



Kōwhai

LEGAL

CLIENT CARE INFORMATION

1. Kowhai Legal is required to provide you with the following information under the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society (“Law Society”).

Persons responsible for the work

2. As the Director and Principal Lawyer at Kowhai Legal, Naivasha Moore is the lawyer with the overall responsibility for your file. Support staff at Kowhai Legal may also work on your file under the supervision of Naivasha Moore.
3. In order to provide you with the best advice and services, the team at Kowhai Legal will work in collaboration on your file. All or part of your instructions may be delegated to other professionals at Kowhai Legal. The person who has the primary responsibility for your file will be set out in your Letter of Engagement.

Fees

4. The basis on which fees will be charged is set out in Kowhai Legal’s Terms of Engagement, and your Letter of Engagement. The terms of engagement explain when payment of Kowhai Legal’s fees are to be made.
5. Kowhai Legal may deduct from any funds held on your behalf any fees, expenses or disbursements for which Kowhai Legal has provided an invoice.

Client care and service information

6. We are committed to doing our best to ensure that your legal needs are met in this matter and all future matters. At Kowhai Legal we will:
 - Act competently, in a timely way, and in accordance with instructions received and arrangements made.
 - Protect and promote your interests and act for you free from compromising influences or loyalties.
 - Discuss with you your objectives and how they should best be achieved.
 - Provide you with information about the work to be done, who will do it, and the way in which the services will be provided.
 - Charge you a fee that is fair and reasonable and let you know how and when you will be billed.
 - Give you clear information and advice.
 - Protect your privacy and ensure appropriate confidentiality.
 - Treat you fairly, respectfully, and without discrimination.
 - Keep you informed about the work being done and advise you when it is completed.
 - Let you know how to make a complaint, and deal with any complaint promptly and fairly.
7. The obligations lawyers owe to clients are described in the Rules of Conduct and Client Care for Lawyers. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.
8. If you have any questions, please visit www.lawsociety.org.nz or call 0800 261 801.



Kōwhai

LEGAL

The Lawyer's Fidelity Fund (the Fund)

9. The Law Society maintains the Lawyers Fidelity Fund for the purposes of providing clients of lawyers with protection against pecuniary loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is \$100,000.00. Except in certain circumstances These circumstances are the theft of a lawyer of money or other valuable property entrusted to the lawyer while they are providing legal services to the public or while they are acting as a solicitor-trustee.

Professional Indemnity Insurance

10. We hold current Professional Indemnity Insurance which exceeds the minimum standards from time to time specified by the New Zealand Law Society.

Limitations on extent of Kowhai Legal's obligations or liability

11. Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in Kowhai Legal's Letter of Engagement or Terms of Engagement.

Complaints

12. If you have any complaint or concern please raise it with us. You may refer your concern or complaint to Naivasha Moore who has overall responsibility for your file.
13. If your complaint cannot be resolved to your satisfaction, you have the right to take the matter up with the New Zealand Law Society which runs a complaints service. Visit <https://www.lawsociety.org.nz/for-the-public/complaining-about-a-lawyer/how-to-make-a-complaint/> for information about the service. Or contact the NZ Lawyer's Complaints Service on 080 261 801, by email at complaints@lawsociety.org.nz, or at P.O. Box 5041, Lambton Quay, Wellington 6145, Law Society Building, 26 Waring Taylor Street, Wellington.



TERMS OF ENGAGEMENT

General

1. These Terms apply to any current engagement and also to any future engagement, whether or not we have sent you another copy of them.
2. We are entitled to change these Terms from time to time, in which case we will send you amended Terms via the most recent contact information you have provided.
3. Our relationship with you is governed by New Zealand Law and New Zealand courts have exclusive jurisdiction.

Services

4. The services which we are to provide for you, and the person who has primary carriage of your file are outlined in our Letter of Engagement, along with any further instructions that you provide to us in writing or that we record in writing.
5. The Family Legal Advice Service (FLAS) is a limited, government-funded service available for some Family Law Matters. The following services are available under:
 - Checking whether you are eligible for the service.
 - Meeting with you to discuss your Family Law dispute.
 - Explaining the Family Justice System process to you, so that you understand your legal rights, responsibilities, and options.
 - If applicable, advising you of the steps for commencing (or responding to) and pursuing proceedings in the Family Court.
 - If applicable, advising you of the types of directions and orders the Family Court may make in your dispute.
 - If applicable, assisting you to complete an originating application and affidavit (or notice of response and affidavit).

Communication

6. We will obtain from you contact details, including email address, postal address, and telephone numbers. You will advise us if any of your contact details change.
7. We will report to you periodically on the progress of any engagement and will inform you of any material and unexpected delays, significant changes, or complications in the work being undertaken. You may request a progress report at any time.

Privacy and Confidentiality

8. We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you and will use that information to carry out the services as instructed. We will not disclose any of this information to any other person except:
 - To the extent necessary or desirable to enable us to carry out your instructions.
 - To the extent required by law or by the Law Society's Rules of conduct and Client Care for Lawyers.
 - To the extent authorised or directed by you.



Kōwhai

LEGAL

- To the extent required or permitted by law.
9. We will not disclose to you confidential information which we have in relation to any other client.
 10. Provision of personal information is voluntary, but if you do not provide full information this may impact on my ability to provide the services and may result in the termination of our retainer.
 11. We may, from time to time need to discuss your case with other relevant professionals (for example: Lawyer for Child, Women's Refuge etc.). We will ensure that these conversations are conducted in a way that advance your interests.

Conflicts of Interest

12. We are obliged to protect and promote your interests to the exclusion of interests of third parties and ourselves as set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules). This may result in a situation arising where we have a conflict of interest.
13. We have procedures in place to identify and respond to conflicts of interest or potential conflicts of interest. If a conflict of interest arises, we will advise you of this and follow the requirements and procedures set out in the Rules. This may mean we cannot act for you further in a particular matter and we may terminate our engagement.

Files and Documents

14. When your instructions have been completed, we shall keep the file we create related to your case for a period of 7 years from completion and then destroy it. Our files are primarily digital, with any physical file only containing documentation for the convenience of the lawyer. Your digital file will include email correspondence but not necessarily all phone messages or text messages. You may be provided a digital copy of that file on request provided that all fees and expenses relating to that work have been paid.
15. Unless otherwise agreed, we retain the copyright in all documents prepared. You are entitled to use such documents and retain copies of documents for the purposes for which they were prepared, but not otherwise, without our written consent.
16. The information we collect and the documents prepared to create your file will be kept at our office and/or a secure storage site (physical or digital) elsewhere.
17. Kowhai Legal will provide to you on request, copies or originals, (at my option) of all documents to which you are entitled under the Privacy Act 1993 or any other law. We may choose not to provide subsequent copies of communication or documents that you have already been issued, or to which you reasonably have access to through another means. Please give us reasonable notice of your request. Kowhai Legal may charge you reasonable administrative costs for doing this. Administrative costs include: administrative staff time, printing, binding and courier fees.
18. Some documents are confidential to the Court and may not be released.

Fees

Private

19. If you are receiving or have applied for a third party to pay your legal fees (e.g. Legal Aid, Oranga Tamariki, Women's Refuge or a private individual) and that funding is not obtained, granted, or is withdrawn, you will be liable for any fees associated with the file. We will charge a fee which is fair and reasonable for the services provided having regard to your interests and our interests, and the reasonable fee factors set out in Rule 9 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care Rules) Rules 2008. As per the Rules, in determining whether to adjust the fee up or down, the following may be taken into account:



Kōwhai

LEGAL

- The time and labour expended. Time spent is recorded in 6-minute units, with time rounded up to the next unit of 6 minutes. Each piece of correspondence will be recorded as one unit of time.
 - The time and labour expended by support staff, over and above general secretarial and administrative attendances.
 - The skill, specialized knowledge, and responsibility required to perform the services properly.
 - The importance of the matter to you and results achieved.
 - The urgency and circumstances in which the matter is undertaken, and any time limitations imposed, including those imposed by you.
 - The degree of risk assumed by us in undertaking the services including the amount or value of the 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 the acceptance of the particular instructions will preclude employment by us from other clients.
 - Whether the fee is fixed or conditional.
 - Any quote or estimate of fees given by us.
 - Any fee agreement entered into between you and us.
 - The reasonable costs of running our firm.
 - The fee customarily charged in the market and locality for work similar to yours.
20. Our Principal Lawyer's time is usually charged at \$400 plus GST and Staff Solicitors are charged at \$300 plus GST. Support staff will usually be charged at \$120 plus GST per hour.
- GST is payable by you on all fees and charges, and unless otherwise stated, all fees are excluding GST.
 - Travel time is charged at half the fee earner's hourly rate. Mileage is charged at the rate prescribed by the IRD.
21. In the event that there is a change in the hourly rates, you will be notified in writing prior to that change occurring.
22. We reserve the right to change our terms for billing and payment on a case by case basis to reflect any specific circumstances for ourselves or our client to protect our interests and ability to be paid for services provided.
23. In providing services, we may incur disbursements and payments to third parties on your behalf (which include items such as Court fees, valuation fees, legal research fees, drug testing fees and travel fees) which are reasonably required to undertake the services. You authorise Kowhai Legal to incur these disbursements. These will be included in our invoice to you when the expense is incurred. We may require an advance payment for the disbursements or expenses which will be incurred on your behalf.
24. We also charge a fee for general office expenses. This is usually rendered at the same time as an invoice for professional services. This charge will usually be \$30 per invoice and covers



Kōwhai L E G A L

telephone, postage, and normal photocopy charges. Where a significant amount of photocopying is required (usually in litigation matters) a higher fee or a per-page fee may be charged.

25. We will provide for you an estimate upon request. Please note, an estimate is not a quote. If that estimate is likely to be exceeded, we shall let you know.

FLAS

26. The fees charged for FLAS are paid to us directly by the Ministry of Justice. You will not be sent an invoice.
27. 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 RMS record, and the respondent stated in the RMS record).

Legal Aid

28. An application has or will be made to the Ministry of Justice for a grant of legal aid in respect of the matter in which you have instructed us. In the event that Legal Aid is not obtained, granted, or is withdrawn we will charge you private fees on the basis detailed in these terms of engagement.
29. 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.
30. The fees charged for Legal Aid are paid to us directly by the Ministry of Justice.
31. Kowhai Legal will submit invoices in relation to your grant of aid to the Legal Services Commissioner and provide you with copies upon request.
32. 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.
33. Where the fixed fee funding under legal aid is insufficient, we will make an application to amend your grant of legal aid and so that we have sufficient funding to continue to work on your file. This may impact the amount that you are required to pay back to legal aid.
34. The Legal Services Commissioner will write to you about any conditions or repayment obligations that you may have in relation to the grant of legal aid and your rights as an applicant or recipient of legal aid. You should be aware that legal aid is not always free. You may be required to repay your legal aid grant. If you are required to repay your legal aid grant, the Ministry will write to you to tell you how much you are required to pay.
35. You must let the Legal Services Commissioner know if there is any change in your and your partner's contact details, employment status, family circumstances or financial details.
36. For further information visit: www.justice.govt.nz or contact the Ministry of Justice. Family Legal Advice Service

Payment of Fees

37. We will issue interim invoices to you at our discretion, on completion of the matter, or on termination of our retainer.
38. Our fees are to be paid within 14 days of our account being sent. There may be specific instances when we issue invoices that are payable within 7 days of issue. These are the exception and those invoices will be marked with the amended terms.



Kōwhai

LEGAL

39. You authorise Kowhai Legal to deduct our fees and other expenses from funds held by Kowhai Legal on your behalf on the provision of an invoice to you.
40. If payment is not made within 14 days of the date of invoice, interest of 1.5% will be charged each month that outstanding balance of the invoice remains unpaid (interest will be calculated on a daily balance and compounded monthly). You will also indemnify Kowhai Legal and pay all costs and expenses if legal action is necessary and/or debt collection agency fees, which Kowhai Legal may incur in recovering your overdue account.
41. If we have agreed for you to pay our fees by way of a payment plan but you fail to complete any instalments, clause 39 shall apply from the due date on any unpaid balance and we may require payment in full of the account without further delay.
42. In the event payment is made by instalment payments approved by Kowhai legal in writing, then the amount will incur late payment interest of 1.5% per calendar month and administration expenses of \$120 per hour plus GST. Any unapproved instalment payment will attract the same interest and administration charges without prejudice to Kowhai Legal's ability to take action to recover the amount owing.
43. Please consider other forms of finance before relying on us to allow you to pay your bill off. Other action to recover unpaid fees may also be taken and the cost of such recovery may be added to the amount you owe.
44. Kowhai Legal may ask for advance payment to be held on account of fees and disbursements. Kowhai Legal may do this, on reasonable notice at any time.
45. Although you may expect to be reimbursed by a third party for our fees and expenses, and although our invoices may at your request or approval be directed to a third party, you remain responsible for payment to us if that third party fails to pay us.

Suspension of Service

46. We reserve the right to stop work on your retainer if interim accounts are not paid on time or a request for information or action remains unsettled.

Right to Terminate Your Retainer

47. 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 a retainer remain payable and shall be paid by you prior to uplifting a copy of your file.
48. FLAS is a limited service and our retainer terminates automatically on completion of the service.
49. We may terminate the retainer if there is good cause, such as:
 - Not providing us with instructions in a sufficiently timely way.
 - Not providing information sought.
 - Not completing agreed-upon tasks.
 - Failure to notify us in advance if you cannot attend a scheduled meeting or Court appearance where you are required to be present.
 - Any other issue the results in a breakdown of the lawyer/client relationship.
 - Your inability or failure to pay our fee on an agreed basis.
 - Your adopting against our advice a course of action which we believe is highly imprudent (except in litigation matters).



Kōwhai

LEGAL

- 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 lawyer/client relationship is no longer one of trust and confidence.
 - Behaving towards our staff in a demeaning, belittling, intimidating or unpleasant manner.
 - Directing threatening or displaying abusive behaviour toward our staff or other people in our place of work.
 - Breaching the Kowhai Legal Bullying and Harassment Policy by engaging in: bullying discrimination, harassment, racial harassment, sexual harassment, or violence.
50. If we terminate the retainer we will give you reasonable notice so that you can arrange alternative representation and we shall give your reasonable assistance to find another lawyer.
51. Where we are noted as counsel on the Court record and our instructions are terminated, or the retainer terminated, our fees for any steps reasonably necessary to discharge our obligations to the Court remain payable by you.

Limitation of Liability/Duty of Care

52. Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our Letter of Engagement.
53. Our duty of care is to you and not to any other person with respect to this matter. Before any other person may rely on our advice we must expressly agree to that in writing.
54. Our advice is opinion only, based on the facts known to us and on our professional judgement and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from any information provided by third parties.
55. Our advice relates only to each particular matter in respect of which you engage us. Once that matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those related or other matters.
56. Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any loss or damage caused thereby.
57. Our services do not extend to tax advice and we recommend you consult a tax specialist.
58. FLAS is a limited service. Unless we expressly agree with you otherwise, we will not:
- Represent you at Family Dispute Resolution or in the Family Court.
 - Communicate with third parties on your behalf.
 - Prepare or advise you on any written agreements regarding your dispute.
 - Advise you about or assist in any way in the resolution of secondary disputes.
 - Serve or receive service of any documents on your behalf.
 - Our services will end if final agreement is reached or once we have helped you draft an application and affidavit (or notice of response and affidavit), whichever is the earlier.
 - Please note: If your matter goes to the Family Court you may be eligible for Legal Aid.