

4.1.1. Solicitors are obliged by law to charge Clients for work in a fair and reasonable way with due regard to:

- the complexity, difficulty, and novelty of the matter
- the degree of specialised skill/knowledge and responsibility involved
- the time spent
- the number and importance of documents involved
- the circumstances of the case
- the value of any money or property involved
- the importance of the matter to the client

4.1.2. Our normal practice is to first look at the time spent on this work and calculate an initial charge by reference to an hourly rate. For the vast majority of matters we will provide you with an estimated legal fee considering the factors described above. In a small number of cases, we may advise that fees will be charged on an hourly basis.

Our scale of fees can be found by following [this link](#).

We will provide you with a quotation including an amount for the legal fees relating to the matter plus disbursements and VAT where applicable.

“Disbursements” are expenses that you pay to us which we pay to someone else on your behalf.

We do reserve the right to review these costs if it becomes apparent during the course of the matter that the amount of work involved is likely to be more complex and/or time consuming than first appeared.

We will always notify you of any increase to our original quotation.

Where a matter requires charges at an hourly rate, we will agree this with you. The charging rate to be applied will be as follows:

- Partner, Solicitor or Senior Conveyancer £285.00 plus VAT per hour.
- Conveyancer £220.00 plus VAT per hour.

We reserve the right to increase our charging rates. Any change in the hourly rates applicable to your matter will be notified to you.

4.1.3. You may at any time set a limit on the costs which may be incurred without further reference to you, and we shall be pleased to discuss with you a realistic limit.

4.1.4. Should your matter not proceed to completion, we will charge you for any work carried out.

The fees for this work will be calculated from the amount of time spent from the date you instruct us until the date you give us notification that the transaction is not proceeding.

## 4.2. EXPENSES AND DISBURSEMENTS

4.2.1. In carrying out your work, we will likely incur additional costs.

These are typically of two types:

- Expenses such as travel and/or bank charges. These will normally be included in our total charges for legal services but in some circumstances, they will be charged as a specific item which will be shown separately.
- Fees to third parties expended on your behalf. For example, registration fees, search fees, court fees, Stamp Duty, travel charges, agency fees. These will be shown separately on our invoice.

If your chosen mortgage company use a third-party panel manager who charge, then we reserve the right to add this to the completion statement.

Postage will be charged as a separate disbursement and is subject to VAT.

Although we try to include all relevant expenses and disbursements in our invoice, there may be occasions where we ourselves receive invoices for outlays on your behalf sometime later. In these circumstances it will be necessary to render a supplementary invoice to cover the additional outlays.

#### 4.3. PAYMENT

4.3.1. Where the matter concerned is likely to be protracted or we are engaged to carry out general day by day work, we will charge in one of two ways:

- Payments on account against an amount estimated by us to be the likely fee, with the balance payable on completion of the matter and the rendering of the invoice, OR
- Periodic interim billing where invoices will be raised according to works undertaken either up to an agreed amount or at agreed intervals.

All charges are payable within 7 days of our invoice.

We are happy to accept payment for all or part of our costs/disbursements from your credit card or debit card. An exception to this would be payments to a third party such as the Inland Revenue for stamp duty due. We can take your payment by telephone to save you a visit.

#### Card & Cash limits:

Debit Card - £1,000

Credit Card - £600

Cash - £500

#### 5) FINANCIAL SERVICES AND PROVIDING EXEMPT INSURANCE MEDIATION

Sometimes Conveyancing, Commercial Property and Wills and Probate matters involve investments. We are not authorised by the Financial Conduct Authority. However, we are included on the register maintained by the Financial Conduct

Authority so that we may carry out insurance mediation activity, which is mainly the advising on, selling, and administration of insurance contracts.

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 Services website at <http://www.fca.org.uk/register>

The Law Society is a designated professional body for purpose of the Financial Services and Markets Act 2000 but responsibility for regulation and complaints handling has been separated from the Law Society's representative functions. The Solicitors Regulation Authority is the independent regulator for Solicitors and the Legal Services Ombudsman is the independent complaints handling body of the Law Society.

## 6) BUSINESS PRACICE

It is our normal practice to ask Clients to make payment on account of any anticipated costs and disbursements. It is helpful if you can meet the request promptly but if there is any difficulty, please let us know as soon as possible.

We usually deliver bills upon completion but reserve the right to deliver bills to you at regular intervals, i.e. every three months for the work carried out during the conduct of the matter.

We reserve the right, in the event of non-payment of our account or where it is agreed that our costs may be paid entirely at the end of the matter, to make credit checks of a credit agency.

We are sure that you will understand that in the event of a payment not being made when we ask for one, we must reserve the right not to undertake any further work for you until payment is made and that the full amount of the work done up to that date will become due to you.

You will be liable for interest if payment is not made within 7 days of when payment is due.

If you wish to question any account rendered to you then in the first instance you should please try and resolve the problem with the conveyancer acting on your matter.

In non-contentious work you have the right under the Solicitors (Non-Contentious Business) Remuneration Order 1994 which require us to obtain a remuneration certificate from the Legal Complaints Service, as to the reasonableness of our costs and, in most matters, you have the right under the Solicitors Act 1974 to have our costs considered by the Court (this is a process called "Taxation"). There are time limits for you to challenge our costs in these ways and you should not delay in taking such action.

## 7) CONFIDENTIALITY

### Our Duty of Confidentiality

The SRA Code of Conduct for Firms requires the affairs of current and former clients to be kept confidential unless disclosure is required or permitted by law or the client consents in writing to a disclosure being made. The duty of confidentiality exists as an obligation under both common law and also under data protection legislation.

The duty of confidentiality applies to any and all information received by the Firm about a client's affairs regardless of how that information is disclosed to the Firm. Confidentiality will attach to all information given to us, by you, our client, or a third party, in connection with the retainer in which the Firm is instructed.

The duty of confidentiality extends beyond the lifetime of the transaction of the matter and therefore continues beyond the retainer when the firm ceases to act. If a client dies, the duty is transferred to the client's personal representative.

There are some exceptions to the general duty of confidentiality which apply if by keeping information confidential, you will commit a crime e.g. to perpetrate a fraud.

As a rule, any information provided to us by a client is confidential and privileged.

## 8) DATA PROTECTION AND PRIVACY POLICY

The UK General Data Protection Regulations (GDPR) defines personal data as any information relating to an identified or identifiable natural person (a data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an

identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The Firm is committed not only to the letter of the law, but also to the spirit of the law and places high importance on the correct, lawful, and fair handling of all personal data, respecting the legal rights, privacy, and trust of all individuals with whom it deals.

The UK GDPR sets out the following principles with which any party handling personal data must comply. All personal data must be: -

- processed lawfully, fairly and in a transparent manner in relation to the data subject.
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.
- accurate and, where necessary, kept up to date. Every reasonable step must be taken to ensure that personal data that is inaccurate, having regard to the purposes for which it is processed, is erased, or rectified without delay.
- kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed. Personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes, subject to the implementation of the appropriate technical and organisational measures required by the UK GDPR in order to safeguard the rights and freedoms of the data subject.

processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The Firm collects and processes personal data. This includes:

- personal data collected directly from data subjects; and

- personal data obtained from third parties.

The Firm only collects, processes, and holds personal data for the specific purposes set out in the table below (or for other purposes expressly permitted by the UK GDPR).

The following personal data is collected, held, and processed by the Firm:

<b>Data Ref.</b>	<b>Type of Data</b>	<b>Purpose of Data</b>
Client Name	Your Name	To identify you
Address	Your Address	To send letters to you
Email address	Your email address	To send communication via email
Mobile telephone	Your mobile telephone number	To communicate with you by phone and/or by text.
Date of Birth	Your date of birth	To identify you
Passport Number	Your passport details	To identify you and comply with Anti-Money Laundering Regulations – where applicable
Driving licence number	Your driving licence details	To identify you and comply with Anti-Money Laundering Regulations – where applicable
Utility Bill	Your utility bill (s)	To identify you and comply with Anti-Money Laundering Regulations – where applicable
Matter Information	Matter history and associated information.	Information relating to the matter in which you are seeking our advice or representation
Credit Check	Your finance/credit information.	Information to enable us to undertake a credit or other financial checks on you
Financial Data	Your financial information.	Your financial details so far as relevant to your instructions, e.g. the source of your funds if you are instructing on a purchase transaction.
Client Service Data	Your access to our communication systems.	Information about your use of our IT, communication and other systems, and other monitoring information.

The Firm will only collect and process personal data to the extent necessary for the specific purpose or purposes of which data subjects have been informed (or will be informed).

The Firm shall ensure that all personal data collected, processed and held by it is kept accurate and up to date. This includes, but is not limited to, the rectification of personal data at the request of a data subject.

The accuracy of personal data shall be checked when it is collected and at regular intervals thereafter. If any personal data is found to be inaccurate or out-of-date, all reasonable steps will be taken without delay to amend or erase that data, as appropriate.

The Firm shall not keep personal data for any longer than is necessary in light of the purpose or purposes for which that personal data was originally collected, held and processed.

We reserve the right to retain file records and data where we have acted for you for the necessary establishment, exercise or defence of any possible legal claim against the firm. The relevant periods for which the file will be retained prior to destruction (both paper and electronic) are: -

- Conveyancing Purchases, Re-Mortgage, Transfer of Equity – 12 years
- Conveyancing Sale – 7 years
- Trusts (unless file given to client) – Indefinitely
- Probate & Administration - Indefinitely
- Wills/Enduring Powers of Attorney – Indefinitely
- Registered Title Deeds – Indefinitely

When personal data is no longer required, all reasonable steps will be taken to erase or otherwise dispose of it without delay.

The Firm shall ensure that all personal data collected, held and processed is kept secure and protected against unauthorised or unlawful processing and against accidental loss, destruction or damage.

The Firm's **Data Compliance Manager** is **Paul Chapman** ([paulc@simpsonjones.co.uk](mailto:paulc@simpsonjones.co.uk)).

The Firm shall provide the information set out to every data subject:

- Where personal data is collected directly from data subjects, those data subjects will be informed of its purpose at the time of collection; and
- Where personal data is obtained from a third party, the relevant data subjects will be informed of its purpose: -

- If the personal data is used to communicate with the data subject, when the first communication is made; or
- If the personal data is to be transferred to another party before that transfer is made; or
- As soon as reasonably possible and in any event, not more than one month after the personal data is obtained.

The following information shall be provided: -

- Details of the Firm including, but not limited to, the identity of its **Data Compliance Manager**.
- The purpose(s) for which the personal data is being collected and will be processed, and the legal basis justifying that collection and processing.
- Where applicable, the legitimate interests upon which the Firm is justifying its collection and processing of the personal data.
- Where the personal data is not obtained directly from the data subject, the categories of personal data collected and processed.
- Where the personal data is to be transferred to one or more third parties, details of those parties.
- Details of data retention.
- Details of the data subject's rights under the UK GDPR.
- Details of the data subject's right to withdraw their consent to the Firm's processing of their personal data at any time.
- Details of the data subject's right to complain to the Information Commissioner's Office (the supervisory authority under the UK GDPR).
- Where applicable, details of any legal or contractual requirement or obligation necessitating the collection and processing of the personal data and details of any consequences of failing to provide it; and
- Details of any automated decision-making or profiling that will take place using the personal data, including information on how decisions will be made, the significance of those decisions, and any consequences.

Data subjects may make **Subject Access Requests** (SARs) at any time to find out more about the personal data which the Firm holds about them, what it is doing with that personal data, and why.

Data subjects wishing to make a SAR may do so in writing, using the Firm's **Subject Access Request Form**, or other written communication.

SARs should be addressed to the Firm's **Data Compliance Manager** at [paulc@simpsonjones.co.uk](mailto:paulc@simpsonjones.co.uk) or by post to Simpson Jones Solicitors, 2 Stuart Street, Derby, Derbyshire, DE1 2EQ.

Responses to SARs shall normally be made within one month of receipt, however, this may be extended by up to two months if the SAR is complex and/or numerous requests are made. If such additional time is required, the data subject shall be informed.

All SARs received shall be handled by the Firm's **Data Compliance Manager**.

The Firm does not charge a fee for the handling of normal SARs. The Firm reserves the right to charge reasonable fees for additional copies of information that has already been supplied to a data subject, and for requests that are manifestly unfounded or excessive, particularly where such requests are repetitive.

### **Rectification of Personal Data**

Data subjects have the right to require the Firm to rectify any of their personal data that is inaccurate or incomplete.

The Firm shall rectify the personal data in question, and inform the data subject of that rectification, within one month of the data subject informing the Firm of the issue. The period can be extended by up to two months in the case of complex requests. If such additional time is required, the data subject shall be informed.

In the event that any affected personal data has been disclosed to third parties, those parties shall be informed of any rectification that must be made to that personal data.

### **Erasure of Personal Data**

Data subjects have the right to request that the Firm erases the personal data it holds about them in the following circumstances: -

- It is no longer necessary for the Firm to hold that personal data with respect to the purpose(s) for which it was originally collected or processed;
- The data subject wishes to withdraw their consent to the Firm holding and processing their personal data;
- The data subject objects to the Firm holding and processing their personal data (and there is no overriding legitimate interest to allow the Firm to

continue doing so) (see Part 18 of this policy for further details concerning the right to object);

- The personal data has been processed unlawfully.
- The personal data needs to be erased in order for the Firm to comply with a particular legal obligation.

Unless the Firm has reasonable grounds to refuse to erase personal data, all requests for erasure shall be complied with, and the data subject informed of the erasure, within one month of receipt of the data subject's request. The period can be extended by up to two months in the case of complex requests. If such additional time is required, the data subject shall be informed.

In the event that any personal data that is to be erased in response to a data subject's request has been disclosed to third parties, those parties shall be informed of the erasure (unless it is impossible or would require disproportionate effort to do so).

### **Restriction of Personal Data Processing**

Data subjects may request that the Firm ceases processing the personal data it holds about them. If a data subject makes such a request, the Firm shall retain only the amount of personal data concerning that data subject (if any) that is necessary to ensure that the personal data in question is not processed further.

In the event that any affected personal data has been disclosed to third parties, those parties shall be informed of the applicable restrictions on processing it (unless it is impossible or would require disproportionate effort to do so).

### **Data Portability**

The data subject shall have the right to receive personal data concerning them, which they provided to the Firm, in a structured, commonly used and machine-readable format and have the right to transmit such data to another controller without hindrance from the Firm.

This right only applies to data which is held electronically, and that the data subject has provided directly to the Firm.

For the purpose of accessing data held by the Firm for data portability purposes, the data subject is entitled to data which has been provided to the Firm: -

- Actively and knowingly by the data subject;

- Observed data whereby the data subject indirectly provides data when using a service or device which provides personal data on the data subject.

In exercising the data subject's right to data portability, the data subject shall have the right to have the personal data transmitted directly, where technically feasible, from the Firm:

- To another data controller into their system or database;
- To the data subject directly into their system or database.

Exercising the right to data portability does not automatically lead to the erasure of the concerned data and that the Firm may still hold the data pursuant to Part 19.

A data portability request should be formally requested to the Firm's **Data Compliance Manager** by emailing [paulc@simpsonjones.co.uk](mailto:paulc@simpsonjones.co.uk) or by post to Simpson Jones Solicitors, 2 Stuart Street, Derby, Derbyshire, DE1 2EQ.

Any request which is considered manifestly unfounded or excessive can be declined or a reasonable fee charged to deal with the request.

This right shall not adversely affect the rights and freedoms of others.

### **Objections to Personal Data Processing**

Data subjects have the right to object to the Firm processing their personal data based on legitimate interests, direct marketing (including profiling and processing for scientific and/or historical research and statistics purposes).

Where a data subject objects to the Firm processing their personal data based on its legitimate interests, the Firm shall cease such processing immediately, unless it can be demonstrated that the Firm's legitimate grounds for such processing override the data subject's interests, rights, and freedoms, or that the processing is necessary for the conduct of legal claims.

Where a data subject objects to the Firm processing their personal data for direct marketing purposes, the Firm shall cease such processing immediately.

The Firm shall ensure that the following measures are taken with respect to all communications and other transfers involving personal data: -

- All emails containing personal data must be marked confidential;
- Personal data may be transmitted over secure networks only; transmission over unsecured networks is not permitted in any circumstances;
- Personal data may not be transmitted over a wireless network if there is a wired alternative that is reasonably practicable;
- Where personal data is to be sent by facsimile transmission, the recipient should be informed in advance of the transmission and should be waiting by the fax machine to receive the data;
- Where personal data is to be transferred in hardcopy form, it should be passed directly to the recipient; and
- All personal data to be transferred physically, whether in hardcopy form or on removable electronic media, shall be transferred in a suitable container marked 'Confidential.'

The Firm does not transfer data outside of the UK.

You can obtain further information about data protection laws by visiting the Information Commissioner's Office website at [www.ico.org.uk](http://www.ico.org.uk).

## 9) PRE-CONTRACT SEARCHES

We will carry out various investigations and searches regarding the property before you buy. If you are having a mortgage, then your Lender will insist that we carry out on your behalf a Local Authority search, a Water/Drainage Search and an Environmental Search (plus a Coal Authority search if the property is in a mining area). If anything, out of the ordinary is found, we may take out additional searches such as subsidence, HS2 or flood searches. If you are not having a mortgage, then although you are not obliged to have these searches, we would advise that it would be in your own best interest to do so.

If you choose not to have any of the searches carried out, we will require you to sign a waiver, indicating that we have advised you that such searches should be carried out and that if, as a result of these searches not being carried out, you subsequently suffer loss or damage as a result of the property being subject to entries which the search would have revealed, you will not hold the firm responsible.

The Local Search deals with matters such as the planning history of the property, whether there have been any recent Building Regulations, whether the road to which the property abuts is a public highway, whether the property is in a Smoke Control Zone, or subject to a Tree Preservation Order and whether there are any proposals for road works, or the like, in the vicinity.

The Water Search reveals whether the property is connected to the mains drains for foul water and surface water drainage and has a mains water supply and other matters pertaining to the drainage and water supply.

The Coal Authority Search reveals whether there are past or present underground or open-cast workings in the vicinity affecting the property and whether there is a history of claim for subsidence damage.

The Environmental Search reveals whether or not the property is likely to be regarded as contaminated land within the Environmental Protection Legislation and, if all is in order, provides an appropriate certificate. If the Search Providers cannot offer such a certificate, there is not only the danger of the property suffering damage, or you suffering personal injury or injury to your health through contamination, but further possibility of having to pay a considerable amount of money for clean-up liability (as the liability attaches to the land owner, as well as the polluter, which the latter person cannot always be traced) and the property is likely to be unmarketable in your hands.

Chancel Liability is a potential liability where the property may be subject to an obligation to contribute to the costs of the upkeep of the chancel of any church situated in the local area. Such obligations stem from medieval times where land, previously owned by the church to fund the local rector, had been sold and the new owner took on the repairing obligation attached to that land. Basically, any property located within the boundaries of a parish where such a liability exists could be 'caught.' The penalty is financial in that it involves paying for the upkeep and repair of the chancel of the local medieval parish church.

There was a famous case (*Aston Cantlow v Wallbank*) where the church sought payment from the owners of the rectorial land (it was part of a property called 'Glebe Farm') to repair the chancel of the local medieval church. The owners of the rectorial land (known as lay rectors) refused to pay and what was originally a £6,000.00 bill increased to £96,000.00 as the structure slowly disintegrated. Needless to say, the church won. This obligation is rare but potentially very expensive so we will obtain indemnity insurance to cover the potential risk.

Where you are having a mortgage or other finance for the purchase/remortgage, your Mortgagee will insist upon Chancel Liability Insurance as a precondition to your drawing down the advance.

We will include the cost of this in your draft completion statement and commission the insurance for you (and your Mortgagee).

## 10) VALUATION

Please note that once Contracts are exchanged you will have no recourse against the Seller against any defects.

Although a lender will often insist on a valuation, this is only for the benefit of lending purposes and is a very limited inspection to usually only assess if the property meets the lender's criteria.

The valuation should not be confused with a survey, which is a report on the condition of the property.

With this in mind, we recommend that Buyers should have a property survey (as opposed to a valuation) to highlight any major defects prior to exchange of Contracts.

## 11) INSURANCE OPTIONS AS A RESULT OF ADVERSE ENTRIES ON SEARCHES OR ON THE TITLE

In many cases, difficulties raised by searches can be covered by Insurance. This also applies to difficulties revealed by the Title documents.

These Title difficulties can arise from a number of factors including, but not only: -  
- Property needing rights of way, especially over joint entries or passages, or rights to use services which are not covered at all, or by inadequate wording in the deeds (this often applies in the case of older properties - In newer properties especially, developers impose what are known as 'restrictive covenants', which frequently require the builder's consent to any subsequent additions or alterations to the property, even where planning consent is obtained, or is unnecessary. These consents are often over-looked at the time the works are carried out. In other cases, it is not always possible to trace the original developer it is not unusual for works to be carried out which require Building Regulation Approval and these are not obtained. In recent years it has become a greater problem as Building Regulation Approval extends now to works of glazing, electrical installation, gas central heating and the like.

In the above cases, and in other cases, insurance may be a remedy, as opposed to trying to solve the actual problem. The cost of this insurance is usually a one-off premium which varies according to the circumstance involved.

We may be able to provide you with a quote if you would like us to.

In cases where you are having a mortgage, the Lender will often insist upon insurance, even if you are not particularly concerned.

In these cases, we will endeavour to persuade the Seller, through their Solicitors, to provide the insurance cover. In some cases, Sellers may be reluctant to do so. You then have the option of either funding the insurance premium yourself or declining to go ahead with the purchase.

If you are not having a mortgage, you have the further option of not taking insurances at the time of your purchase and dealing with problems if and when they arise in the future.

## 12) Client Interest Policy

This section sets out how Simpson Jones applies interest in relation to funds held in our Client bank accounts.

Simpson Jones is committed to its obligations under the SRA Standards and Regulations 2019 and the Solicitors Accounts Rules 2019 which require our Firm to have a Policy that is fair and reasonable for both the Client and the Firm in respect of interest that is payable on client monies held by the Firm.

Solicitors firms must have a written Policy on the payment of interest and this Policy is the current Policy of Simpson Jones LLP.

## **TERMS OF THE POLICY**

### **Our Bank**

*When we receive client monies, it is paid into a general instant access deposit Client account that we hold.* These monies are held on the basis that they are instantly accessible in order to facilitate a transaction or payment for a Client or in respect of a Client matter. Client monies must be kept separate to funds belonging to the Firm. Clients are unlikely to receive as much interest as they might have obtained had they held and invested the money themselves.

## **Cleared Funds**

Interest will only be paid on cleared funds. Routinely the Bank takes around six working days to clear cheques that we receive including business account cheques. Debit/Credit card payments routinely take around 5 days post authorisation to be received. Electronic payments are usually cleared on the day of payment. Interest is not at any time payable on uncleared funds.

## **Rate Of Interest Applicable**

The rate of interest paid to clients on money held in the general *Client accounts* will relate to the published rate on deposit accounts. The rate of interest to be paid on Conveyancing client money is 1% below the prevailing rate of interest, for the relevant time periods. Where the rate is 1% or less, no interest is paid. The rate of interest to be paid on Probate matters is the prevailing rate of interest, for the relevant time periods.

## **Interest Not Payable to Clients**

We will not account to a client for any interest in the following situations:

- If the amount of interest calculated is £50 or less
- If monies are being held for payment of professional disbursements and/or if monies are being held if the person to whom the money is owed has requested a delay in settlement
- An advance from us into our general Client account to fund the payment on your behalf in excess of funds already held for you in that account.
- If there is a specific agreement to contract out the provisions of this Interest Policy

## **When Is Interest Paid**

We will only account to you if the total interest on funds that we have held for you in our general *Client accounts* exceed £50. The Firm takes the view that any amount below this is reasonably retained to cover administrative costs of dealing with client funds. Interest is paid by Handelsbanken to the Firm on the aggregate of all client money held in our *general Client accounts*, and subject to any interest paid to clients as above, is for the benefit of the Firm and levels of interest received are considered when setting our rates.

## **Holding Significant Sums of Money for A Client**

Where we are holding a significant amount of money for a client, often as the funds are subject to a court order, then a Retention form should have been lodged with the Finance department to ensure visibility of this liability.

For Conveyancing matters, these funds are held in our No 1 Client account. For Wills and Probate matters, these funds are held in our No 2 Client account.

## **Calculation and Timing of Interest Payments**

We will calculate and pay the interest once the matter has concluded. Payments on account of interest whilst monies continue to be held, will not be made. We will review interest rates when they change and apply a rate that we believe reflects the prevailing rate of interest on instant access deposit accounts. When a payment of interest is due to a client, we will consider the period between the date when relevant cleared funds were received by us in our accounts and the date when the funds are spent. We will pay interest to clients where it is fair and reasonable to do so and this Policy seeks to achieve that objective.

We reserve the right to set off any interest due to you against any amounts due to us.

## **Complaint**

If you believe the interest paid to you is insufficient you can have the matter reviewed by our Complaint Partner, Paul Chapman.

## 13) MORTGAGE MONIES

Please note that although we endeavour to request that Lenders send the Mortgage Advance to us within the notice period that they stipulate, we have no control over when and at what time of the day we will actually receive the monies.

Longer chains of transactions can take more time for monies to filter up the system.

Most Conveyancing Contracts contain a time, usually no later than 2pm, by which the transaction must be completed and technically failure to complete by that time is regarded as default under the Contract. In practice the majority of Solicitors do not enforce this provision provided the completion monies will be received in their bank account by 3.30pm. We cannot guarantee that a particular Firm of Solicitors will not stick rigidly to the contractual completion date in any particular case.

We would also reiterate that if Mortgage funds or funds from your purchaser upon which you are reliant are not received by our bank by 3.30pm on the day of completion then we may not be able to transfer monies out to your Seller's Solicitors. This could lead to your being unable to move on the due date. We will always do our best to ensure that things run smoothly but we cannot control Lenders or other Solicitors in the transaction or the bank systems and therefore we cannot be held responsible for any loss or problems arising if required monies do not arrive in our bank intime.

#### 14) PAYMENT OF OTHER ACCOUNTS AND RELEASE OF MONIES

Unless you specifically request that we do not do so we will clear any estate agent's fees from the proceeds of sale.

We are obliged to clear all loans secured on the property before releasing funds to you.

Please note that your Lender/s may require us to redeem by way of Telegraphic Transfer only. In this event there will be a fee of £40.00 plus VAT for each Loan Redeemed.

We do not normally deal with settlements of any other accounts unless this has been arranged at the outset, for which a fee may be charged.

Monies due to you will normally be transferred to you via the BACS system into your own bank or building society account. For sale proceeds this account should be a UK bank account and have been open for more than twelve months; we will ask you for proof of this.

Where a telegraphic transfer is required a fee of £40.00 plus VAT is payable for each transaction.

#### 15) TAX AND PLANNING ADVICE

## 15.1

Any work that we do for you may involve tax implications or necessitate the consideration of tax planning strategies. We may not be qualified to advise you on the tax implications of a transaction that you instruct us to carry out, or the likelihood of them arising. If you have any concerns in this respect, please raise them with us immediately. If we can undertake the research necessary to resolve the issue, we will do so and advise you accordingly. If we cannot, we may be able to identify a source of assistance to you.

## 15.2

We will not advise you on the planning implications of your proposed purchase unless specifically requested to do so by you, other than reporting to you on any relevant information provided by the results of the Local Search.

## 16) REGISTRATION WITH THE LAND REGISTRY

We must inform you that following completion we have certain procedures to complete before the title documents become available. This involves making a return to the Stamp Duty Land Tax Office which is necessary whether or not duty is payable and then registering the change of ownership of title and any Mortgages you might have with HM Land registry.

## 17) EQUALITY & DIVERSITY

Consistent with our internal policies and procedures, Simpson Jones LLP will not discriminate in the way we provide our Services on the grounds of age, disability, gender re-assignment, marriage and civil partnerships, pregnancy and maternity, race (including colour, nationality [including citizenship] ethnic or national origins), religion or belief, sex, sexual orientation. Please contact us if you would like a copy of our Equality and Diversity Policy.

## 18) INSURANCE

We have a legal duty to tell you about our professional indemnity insurance. We have an obligation to carry such insurance. Full details of our qualifying insurers are available for inspection upon request, from our registered office. The insurance covers our practice carried on from our offices in England and Wales and will extend to acts or omissions wherever in the world they occur.

## 19) FORCE MAJEURE

Neither 'You' nor 'We' shall be liable for any failure to perform, or delay in performing, any obligations (other than payment and indemnity obligations) if and to the extent that the failure or delay is caused by Force Majeure and the time for performance of the obligation, the performance of which is affected by Force Majeure, shall be extended accordingly

## 20) UK FINANCIAL SERVICES COMPENSATION SCHEME

In the event of a banking failure, it is unlikely that Simpson Jones Solicitors would be held liable for any losses of Client Account money. We currently hold our Client Account funds with Handelsbanken. Handelsbanken plc is a fully authorised UK bank. Eligible deposits with Handelsbanken plc are protected up to £85,000 per person by the UK Financial Services Compensation Scheme.

## 21) CONSUMER PROTECTION REGULATIONS (CPR)

The Consumer Protection from Unfair Trading Regulations (as amended) regulate transactions between traders and consumers and prohibit trading practices that amount to unfair commercial practices and misleading acts and omissions. Neither 'You,' the client, or 'Us,' your legal representative, must mislead a buyer or tenant either by providing incorrect or ambiguous information, or by omitting to provide material information about the property you are selling.

Certain information will be revealed through searches and other enquiries of public databases, surveys and valuation reports. However, you must disclose to us any known defects and other material adverse matters relating to the property known to you; failure to do so may mean that, in certain circumstances, the buyer or tenant would have rights of redress against you.

We encourage you to make all known disclosures as early in the transaction as possible to prevent delays.

If we become aware of any such existence of material information, and you decline to authorise disclosure to the buyer or tenant, then we would have to consider whether it was possible to continue to act for you as the CPR's impose a duty to act fairly towards you as our client and also towards third parties, especially those that are unrepresented.

## 22) HELP TO BUY ISA SCHEME INFORMATION

The Help to Buy ISA Scheme was launched by HM Treasury on 1st December 2015. If you have taken out a Help to Buy ISA, then you may be eligible for a bonus payment of up to 25% of the closing balance of the Help to Buy ISA subject to a minimum bonus payment of £400 and a maximum of £3000 and provided that you and the property you are purchasing meet the eligibility criteria set out in HM Treasury ISA Scheme Rules. The fee earner acting on your matter (who under the Help to Buy ISA Scheme is known as the Eligible Conveyancer) will be able to advise you on eligibility and, if appropriate, will undertake the necessary process to apply for any bonus payment.

If you are purchasing a property through the Help to Buy ISA Scheme, HM Treasury will be the Data Controller of any relevant personal data that is given, via the Eligible Conveyancer, to HM Treasury and to the Administrator and / or any sub-contractor of HM Treasury or of the Administrator, for the purposes of the Help to Buy: ISA Scheme.

The information will be disclosed to HM Treasury and the Administrator for the purposes of verifying the eligibility of a Help to Buy ISA Bonus payment and payment of Bonus funds, carrying out audits of Eligible Conveyancers and any investigations or compliance work in accordance with the Scheme Rules.

By signing and dating a copy of these Terms of Business (or) the our client care letter (or) the buyer questionnaire, you agree to us providing all necessary Relevant Personal Data to HM Treasury and to the Administrator and / or to any sub-contractor of HM Treasury or of the Administrator and to the processing of your Relevant Personal Data by any or all of the aforementioned parties.

## 23) CONFLICT OF INTEREST

“Conflict of Interest” means any situation where: -

23.1 we owe (or, if we accepted your instructions, would owe) separate duties to act in the best interests of two or more clients in relation to the same or a related matter and those duties conflict, or there is a significant risk that those duties may conflict; or

23.2 our duty to act in your best interests in relation to a matter conflicts, or there is a significant risk that it may conflict, with our own interests in relation to that or a related matter; or

23.3 we have confidential information in relation to a client or former client, and you wish to instruct us on a matter where: -

23.3.1 that information might reasonably be expected to be material; and

23.3.2 you have an interest adverse to our other client or former client, and for the purposes of this paragraph “you” does not include Associated Entities.

23.4 Similar Activities - We may act for parties engaged in activities similar to or competitive with yours.

23.5 Third Parties - Once we have agreed to act for you in relation to a Matter, we will not act for a third party in relation to the same Matter if there is a Conflict of Interest between that third party’s interests and your interests.

23.6 Instructions Creating a Conflict of Interest - We may decline to act for you where accepting your instructions would create a Conflict of Interest or cause us to break an existing agreement with a third party.

23.7 Consent - Where our professional rules allow, and subject to satisfying the requirements of those rules (for example, by implementing an information barrier), we may act for you and another client where a Conflict of Interest would otherwise exist, provided that we have the consent of both parties. We do not require your consent to act against an Associated Entity.

23.8 Cessation of Services - If, whether through a change in circumstances or otherwise, we find that we have agreed to provide Services to you in circumstances which give, or could give, rise to a conflict of interest we will discuss with you how to deal with the conflict and may, be obliged to stop providing Services to you and/or to all other clients affected by the Conflict of Interest.

## 24) REGULATIONS AFFECTING YOUR CANCELLATION RIGHTS

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013:

If we have not met you either in person (because, for example, instructions and signing of the contract documentation is taking place by telephone/mail, e mail or on-line i.e. by way of a “distance” contract) or we have taken instructions and a contract has been concluded away from our business premises (because, for

example, we have met with you at home - i.e. by way of an “off-premises” contract) and the contract was entered into on or after 14 June 2014, you have the right to cancel this contract within 14 calendar days of entering into the contract without giving any reason.

The cancellation period will expire after 14 calendar days from the day of the conclusion of the contract. To exercise your right to cancel, you must inform us of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or email. Should you require the work to be commenced within the 14-calendar day cancellation period, you must provide your agreement to that in writing, by email, post or fax to enable us to do so.

By signing and returning your client care letter, you are providing your agreement in writing to enable us to commence work within the 14-calendar day cancellation period.

Where you have provided your consent for work to commence within the 14-calendar day cancellation period and you later exercise your right to cancel, you will be liable for any costs, VAT and disbursements incurred up to the point of cancellation. Unless you make an express request for us to commence work within the 14-day period, i.e. by signing and returning the client care letter, we will not be able to undertake any work during that period.