

CLIENT CARE STATEMENT



NOTE

This is an important document.

It outlines both your rights and ours, and forms part of
your contract with us.

Please take the time to read this document carefully, and
keep it safe for future reference.

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1. Client Care and Service Information

This is the minimum standard that we must achieve when dealing with you. It is the law.

1.1. As your lawyer we must:

- Act competently, in a timely way and in accordance with your instructions and any arrangements made
- Protect and promote your interests and act for you without any compromising influences or loyalties
- Discuss your objectives with you and how they may best be achieved
- Provide you with written information about the work to be done, who will do it and the way the services will be provided
- Charge you a fee that is fair and reasonable, tell you the basis on which fees will be charged, and tell you how and when you will be billed
- Give you clear information and advice
- Protect your privacy and ensure appropriate confidentiality
- Treat you fairly, respectfully and without discrimination
- Keep you informed about the work being done and advise you when it is completed
- Let you know how to make a complaint and deal with any complaint promptly and fairly.

2. If You Have a Complaint

If you think we haven't come up to the standard, then we want you to tell us. If you don't feel comfortable talking to us, then please call the New Zealand Law Society.

- 2.1. If you are unhappy about the service you receive from Ebborn Law we will attempt to remedy that. You are welcome to contact your Case Manager if you have a concern. If it is something more serious, or you do not feel your concerns have been listened to, ask to speak to the Chief Executive Officer or email complaints@ebbornlaw.co.nz.
- 2.2. You are entitled to complain directly to the New Zealand Law Society. Information about the complaint process is online at www.LawSociety.org.nz or you can phone them on (0800) 261 801.

3. Fees

Our fees must be fair, based on rules set down under law. If you are a FLAS or Legal Aid client then we are funded by the Ministry of Justice to provide you with a limited legal service.

- 3.1. In the case of Legal Aid and FLAS matters the fees charged and the services provided are dictated by law and we have no discretion to alter these. These fees and services are listed on the Scope of Work, which you will be provided with.
- 3.2. We will charge a fee that is fair and reasonable for the services provided, having regard to both your and our interests. In determining the fee, the following things have been taken into account:
 - the skill, specialised knowledge and responsibility required to perform the service properly
 - the importance of the matter to you and the results achieved
 - the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you
 - the degree of risk assumed by us in undertaking the services including the amount/value of property involved
 - the complexity of the matter and the difficulty or novelty of the questions involved
 - the experience, reputation and ability of the members of our firm working on your matter
 - the possibility that acceptance of the particular instructions will prevent us from acting for other potential clients
 - whether our fee is fixed or conditional
 - any quote or estimate of fees given by us
 - any fee agreement entered into by you and us
 - the reasonable costs of running our firm
 - the fee customarily charged in the market and locality for work similar to yours
- 3.3. Unless otherwise stated, all fees are inclusive of GST.
- 3.4. Out-of-pocket expenses such as search and registration fees, valuation fees, agency fees or any additional cost that arises from unique aspects of your matter (such as travel to another court jurisdiction) will be charged as disbursements.
- 3.5. We will provide for you an estimate upon request. If that estimate is likely to be exceeded we will let you know.
- 3.6. There are other methods of charging that suit certain types of work and we will discuss those with you where they are appropriate.

- 3.7. All work done by us is charged on a fees basis apart from a commission of 5% that is taken on all interest accruing on funds deposited with our bank through our bulk deposit scheme.
- 3.8. Where it is applicable you may apply for legal aid. If legal aid is granted, this will be referred to in our Letter of Engagement. In the event that legal aid is not granted you will be liable for our account charged at the private rate referred to in our Terms of Engagement.

Legal Aid

- 3.9. The fees charged for Legal Aid are paid to us directly by the Ministry of Justice.

Family Legal Advice Service (FLAS)

- 3.10. The fees charged for FLAS are paid to us directly by the Ministry of Justice. You will not be issued with an invoice.
- 3.11. This funding is available once in a 12-month period for this matter (e.g. Care of Children Act matter that involves yourself, the child or children stated in the RMS¹ record, and the respondent stated in the RMS record).

4. Payment of Fees

We require you to pay your fees in a specific way, depending on what is agreed when you first instruct us. The Terms of Engagement letter over-rides anything listed below, so read it carefully.

- 4.1. If a matter is being charged on a fixed-fee basis, that fee is to be paid in full as per the Terms of Engagement prior to the work being undertaken.
- 4.2. If a matter is subject to a legal aid grant, that grant must be approved as per the Terms of Engagement prior to work being undertaken, unless the matter is of an urgent nature.
- 4.3. Aside from fixed-fees and legal aid – and unless otherwise specified – all other fees are to be paid by within 7 days following our account being sent except on conveying matters where fees are payable immediately prior to settlement.
- 4.4. We issue monthly interim accounts where that is appropriate. Our final account will be sent to you shortly after we have completed your matter.
- 4.5. Our fees may be deducted from funds held in our trust account on your behalf.
- 4.6. We may ask you to pay fees in advance, but in those instances your payment will be held in our trust account and only paid to us by deduction when an account has been forwarded to you.
- 4.7. Out-of-pocket expenses (disbursements) are to be paid by you immediately upon request but substantial out-of-pocket expenses will be asked for in advance.
- 4.8. Interest will accrue on unpaid accounts at the rate of 15% per annum as from the due date until payment. Other action to recover unpaid fees may also be taken and the cost of such recovery may be added to the account due by you.
- 4.9. We reserve the right to charge a 2.00% surcharge on all credit card payments.

5. Professional Indemnity Insurance

We must tell you if we meet the New Zealand Law Society standards for insurance (we do).

- 5.1. Ebborn Law Limited is insured in a way that meets or exceeds any minimum standards from time to time specified by the Law Society.

¹ RMS is the computer system used by lawyers, Family Dispute Resolution mediators, Parenting Through Separation course providers and the Ministry of Justice to manage clients of the out-of-Court parts of the Family Justice System.

6. Limitation of Liability

Email, voice messages, texts and other electronic communication sometimes might not work. We won't accept responsibility for this. If you have sent us something electronically but don't hear back from us, then phone and check.

- 6.1. We do not accept liability for any loss arising from non-receipt of any communication, including email and other electronic communications.

7. Right to Terminate Your Retainer

You have no obligations (aside from paying any outstanding bill) to continue the contract you have with us. In other words you are free to change lawyers at any time. We also can end the contract, but for limited and specific reasons.

- 7.1. You are entitled to terminate your instructions to us upon giving us reasonable notice. Our fees for services reasonably and properly provided to you prior to the termination of retainer shall be paid by you prior to uplifting your records. In some instances we might be required to retain some of your documents and records, for example if there are matters still to be addressed by the Legal Aid Office or the Law Society. If this happens, we will destroy the documents or records once they are no longer required given the original file has already been passed on to you. Receipt of your file will be sufficient discharge to us of our obligations to you under our original retainer.
- 7.2. We may terminate the retainer if there is good cause, such as:
 - you not providing us with instructions in a sufficiently timely way;
 - failure to notify us in advance if you cannot attend a scheduled meeting or court appearances where you are required to be present;
 - your inability or failure to pay our fee on an agreed basis
 - you adopting a course of action against our advice (except in litigation matters), which we believe is highly imprudent;
 - you not being honest with us, or not fully disclosing important facts. If relevant information is held back from us then we may terminate the contract on the basis that the solicitor-client relationship is no longer one of trust and confidence;
 - you directing threatening or abusive behaviour toward our staff or other people in our place of work.

If we terminate the retainer we will give you reasonable notice so you can arrange alternative representation and we shall give you reasonable assistance to find another lawyer.

8. Retainer Terminated on Completion of FLAS

There are two parts to FLAS. Once we have completed a part (either one or two) then the contract between you and Ebborn Law ceases.

- 8.1. You are permitted by law to seek the advice and assistance of a lawyer outside of the limited scope of work paid for by the Ministry of Justice for FLAS advice. However, if you wish us to act for you in a private capacity then we will charge our regular rate, which is up to \$330/hour.
- 8.2. You are absolutely entitled to appoint a different law firm or lawyer to assist you privately. After the initial session ends you are not required to continue using Ebborn Law's services in a private, legal aid or FLAS capacity.

9. Suspension of Service

We don't want to rack up a huge private bill for you, so if payments fall behind (or if legal aid is cancelled for some reason) then we'll stop working on your file and check with you how (or if) you want us to proceed.

- 9.1. We reserve the right to stop work on your retainer if interim accounts are not paid on time, the fixed fee for the next step of the matter is not paid, or a request for information or action remains unsatisfied.

10. Lawyers' Fidelity Fund

If any of our staff steal funds from you in the process of us performing legal services on your behalf then there is a fund set up by the New Zealand Law Society to provide compensation, up to a limited amount.

- 10.1. The Lawyers and Conveyancers Act requires the New Zealand Law Society to establish a Lawyers Fidelity Fund. This is held in trust by the Society and is funded by practising lawyers, with the exception of those who elect not to receive money or other valuable property in trust.
- 10.2. The Lawyers Fidelity Fund provides compensation to people who suffer theft of any money or property entrusted to lawyers or incorporated law firms while providing legal services or acting as solicitor-trustee. The maximum amount which can be paid to an individual claimant is \$100,000. The Fund may not be used to compensate anyone for money lost which a lawyer or law firm has been instructed to invest. The Fund applies for all claims relating to theft by lawyers or law firms.
- 10.3. This is only a short summary of the major provisions in the Lawyers and Conveyancers Act 2006 relating to the Fund. Please ask us if you would like further information.

11. Files and Documents

We will return your file to you at the end of our contract. Otherwise we keep all files and documents for ten years, then destroy them securely. If you would like information from your file at any time please let us know, we'll be happy to provide it to you.

- 11.1. When your instructions have been completed we will return it to you. Otherwise, we keep your file for a period of 10 years from completion and then destroy/delete it.
- 11.2. You are welcome to uplift your file subject to the provisions of the Privacy Act 1993 and the Family Court Rules. Please give us reasonable notice before collecting your file should you wish to do so.
- 11.3. Note that in some circumstances there might be a charge, however this will be discussed with you in advance.
- 11.4. Some documents are confidential to the Court and may not be released.

12. Privacy and Confidentiality

We have to take your privacy seriously. Unless the law says otherwise, everything you tell us is strictly confidential. We cannot accept responsibility for data that is held by or accessed by external parties through such systems as RMS (for FLAS clients).

- 12.1. We will treat all information we hold about you as private and confidential and will not disclose any information we hold on your behalf or about you unless we are required to do so by law or where it is necessary to do so to provide our services to you or when requested by you or with your consent.
- 12.2. HOWEVER... in the instance of FLAS clients our service to you is limited to the privacy conditions of the Ministry of Justice's RMS system. We accept no liability for the security of information entered into the system.
- 12.3. The Director of Ebborn Law Limited is associated with The Essential Admin Co. Limited. That company provides administrative support to Ebborn Law Limited and from time to time its staff might require access to the information on your file.
- 12.4. We take data sovereignty issues seriously and actively attempt to protect your information from foreign agencies. Whilst we attempt to avoid data from entering the sovereignty of any nation that has the legal authority to intercept it, there are instances where this is not always possible due to the nature of the World Wide Web.

13. Responsibility for Work Undertaken

Everything that happens in this law firm is the responsibility of Erin Ebborn, the Principal Solicitor. Other lawyers work here under her supervision, and they can do work on your file. It's easier to think of 'your lawyer' as being Ebborn Law, not the particular lawyer you might meet with first.

- 13.1. The person who holds ultimate responsibility for the legal work provided to you is our Principal Solicitor, Erin Ebborn. If any other Solicitor will be working on your matter then we will attempt to inform you in advance – but we try as much as we can to provide consistency in the people you deal with.

14. Legal Aid

You might have to pay your legal aid grant back, sometimes you might have to secure the grant against your property, and legal aid repayments are charged interest. We will pay the \$50 application fee for you, if you sign a form allowing us to, but be aware that if you go to another lawyer they will probably ask you for the \$50 fee (we can't give it to them as we didn't collect it). Also, there are some things we don't do for people on a grant of legal aid.

- 14.1. Legal aid is governed by the Legal Services Act 2011 and the associated regulations. Legal aid is administered through the Ministry of Justice by the Legal Services Commissioner. Ebborn Law will submit invoices in relation to your grant of aid to the Legal Services Commissioner and provide you copies. The Legal Services Commissioner will write to you about any conditions or repayment obligations that you might have in relation to the grant of legal aid, and your rights as an applicant or recipient of legal aid. You should be aware at this time that legal aid is not always free. In addition you might be required to pay interest on your grant of aid. You should read these letters carefully and keep them for later reference. You must let the Legal Aid Commissioner know if there is any change in you and/or your partner's contact details, employment status, family circumstances or financial details.
- 14.2. As of 2nd September 2013 a \$50 administration fee is payable upon application for a legal aid grant. The grant is made subject to the applicant paying that fee to the lawyer.
- 14.3. Ebborn Law Limited limits the number of cases of legal aid funded matters it accepts at any one time under the Property Relationship Act.
- 14.4. In most cases we do not actively undertake private work whilst a grant of legal aid is in place as this can be in contravention of Ministry of Justice (legal aid) requirements.

15. Limitations and Exclusions

While you have a solicitor working on your file, you need to understand that the whole firm is your 'lawyer' and everyone here is capable of helping you. Everyone who phones and asks to speak to a specific person are always asked who they are, if they are a client of the firm, and what they want to speak to the person for. It is likely the person who answers the phone can help you with your problem or question. We are only responsible for the legal services outlined in the Scope of Work.

- 15.1. To be able to offer Legal Aid, FLAS and other fixed-fee work we need to have a clear understanding with you about what work that includes. We focus solely on the legal work needed to complete the tasks set out in the schedule provided to you. This means we **retain the right** to decline appointments, phone calls, emails or other enquiries that are not relevant to completing that legal work if this is fair and reasonable having regard to the nature of the legal services to be provided and the surrounding circumstances.
- 15.2. A legal issue is one that requires advice about the law or that the Court might deal with. A parenting issue or a problem that arises because of poor communication is likely to be outside our scope of work. We encourage you to take advantage of counselling, mediation and the Parenting Through Separation course to help you deal with non-legal issues about parenting or communication.



Any questions?

This is a complicated document that is the basis of any contract between us, so we will understand if you need any further explanation. If you have any questions about this client care statement please call the Operations Manager on (03) 339 2233 or talk to your Case Manager.