

# BRAY & BRAY

## Terms of business for clients March 22

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## 1. Our Contract

Bray & Bray ("the Firm") are a firm of solicitors qualified to practice in England and Wales (VAT Registration Number 113 7982 62. We are authorised and regulated by the SRA and our authorisation number is 47631.

These Terms of Business issued by us, as supplemented and/or amended by any relevant Engagement Letter, apply to each Matter we work on for you.

No variation of these Terms shall be effective, unless it is in writing and is signed by one of our Partners.

### Defined terms

In these Terms of Business:

"the Firm"	the Firm means Bray & Bray and any successor practice, and any service company owned or controlled by or on behalf of the Firm or any of the Partners (references to 'we', 'us' or 'our' in these Terms of Business are references to the Firm);
"Associated Entities"	means (where you are a body corporate) your shareholders, directors (as individuals not acting together as the Board), officers and employees, subsidiaries, parent companies, and subsidiaries of parent companies, and (where you are a trade association) your individual members;
"Credit Period"	means the period of seven (7) days from the date of our invoice for our fees and/or expenses;
"Documents "	means documents we create or receive on your behalf (including communications from or with third parties, notes of conversations and meetings, draft and final documents, and instructions to and opinions of barristers);
"Engagement Letter"	means, in relation to any Matter, the letter (or other agreement) recording the basis of our engagement;
"Force Majeure"	means any circumstance beyond the reasonable control of the party affected by it and includes telecommunications failure, power supply failure, terrorism, fuel strikes, severe weather, computer breakdown, failure of suppliers to meet delivery requirements, industrial disputes and absence of personnel due to illness or injury;
"Matter"	means any specific transaction, dispute or issue in relation to which you ask us to provide Services whether or not it has been defined in an Engagement Letter or other agreement;
"Partner"	means a partner of the Firm;
"Services"	means all services we provide to you in relation to the relevant Matter;
"You"	includes the addressee of the relevant Engagement Letter and any other person identified in the Engagement Letter as our client and "your" shall have a cognate meaning.

## 2. Our responsibilities and services

### Our Responsibilities

In delivering our Services we will:

- treat you fairly and with respect;
- communicate with you in plain language;
- review your Matter regularly;
- advise you of any changes in the law that affect your Matter; and

- advise you of any reasonably foreseeable circumstances and risks that could affect the outcome of your Matter

## Our Services

The Partner at the Firm named in the Engagement Letter as the “Supervising Partner” will be the Partner primarily responsible for the provision of our Services to you. That Partner has complete discretion to deploy such of our lawyers, trainee lawyers, paralegals or other staff as she/he deems necessary or desirable to ensure appropriate delivery of the Services.

We only advise on the Laws of England and Wales. Where a transaction or other work also involves the laws of another jurisdiction it is your responsibility to ensure that competent advice has been taken in a timely manner and that we have been provided with a full and complete copy of that advice.

We may require that you contract directly with certain third parties and assume direct responsibility to them for the payment of their fees and expenses.

### 3. Your responsibilities

You will (so far as you are practicably able to do so):

- provide us with clear, timely and accurate instructions, and the information and materials necessary or desirable for us to perform the Services for you in a timely manner;
- notify us promptly of any changes or additions to instructions, information and materials previously provided by you or on your behalf;
- ensure that all information provided to us is complete in all material respects and not misleading; and
- safeguard any documents that may be required for your Matter, including documents that you may have to disclose to another party.

### 4. Client care code

We want you to be happy with every aspect of our Service. We therefore operate a Client Care Code, the principles of which are as set out below:

- We are committed wholeheartedly to the professional standards laid down by the Solicitors Regulation Authority.
- You will be told clearly at the outset the issues and how we advise they be dealt with, and the immediate steps we will take on your behalf.
- You will be regularly informed of the progress of your Matter.
- We will explain to you by telephone or in writing the legal work required as your Matter progresses.
- We will update you on the likely timescales for each stage of this Matter and any important changes in those estimates. Whenever there is a material change in circumstances associated with your Matter, we will update you on whether the likely outcomes still objectively justify the likely costs and risks.
- We will update you on the cost of your matter at the intervals set out in the Engagement Letter. If appropriate, we will continue to review whether there are alternative methods by which your matter can be funded.

The Engagement Letter notifies you of the following details:

- the name of the person or persons who is/are dealing on a day-to-day basis with your matter (the “Fee Earner”); and

- the name of the Supervising Partner.

You will be told the name of the new fee earner if the matter is transferred from one fee earner to another.

We cannot guarantee that the Fee Earner or Supervising Partner will be available on demand, but we will do our best to get back to you promptly and efficiently.

If you do not understand anything, please always ask.

At the end of your Matter, you will be sent a bill with a letter confirming the Matter has been completed and, where necessary, summarising any continuing consequences.

The Firm's policy is not to accept cash payments from clients. If you try to avoid this policy by depositing cash directly with our bank, we may charge you for any additional checks that are necessary to prove the source of the funds. Checks shall be necessary at our discretion in order to comply with our legal and regulatory obligations. Where we have to pay money to you, it will be paid by cheque or bank transfer. It will not be paid in cash or to a third party.

## 5. Hours of business

The normal hours of opening at our offices are between 9.00 a.m. and 5:30 p.m. on weekdays. Messages can be left on the answerphone outside those hours and appointments may be arranged at other times when this is essential.

## 6. Fees and expenses

### General

You will find a description of and information on the prices we charge for the services listed below on our website:

- Conveyancing;
- Probate;
- Employment Tribunals (Bringing or defending claims for unfair or wrongful dismissal);
- Debt recovery (up to £100,000); and

The Engagement Letter will set out either our agreed fees or the basis on how we will calculate our fees. Our fees are often calculated principally by reference to the time spent by us in providing the Services at the fixed hourly rates applicable to the relevant staff.

We may, in accordance with professional guidelines, also charge a premium (where reasonable to do so) to take account of the nature, responsibility, complexity, value and urgency of the Services and other criteria specified in those guidelines.

The fixed hourly rates of each of our fee earners are reviewed from time to time and we will inform you of any variation in these rates and the date upon which they take effect. In addition, please be aware that our hourly rates are based on levels of experience and as our fee earners become more senior their hourly rates may increase accordingly - you will be informed if this is the case.

If appropriate for your Matter, we may offer to enter into a conditional fee agreement with you. A conditional fee agreement is an agreement whereby we would be entitled to charge you an increased fee if you were successful in a contentious matter and would charge you no fee or a reduced fee if you were not successful. Details of such arrangements will be discussed with you at the outset and set out in the engagement letter.

You will be responsible for paying the expenses we incur in the course of providing the Services (including travel and subsistence expenses, search and filing fees, court fees and barristers', foreign lawyers' and other third parties' fees and expenses). We will advise you as to the amount and nature of any expenses to be incurred in

advance. We will often seek payment for such expenses in advance and may not incur them until you have provided us with funds for that purpose which may delay the progress of your Matter.

You will also be responsible for the expenses we incur in conducting our client due diligence. We will advise you as to the amount of those expenses to be incurred in advance. We undertake electronic identity checks with SmartSearch who charge a fee for the service that they provide. If we have not acted for you before, we will not be able to open your file in these circumstances until that search has been undertaken. Even if we have acted for you before, it may be necessary for us to undertake further electronic identity check(s).

In property and commercial transactions, except where we agree otherwise, fees maybe calculated by reference to both time spent on the matter and a percentage of the value of the property or transaction to reflect the additional risk associated with the larger transactions. The rate will in practice vary according to the value of the property or transaction and the nature and complexity of the transaction.

VAT will be charged at the appropriate rate on all fees and expenses.

### **Limited Companies**

When accepting instructions to act on behalf of a limited company, we may require a director and/or controlling shareholder to sign a form of personal guarantee in respect of our fees and expenses. If such request is refused, we will be entitled to require payment on account or to stop acting and require immediate payment of our fees already incurred on a time spent basis and expenses as set out above.

### **Payments on Account**

We may require you to make a payment to us on account of our fees and expenses at any time and on more than one occasion. Money paid on account which is not subsequently required for fees and expenses will be returned promptly.

We are not obliged to credit payments on account against interim invoices but may do so if you fail to make prompt payment.

### **Estimates and Quotations**

Any cost estimates that we give you are estimates only and do not constitute a contract to carry out the work at that cost.

Sometimes, it is not possible to estimate costs in advance. It is open to you to set a limit on the costs which may be incurred without further reference to you. If the costs limit restricts the extent of work possible on your Matter, we will inform you as to the likely progress to be made within that costs limit and keep you updated.

On occasion we may provide a fixed price quotation.

The provision of a written quotation for work constitutes an offer to carry out the work at that cost and does not become a contract until you accept the quotation or a defined part of it.

Unless stated in writing to the contrary, any quotation or estimate does not include any expenses or VAT.

Where we carry out work which falls outside the scope of an accepted quotation (or of an estimate which is subsequently incorporated into a contract between us) we may charge fees at our fixed hourly rates, in addition to the quoted or estimated fee. We may also charge additional fees on the same basis for work within the scope of such a quotation or estimate which is made more time consuming, onerous or urgent as a result of:

- circumstances or information which we did not know or could not reasonably have anticipated at the time of the quotation or estimate (whether or not you were aware of them/it); or
- your, or your agents', act or omission.

### **Commissions and Referrals**

We will only refer, recommend, or introduce you to another business where you have given us informed consent to do so.

If we receive a commission from a third party arising from work, we are doing for you, we will inform you of this and credit you with the commission unless you have agreed otherwise.

## **7. Our invoices**

### **Frequency of Invoices**

Unless otherwise agreed in the Engagement Letter, we will be entitled to invoice you in respect of our fees and expenses at appropriate intervals (normally monthly) and on completion of each Matter, usually at exchange of contracts for property transactions. At the end of our financial year, we shall be entitled to bring up to date our invoicing in respect of all your then unbilled work.

Unless otherwise stated, interim invoices are a final account of our fees for all work done during the period to which they relate.

There may be a delay in invoicing expenses incurred on your behalf pending our receipt of the relevant invoices from suppliers. Unless otherwise stated, such invoices are not a final invoice in relation to such expenses.

You may pay invoices by cheque or electronic transfer. Please contact us directly for our bank account details. Unless we agree to do so, we do not accept payment in cash either from our clients direct or deposited with our bank. We have the facility to accept payment by credit or debit card.

We do not accept payments on your behalf from a third party.

### **Payment Terms**

Interest may be charged on outstanding invoices that are not paid within the Credit Period from the expiry of the Credit Period until the time they are paid at the statutory interest rate. Any debts that have to be chased may also incur statutory debt recovery costs.

If you do not pay any invoice by the end of the Credit Period, or the sum we have requested on account within seven (7) days (or such longer period as we may specify) of our demand, we may suspend or terminate the provision of all or any Services (and instruct any third parties engaged by us to suspend the provision of their services) and may invoice you for all accrued fees and expenses.

### **Joint Clients and Third-Party Payments**

Where we are instructed by more than one individual client, you will all be jointly and severally liable for the total payment of our fees.

In some circumstances, you may have a right of recovery or indemnity against a third party in respect of all or part of our invoices, but we are not permitted to issue a VAT invoice to any person other than you in any circumstances, and you remain liable to us to pay our invoices to the extent that they remain unpaid by the time that they fall due.

### **Right to Retain Money, Documents and Property**

We are entitled to keep any of your property which is in our possession, including legal and other documentation, while money is owing to us. This is known as a lien. Upon payment in full, we will return them to you at your request.

## **8. Interest policy**

We will normally credit you with interest on any funds we hold in our client account on your behalf, in accordance with our professional rules. Interest will accrue at the rate payable by our bank on instant access deposits. This may be less than the rate at which you could have invested the money yourself. You agree that interest amounting to less than £20 will not be paid to you.

A copy of our interest policy is available upon request.

## **9. Conflict of interest**

### **Definition**

“Conflict of Interest” means a situation where our separate duties to act in the best interests of two or more clients conflict.

### **Similar Activities**

We may act for parties engaged in activities similar to or competitive with yours.

### **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.

### **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.

### **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 informed consent of both parties, evidenced in writing.

### **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.

## **10. Confidentiality**

### **Our Duty of Confidentiality**

We will treat any information related to your affairs strictly confidential, save as to when disclosure is required or permitted by law or you consent to any such disclosure.

We shall be under no duty to disclose to you (or take into account in the course of providing the Services) any information acquired by us in acting for any other client or any information in respect of which we owe a duty of confidentiality to a third party.

### **Your Duty of Confidentiality**

Our advice and other communications with you are confidential and may not, without our consent, be disclosed by you to any third party (other than to your employees and agents who require access and who do not disclose it further) or otherwise made public except as required by law or other authority to which you are subject.

If, as a result of our acting for you, you acquire any information in respect of which we notify you that we owe a duty of confidentiality to a third party you will keep it confidential and not use it without our consent.

## **11. Custody, retention and transfer of documents**

We will, at your request, either during the provision or after completion of any Services, release your file to you minus any documents of ours (such as documents which we create or receive for our benefit (including copies of our letters to you, your letters to us, notes of telephone conversations and meetings with you for which we

have not charged you, and our preliminary drafts, research materials and internal notes); which we have chosen to retain, provided that we are not at the time exercising our right to retain documents pending payment of outstanding fees and expenses or are prevented by any court order, undertaking or other legal constraint from doing so. We may copy all of your file before releasing it, including making electronic copies.

We may agree to store title deeds, wills and other especially valuable documents in safe custody for you if you require and, if we do, we will not, without your consent, destroy any such documents. We charge a fee for storage and this fee will be made clear to you before it is incurred.

We do not accept responsibility for the loss or damage of any item which we hold on your behalf unless we expressly agree in writing to the contrary.

We will keep our file of your papers including emails and any hard copies thereof, in accordance with our data retention policy, except those that you ask to be returned to you. Our data retention policy is available to view upon request. We will not destroy documents you ask us to deposit in safe custody. If we take papers or documents out of storage in relation to continuing or new instructions to act for you, we will not normally charge for such retrieval. However, we may charge you both for time spent producing stored papers that are requested as well as reading correspondence or other work necessary to comply with your instructions in relation to the retrieved papers.

## **12. Intellectual property rights**

### **Copyright**

We retain copyright and all other intellectual property rights in all documents and other works we develop or generate for you in providing the Services (including know-how and working materials as well as final documents). We now grant you a non-exclusive, non-transferable, non-sublicensable licence to use such documents or other works solely for the Matter to which the Services of developing or generating them relate and not otherwise. If you do not pay us in full for our Services in relation to that Matter we may, on giving you notice, revoke that licence and only re-grant it to you once full payment has been made.

### **Opinions from Barristers and other Third Parties**

We may retain, for our subsequent use, a copy of the advice or opinion of any barrister or other third party given in written form (or any note of any advice or opinion) obtained in the course of providing the Services. Any barrister or other third party will be instructed on the basis that any such advice or opinion will be so retained.

If we retain a copy of any advice or opinion in this manner, we will take all reasonable steps to conceal information (such as names, addresses or descriptions) which might reasonably enable you to be identified.

## **13. Joint instructions**

Where we agree to work on a Matter for more than one client jointly, the rights and obligations of the joint clients to us in relation to the Services will be several (save for obligations to pay money to us, which will be joint and several, as detailed above).

Each joint client irrevocably permits us to disclose to any other of the joint clients at any time any information which we would otherwise be prohibited from so disclosing by virtue of our duty of confidentiality. If any joint client ends this permission during the provision of the relevant Services, or if a conflict of interest otherwise arises between joint clients, we may suspend or terminate the provision of Services related to that Matter to one or more of the joint clients.

If a joint client asks us to transfer documents from our file to them, we will retain our file and will supply copies of the file to each joint client, making the original documents available at one of our offices for inspection by each joint client on reasonable prior written notice. This does not apply to original documents which were delivered to us by one of the joint clients, we will deliver these documents to the joint client who delivered them to us.

## **14. Liability**

We will use reasonable skill and care in the provision of the Services. Where we make an assessment for you, either expressly or by implication, of the likely level of risk associated with different potential courses of action, you accept that such assessment is made relying only upon the information and documents then available to us and cannot, therefore, be definitive.

Accordingly, such an assessment should only be used as one element in the making of any practical or commercial decision. You accept that the magnitude or acceptability of a risk is a matter for you.

The Firm alone will provide the Services and you waive any right to, and agree that you will not bring, any claim whether in contract, tort, under statute or otherwise against any Partner, or any consultant to, or employee or agent of the Firm or any service company owned or controlled by or on behalf of any of the Partners and those Partners, consultants, employees and agents shall be entitled to rely on the terms of this agreement insofar as they limit their liability.

The aggregate liability of the Firm (or of any service company owned or controlled by or on behalf of any of the Partners) and of all Partners, consultants to and employees and agents of the Firm and any service company owned or controlled by or on behalf of any of the Firm or the Partners in any circumstances whatsoever, whether in contract, tort, under statute or otherwise, and howsoever caused (including but not limited to our negligence or non-performance), for loss or damage arising from or in connection with the Services provided shall, in relation to each Matter, be limited to the sum, unless otherwise agreed, of one million pounds (£1,000,000.00).

Where any loss is suffered by you for which the Firm and any other person are jointly and severally liable to you, the loss recoverable by you from the Firm is limited so as to be in proportion to the firm's relative contribution to the overall fault of (a) the Firm, (b) you and (c) any other person, in respect of the loss in question.

Nothing in this agreement exempts us from liability arising from our fraud or reckless disregard of our professional obligations; or from our negligence resulting in death or personal injury; or where, in the case of a contentious business agreement, law or regulation prohibits the exclusion of such liability.

### **Drafts**

Where we provide draft or provisional advice or other materials, that advice or those materials are not to be relied upon as constituting our final view.

### **Current Law**

The Services are provided in accordance with professional practice requirements and the proper interpretation of the law, as each exists on the date on which the relevant Service is provided. If there is any change in such requirements or the law, or their interpretation, after the relevant Matter has been concluded (or before that time but which could not reasonably be known by us at that time), we have no responsibility to notify you of, or of the consequences of, the change.

### **Communication**

We shall communicate with you at the postal and email addresses and the telephone and fax numbers which you publish unless you ask us to use other addresses and numbers. You will notify us if you regard any communications from us as particularly confidential and the means by which you require us to make such communications and we shall have no liability to you arising out of your failure so to notify us.

Subject to any notification you may make to us under the previous paragraph, we shall not be required to encrypt, password-protect or digitally sign any email, or attachment, sent by us. We shall not be responsible for any loss or damage arising from the unauthorised interception, re-direction, copying or reading of e-mails, including any attachments. We shall not be responsible for the effect on any hardware or software (or any loss or damage arising from any such effect) of any e-mails or attachment which may be transmitted by us (save to the extent caused by our negligence or wilful default).

## Deadlines

We will try to meet any deadline we agree with you for the performance of any Services but, unless we agree otherwise in writing in relation to any time, date or period for delivery or performance by us, time shall not be of the essence.

## 15. Termination

### Completion of Services

An agreement between you and us for the provision of defined Services ends on the completion of the provision of those Services. An open-ended agreement for the provision of Services ends three (3) months after the last date on which we provided Services to you. Unless new or different terms are agreed, our acceptance of instructions to perform Services for you subsequent to the ending of any agreement gives rise, from the time of acceptance of the instructions, to a new agreement on these terms. If we provide you free of charge with any seminar, information, or other document after the ending of an agreement, such provision does not give rise to a new agreement.

### Early Termination

You may terminate the provision of all or any of the relevant Services at any time by giving written notice to us.

We may also decide at any time to terminate the provision of all or part of the relevant Services by giving written notice to you. We will not do this without good reason.

### Rights on Early Termination

On early termination, by either you or us, you will remain liable to pay all fees and expenses incurred before termination and due under our contract or due on the basis of the time spent at our usual hourly rates, whichever is the less, together with any further fees and expenses for work necessary to transfer our files to another adviser of your choice.

After we have completed your matter, or the agreement between us has terminated, we are not responsible for reminding you of any dates or deadlines that may arise in connection with it. You should diarise critical dates such as dates for service of notices, expiry of time limits, exercise of options, renewal of leases and rent reviews.

## 16. Regulations affecting your cancellation rights

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

If you are an individual and you are instructing us for purposes which are wholly, or mainly, outside your trade, business, craft or profession, you will be considered a 'consumer' by law and will have certain statutory rights under consumer legislation. Under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, you have a statutory right to cancel your instructions to us within 14 days (without giving a reason) if your instructions to us are as a result of a situation where we do not actually meet (i.e. through email and/or telephone contact) or an off-premises contract (i.e. at a meeting between us not held at our offices).

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 or e mail) using the contact details in our Engagement Letter before the cancellation period has expired.

Where you have asked us to commence work 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. If you exercise your right to cancel, subject to any costs you are liable for as set out above, we will reimburse any payment received on account from you without undue delay and within 14 days after the day in which you informed us of your decision to cancel.

## 17. General

### Money Laundering Regulations / The Proceeds of Crime Act 2002

To comply with anti-money laundering and counterterrorist financing requirements, we are likely to ask you for proof of your identity and may conduct searches or enquiries for this purpose. We may also be required to identify and verify the identity of other persons such as directors or beneficial owners. If you or they do not provide us with the required information promptly, your matter may be delayed.

We may make checks using online electronic verification systems or other databases as we may decide in order to comply with our obligations under anti-money laundering and counterterrorist financing regulations.

We will only process any documentation or personal data received from you in respect of client due diligence for the purposes of preventing money laundering and terrorist financing unless (a) use of that data is permitted by or under any enactment or (b) you give your express consent for the documentation or personal data to be used for other forms of processing.

#### Individual:

If you are an individual and a new client or an existing client who has not previously supplied information, you are requested to supply both of the following: one item from List A and one item from List B (please note we require certified copies if you are sending these by post or email. If you are bringing in the original documents to our offices – we will make certified copies here).

LIST A (Proof of Identity):	Current fully signed Passport Current full UK Photocard Driving Licence.
LIST B (Address Verification):	A bill for the supply of electricity, gas, water or telephone services (provided it is fewer than three (3) months old). Mobile phone bills are not acceptable. Television Licence renewal notice. Council Tax bill (provided it is fewer than three (3) months old). Recent Tax Coding Notice. Recent Mortgage Statement. Credit Card/Bank Statement (provided it is fewer than three (3) months old) showing current address.

#### Body Corporate:

If you are a new or existing body corporate client not listed on a regulated market who has not previously supplied information, we will require the following:

- Company / organisation full name;
- Company or other registration number;
- Registered address and, if different, principal place of business address;
- Articles of association or other governing documents;
- Names of the Board of Directors or members of your management body and its senior management;
- One item from List A and 1 item from List B above for an officer of the corporate body
- Written confirmation from the corporate body that the instructing individual is authorised to act on its behalf.

Under the provisions of the Proceeds of Crime Act 2002 ("POCA"), we may be required to make a report to the relevant authorities if at any time we become aware of or suspect (whether from you or any other person) the existence of the proceeds of crime in relation to any Services on which we are engaged. Our obligation to make such a report will, in certain circumstances, override our duty of solicitor/client confidentiality and we may not be permitted to inform you whether or not we have made, or might intend to make, such a report.

We may terminate the provision of any Services to you or be instructed to do so by the relevant authorities, if you fail to comply with your obligation to provide evidence of identity or we suspect that you or any other party connected with you or with the Matter is involved in activities proscribed by POCA.

The anti-money laundering guidance which UK banks and other finance services firms must adhere to is issued by the Joint Money Laundering Steering Group ("JMLSG"). The JMLSG considers all clients with funds deposited in a law firm's pooled client account to be beneficial owners of that account. The JMLSG does not require banks to routinely identify the beneficial owners of law firm's pooled accounts, as they do with most other accounts they issue. Pooled client accounts are granted this exemption on the proviso that this information is available upon request. In the event of our bank requesting information about the beneficial owners of our pooled client account, you agree to us disclosing your details to them.

The firm does not tolerate tax evasion, or the facilitation thereof in any circumstances, whether committed by or facilitated by a client, personnel or associated persons/companies.

## **Equality and Diversity**

We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. We have a written equality, diversity and inclusion policy to ensure that discrimination and harassment are prevented, and that equality, diversity and inclusion are promoted.

We will not discriminate in the way we provide our Services to you or in the way we instruct third parties.

## **Financial Services and Insurance Mediation**

We are not authorised by the Financial Conduct Authority and if during the course of your matter, you need advice on investments, we may have to refer you to someone who is so authorised. However, as we are regulated by the Solicitors Regulation Authority, we may be able to provide certain limited investment services where these are closely linked to the legal work, we are doing for you. The scope of our contract with you, however, does not and will not include giving you advice on the merits of entering into particular investments.

We are also included on the register maintained by the Financial Conduct Authority so that we can carry on insurance mediation activity, which is broadly 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 Conduct Authority website at [www.fca.org.uk/firms/financial-services-register](http://www.fca.org.uk/firms/financial-services-register).

If you have any problem in respect of such services, please let us know. We will try to resolve any problem quickly. If for any reason we are unable to resolve the problem between us, the SRA provides a complaint and redress scheme. We do not manufacture insurance products and are not an insurance company.

## **18. Complaints procedure**

We hope you will have no complaint. To underline how seriously we take complaints, we have a set Complaints Procedure which can be summarised as follows (a copy of our full complaints procedure is available on request):

If you have any complaint or observation (good or bad) about our service, please let us know.

Raise any complaint first with the Fee Earner assigned to your matter, including any complaint about your bill.

If this does not resolve it satisfactorily, tell the Supervising Partner responsible for your case.

If this still does not resolve it satisfactorily, contact Ian Johnson, the Partner nominated by the practice to ensure prompt and thorough investigation of any complaint.

If still unresolved at this stage, you may take your complaint to the Legal Ombudsman. Normally, you will have to bring your complaint to the Legal Ombudsman within 6 months of receiving a final response from us about your complaint and 6 years from the date of the act or omission giving rise to the complaint or alternatively 3 years from the date you should reasonably have known there are grounds for complaint.

The address of the Legal Ombudsman is: PO Box 6806, Wolverhampton, WV1 9WJ; telephone, 0300 555 0333; or view their website at [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk), email enquiries to: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

A complainant to the Legal Ombudsman must be one of the following:

- An individual;
- A micro-enterprise as defined in European Recommendation 2003/361/EC of 6 May 2003 (broadly, an enterprise with fewer than 10 staff and a turnover or balance sheet value not exceeding €2 million);
- A charity with an annual income less than £1 million;
- A club, association or society with an annual income less than £1 million;
- A trustee of a trust with a net asset value less than £1 million; or a personal representative or the residuary beneficiaries of an estate where a person with a complaint died before referring it to the Legal Ombudsman.

If you do not fall into any of these categories, you should be aware that you can only obtain redress by using our Complaints Handling Procedure or by mediation or arbitration, or by taking action through the Courts.

You may also have the right to object to your bill by applying to the Court for an assessment of the bill under Part III of the Solicitors' Act 1974. Please be aware that the Legal Ombudsman may not consider a complaint about a bill if you have applied to court for an assessment of it.

Nothing in these Terms of Business shall prevent you at any time from referring any Matter to the SRA who are for the time being charged with the regulation of solicitors.

## **19. Quality standards**

Due to our own internal quality standards, we are subject to periodic checks by outside assessors. This could mean that your file may be selected for checking/ auditing. We have a legitimate interest in acting in this way and take every possible precaution to protect your personal information. All inspections are conducted in confidence and all external firms and organisations working with Us are required to maintain confidentiality in relation to any files and papers that are audited/ checked by them. Your files(s) may also be reviewed in a due diligence exercise relating to the sale or transfer of all or part of Our business, the acquisition of another business or the acquisition of a new business. Again, we have a legitimate interest in acting in this way and take every possible precaution to protect your personal information. Please contact us if you would like us to explain this further.

## **20. Disclaimers**

### **Tax**

We may not be qualified to advise you on the tax implications of transactions you instruct us to carry out, or the likelihood of them arising. We do not advise on matters relating to tax unless expressly agreed by us as part of our retainer.

### **Property Transactions**

We will not advise you on the planning implications of your proposed purchase, unless specifically requested to do so by you and agreed by us, otherwise than by reporting to you on any relevant information provided by the results of the "local search".

If we are instructed on purchase and we are also acting for your proposed lender, we have a duty to fully reveal to your lender all relevant facts about the purchase and the mortgage. This includes any differences between

your mortgage application and information we receive during the transaction and any cash back payments or discount schemes that a seller is giving to you.

It is not our responsibility to carry out a physical inspection of the property nor advise on the valuation of the property nor the suitability of your mortgage nor any other financial arrangements. We shall not advise generally on environmental liabilities where we shall assume, unless you tell us to the contrary, that you are making your own arrangements for any appropriate environmental survey or investigations.

We may, however, need to obtain on behalf of your lender, at your expense, an environmental search. However, we will not advise you about any issues relating to the possible contamination of any land which may be relevant to your purchase. We have to tell you that we are not qualified to advise on the results of any search made in that respect and would only be able to report to you the actual results of such a search. This is particularly significant in respect of the potential liabilities that may arise at some future point in time as a result of land contamination or flood risk that are having increasing significance. If you have any doubts, please discuss your concerns with us.

## **21. Data protection**

We respect your privacy, and we are committed to protecting your personal data. In the course of acting for you, we may receive information relating to you. Further information on how we process your personal data is in our Privacy Policy, which can be viewed on our website at any time. Our Privacy Statement appears at the end of these Terms of Business.

Client documentation and correspondence may be prepared by Dictation and Transcriptions Ltd under contract to Bray & Bray. All work is processed in the UK and is undertaken in compliance with the SRA Code of Conduct and the Data Protection Act 2018.

## **22. Provisions relating to litigation and other work in relation to disputes**

### **Costs Risk**

In litigation matters, the Court may decide to order one party to pay the costs of the other. The Court usually orders the unsuccessful party to pay all or a part of the successful party's costs and the successful party usually recovers a proportion of its costs from the unsuccessful party, although there is no certainty about this. You should be aware that:

- If you make an interim application to Court which does not succeed, you may have to pay the other side's costs, usually within two (2) weeks.
- If you lose the case, you may have to pay the other side's costs and it is not usually possible for you to withdraw from the case without dealing with the issue of those costs.
- Costs awarded have to be proportionate to the value of the dispute and, in the ordinary course, recovered costs from the other side rarely exceeds sixty to seventy per cent (60-70%) of actual expenditure.
- As set out above, you will still be liable to pay our costs in full, even if the other party fails to pay the costs awarded to you by the Court.

Issues which the Court may take into account in assessing the costs payable or recoverable include:

- efforts made before and during the proceedings to try to resolve the dispute, including the appropriate use of mediation and other alternative dispute resolution procedures;
- the effects of Part 36 payments and offers of settlement;
- the complexity and size of the matter and the difficulty or novelty of the questions raised;
- the skill, effort, specialised knowledge and responsibility involved;

- the time spent; and
- the place and circumstances in which the work was done.

If the other side is or becomes legally aided, it is highly unlikely that you will recover your costs, even if you are successful.

If you are unsuccessful, or the Court so orders for some other reason, you may be ordered to pay the other side's costs. We will discuss with you whether the likely outcome will justify the expense/risk.

## Funding

You should consider whether the legal work on which you are proposing to instruct us may be covered by a legal expenses insurance policy. These policies frequently stipulate that the insured must take preliminary advice from a panel solicitor nominated by the insurance company. In these cases, you may want to defer instructing this Firm until it is established whether or not that policy will cover advice from this Firm.

If you do not have legal expenses insurance, you may be able to purchase insurance to cover you in the event that you have to pay the other side's costs.

## Statements of Truth

Under the Civil Procedure Rules, certain documents, such as claim forms, defences and witness statements, must be verified by a statement of truth, to the effect that the party putting forward the document believes the facts stated in it are true. Making a false statement of truth is potentially a contempt of Court for which there is a possible penalty of fine and/or imprisonment.

Whilst a statement of truth can be signed by you or your legal representative, it is our policy that you should sign your own Statement of Truth unless we agree to the contrary.

## 23. Legal aid

We have a Family Law legal aid franchise in respect of our offices at Market Harborough and Hinckley. It is important that you are aware of Legal Aid. Legal Aid is useful to a litigant because if he is unsuccessful, his liability is limited to his means-tested contribution, and it is unlikely the Court will allow the successful party to recover any costs against him. Legal Aid is not free. In most cases it is only a loan repaid from the fruits of the action.

If the assisted party succeeds and recovers or preserves any asset (except for some exemptions for maintenance and family proceedings), it is subject to the statutory charge. The statutory charge operates to put the recovery or the preserved asset first towards payment of the assisted party's legal costs, and the assisted party only gets the net balance (if any) – often much later because of the time taken in quantifying the final costs.

If money is recovered, it has to be paid to the assisted party's solicitor who has to pay it into the Legal Aid Fund who carry out the accounting and pay out the balance. The Legal Aid Agency has no power to reduce or waive the effect of the statutory charge. If a home is involved, it is sometimes possible to delay payment, but the statutory charge then operates like a mortgage and attracts interest until everything is repaid on sale.

For more information, please discuss this with the person attending to your Family Law case (they will be able to confirm if Legal Aid will be relevant to your type of case and if you may qualify) / alternatively go to the LAA website [www.gov.uk/legal-aid](http://www.gov.uk/legal-aid) or telephone them directly on 0300 20 2020.

## 24. Insurance

We hold professional indemnity insurance which is adequate and appropriate for the matters we act on. Our qualifying insurers are:

Zurich Insurance PLC, The Zurich Centre, 300 Parkway Whiteley, Farnham, Hampshire PO15 7JZ. A copy of our policy is available upon request.

## **25. Financial services compensation scheme**

In the event of a banking failure, it is unlikely that the firm would be held liable for any losses of client account money.

We currently hold our client account funds with Lloyds Bank PLC, National Westminster Bank PLC and Santander UK PLC. The £85,000 Financial Services Compensation Scheme (FSCS) limit will apply to each individual client so if you hold other personal monies yourself in the same bank as our client account, the limit remains £85,000 in total, so it may be advisable to check with your own bank as some banks now trade under different trading names.

However, the FSCS provide a £1 million protection limit for temporary high balances held with a bank, building society or credit union if it fails. Further details relating to what constitutes a temporary high balance and the rules relating to the protection can be found at [www.fscs.org.uk](http://www.fscs.org.uk)

In the event of a bank failure, you agree to us disclosing details to the FSCS.

## **26. Green deal scheme**

Seller(s) of property are required, by law, to disclose the existence of any Green Deal loan on the property they are selling, or they may become liable for repaying the outstanding debt, even after they have sold the property.

If you are required to make a disclosure of a Green Deal loan, we will ask you to sign and return a declaration confirming your authority for us to make any such disclosure to your mortgage lender.

## **27. Severability**

Each of these terms shall be severable and distinct from the others and if any term is held to be illegal, invalid or unenforceable, in whole or in part, the remaining terms shall not be affected.

## **28. Third Parties**

The Services are provided to and for the benefit of you as our client and you alone. No other person may use or rely upon the Services nor derive any rights or benefits from them. The provisions of the Contracts (Rights of Third Parties) Act 1999 are to that extent excluded.

## **29. 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.

## **30. Law and jurisdiction**

The terms on which we provide Services to you are governed by, and shall be construed in accordance with, English law. You and we each agree to submit to the exclusive jurisdiction of the English courts.

## **31. Privacy Statement**

Bray & Bray is a partnership, and our head office is at Spa Place, 36-42 Humberstone Road, Leicester, LE5 0AE. We are regulated by the Solicitors Regulation Authority.

Bray & Bray are registered with the Information Commissioner's Office, and we will be the 'data controller' for the purposes of the Data Protection Act 2018 in relation to any personal information we hold about you.

This privacy statement is designed to provide information about our practices concerning the collection, use and disclosure of personal information in the course of providing legal, advisory and/or consultancy services. Personal information is any data from which an individual can be identified.

Please read this statement carefully. If you have any queries regarding this notice please email us at: [dpo@braybray.co.uk](mailto:dpo@braybray.co.uk)

Data Protection Officer  
Bray & Bray  
Spa Place  
36-42 Humberstone Road Leicester  
LE5 0AE  
Tel: 0116 254 8871  
Fax: 0870 383 5023

### Who this privacy statement applies to

This privacy statement applies to all persons whose personal information we collect and process. This includes individuals in the categories below or who work for any of the following:

- Our clients;
- Other lawyers and law firms, including barristers;
- People who are involved in contracts and transactions we are working on, such as other businesses or individuals our clients are contracting with;
- People who are involved in Court or other legal proceedings (including legal claims, criminal actions, inquests, tribunals, arbitrations, mediations, investigations, and regulatory actions) or the provision of related or other legal, advisory and/or consultancy services. This may include claimants, defendants, witnesses, experts and service providers related to such Court or other legal proceedings, services or claims, such as investigators, mediators and costs lawyers;
- Our regulators, insurers, auditors, professional advisers, and certification / accreditation bodies.

### The data we collect about you

In the course of our business, we will need to collect and process various types of personal information for various purposes. We will only process and collect personal information where necessary for the provision of our services and where we have a legal basis to do so. We most commonly collect and process:

- Contact information for individuals (such as full name, address, date of birth, email address and telephone number). We may collect additional information to enable the identity of individuals to be verified;
- Medical records and health information as necessary for the provision of our services where the services we provide involve or relate to medical matters;
- Information regarding an individual's legal requirements and personal or professional situation;
- Information about individuals employed by or associated with our clients, advisers or the organisations involved in a matter on which we are instructed;
- Information obtained as a result of investigations carried out in relation to individuals which may involve surveillance conducted by third parties and/or by researching online activity and accessing various subscription databases and open source platforms where the services we provide relate to suspected crime including regulatory or disciplinary offences involving dishonesty.

We obtain personal data from a variety of sources, including our clients, individuals, agents, and professional advisers instructed by us, fraud prevention and credit reference agencies, subscription databases, insurance databases, social networks, applications, government agencies and publicly accessible and online sources such as the Land Registry and Companies House.

## Disclosure & use of personal information

Where we receive personal data in connection with the provision of legal and/or advisory services, we process that data for the purposes of the provision of those services. This includes:

- Providing legal and related services, such as:
- Managing Court or other legal proceedings (including legal claims, criminal actions, inquests, tribunals, arbitrations, mediations, investigations, and regulatory actions);
- Providing legal advice;
- Providing consultancy services;
- Advising on and negotiating legal contracts and transactions

When we hold and use personal information in the course of providing legal and/or advisory services to a client, that client is also entitled to access that personal information. They may in turn use that information in accordance with their own privacy notice or equivalent.

Complying with our legal obligations or making disclosures to government, regulatory or other public bodies where in our reasonable opinion the disclosure is appropriate and permitted by law. This includes:

- Performing checks of our clients and others as we are required to do by law or which are good practice, such as anti-money laundering and anti-terrorism checks. In undertaking such checks, we may ask individuals to provide information and use publicly available information;
- Disclosures required by law or Court Order;
- Disclosures to the police, tax authorities, the National Crime Agency or other public or government authorities where in our reasonable opinion the disclosure is required in relation to any criminal investigation or prosecution;
- Disclosures to our regulators, ombudsman, or other government, public or regulatory authority, including any data protection supervisory authority or regulator of legal services, where in our reasonable opinion the disclosure is required or permitted by law.

Providing access to our files for audit, review, or other quality assurance checks, by our clients, regulators, auditors, professional advisers and certification/accreditation bodies.

Processing required in connection with the day-to-day operation of our business such as billing and payments, complaints handling and internal record keeping. For this we may use third party service providers such as IT service providers.

Processing required in connection with any actual or proposed reorganisation, merger, sale, joint venture, assignment, transfer or other transaction relating to all or any portion of our business or assets.

Where we share personal information with third parties, we will only do so where in our reasonable opinion that information will be adequately protected. Any other service providers with whom we share information are approved by us and subject to contractual obligations designed to ensure that those providers comply with data protection legislation.

## How long we keep personal information

We will only retain your personal data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, regulatory or reporting requirements. We will retain your matter file in line with the Firm's Privacy Policy. With your consent we will retain all documents provided/obtained for the purpose of complying with the Money Laundering Regulations such as ID, proof of address, source of funds evidence for the same period as your file will be retained, even where this is longer

than 5 years. The retention periods confirmed in our Privacy Policy are the minimum period and a file can be held longer with your consent.

With your consent we will keep your closed files for 13 years after the files are closed.

#### The legal basis on which we process personal information

Data protection law requires us to have a legal basis for processing your information. In most cases we will only process your personal information:

- So we can carry out our contract with you, or take any steps you ask us to before entering into a contract with you;
- As necessary to comply with any legal obligations we have, such as under money laundering laws;
- Where necessary for our legitimate purposes in providing legal, advisory and/or consultancy services and/or for the legitimate purposes of our clients in receiving those services.

When processing personal data, we comply with the data protection principles and our own data protection policy.

In most cases we process personal data that falls into one of the special categories specified by the General Data Protection Regulations where necessary for the establishment, exercise or defence of legal claims or whenever Courts are acting in their judicial capacity.

#### Rights of data subjects

If we process your personal data, you have a number of rights. You may request a copy of the personal data we hold about you (and request that that data be provided in a portable format) and you may object to our processing of it or ask us to rectify it, restrict the way in which we process it or erase it from our records. For further information about your rights, or how to exercise them, please see our data protection policy on our website.

If you have a complaint about the way in which we process or have processed your personal data, please contact Bray & Bray's Data Protection Officer at [dpo@braybray.co.uk](mailto:dpo@braybray.co.uk) in the first instance. If you remain dissatisfied, you may lodge a complaint with the Information Commissioner's Office.