

Terms of business for Nelson McLean - version 2018-10

Tel: 01580 767100
Email: mail@nelson-mclean.co.uk
Web: www.nelson-mclean.co.uk
Fax: 01580 767101

Who are we?

We are Nelson McLean Limited (company number 8950899) of Bell House, Bells Lane, Tenterden, Kent TN30 6ES, offering clear, independent legal advice for individuals and small businesses. We are regulated by the Council for Licensed Conveyancers - licence number 11280.

What do we do?

- We offer legal advice and assistance, concentrating on the following areas of work:
- residential and commercial conveyancing for both freehold and leasehold properties
- drafting, analysing and advising on commercial and residential leases
- preparation of Wills and lasting powers of attorney
- winding up estates
- general legal advice and “signposting” to other specialists

We look after our clients as if they are close friends or family members –

- We are not stuffy, but approachable and friendly
- We give punchy, practical, jargon-free and actionable help
- We keep clients' legal difficulties and expenses to a minimum
- We use our knowledge and experience to benefit our clients
- We do not generate a snowstorm of paperwork to baffle you or the other side, inflate our bill or protect our own back at your expense
- We find ways to overcome problems pro-actively and do not raise unnecessary enquiries or obstacles
- We are devoted to using clear language and to empowering our clients

What do we need from you?

At the outset, we need you to authorise us to act for you on the basis of these terms of business (by completing, signing and returning the authority form) and, by law, we must obtain proof of your identity and address, if we do not already have it: please help us to do this at as early a stage as possible to avoid delaying the work we do for you. Usually, suitable photographic identification from you, combined with online verification by us, is sufficient - if this does not work in your case, we will ask you for further means of identification.

Depending on the particular work involved, there may well be other forms to complete, instructions and information to give, etc, as things progress. We can deal with these as needed. Your prompt cooperation is needed to ensure your work is not delayed or jeopardised by the anti-money laundering requirements we must, by law, comply with.

Who will do the work?

Most of the legal work is handled by Malcolm McLean, a fully-qualified solicitor. Some work may be handled by other members of staff, whose details will be given to you, as appropriate.

We cannot be experts in every field of law, so we concentrate on particular areas of work. We can refer you to appropriate specialists to handle work that is outside our chosen areas. However, the choice of lawyer will always be yours.

Similarly, we are not tax or planning experts, and our work will not include giving advice on any tax or planning aspects, unless we specifically agree to do this. This includes non-routine advice on Stamp Duty Land Tax, which is a complex area. We are quite prepared to involve a tax or planning expert - as appropriate - to advise on these issues (for which he or she will bill you direct) if you so wish. Further, we do not advise on the commercial merits of a transaction or arrangement.

How long will the work take?

The short answer is, "We do not know" - so much depends on the speed with which others involved in the matter work, the extent to which they cooperate and on any unexpected problems that occur. All we can promise is to deal with everything promptly and to keep you informed of progress.

We expect to return telephone calls the same day or early the next working day and to reply to routine correspondence within two working days. More complex correspondence, drafting work, etc, will normally take longer, though we will deal with it as quickly as is commensurate with giving it due care and attention.

If you need us to comply with a specific timescale or meet a particular deadline, please tell us as soon as you know, so that we can do our best to achieve this.

Under the consumer protection legislation, if you are a consumer, you may be entitled to cancel your contract with us within 14 days of accepting these terms by telling us in writing (by letter, fax or email). As a result, we will not start work until 14 days after you return the completed authority form, *unless* you tell us (in writing) that you want us to start immediately - the authority form provides for this. Further, the 30 day "performance period" envisaged under that legislation does not apply to this work: we will do the work as quickly as practicable, but cannot predict how quickly, largely because of dependence on your input and that of any other parties.

Subject to you paying for work we have done, you or we can terminate our relationship at any time.

What will the work cost?

Where the amount of work involved can be estimated beforehand, we will give you an estimate of our likely charges. If we give you an estimate, we will not exceed it without warning you, but any figure given will not be a fixed price unless specifically identified as such. Any estimate, of necessity, will be based on assumptions that there will be no unexpected delays or difficulties and that others involved will cooperate; if these assumptions prove to be false, the ultimate fee may be higher than the estimate, though we do our best to avoid it.

For work where an estimated total charge is inappropriate, our charges will be calculated mainly by reference to the time (in six minute units) spent by qualified lawyers on your work in personal meetings, correspondence, telephone calls, research, travelling and waiting time, etc. In addition, by law, they must reflect certain other aspects of the work, such as its urgency and complexity and its monetary value and importance to you.

We account for these factors by specifying an appropriate hourly rate (a relatively low rate for straightforward, non-urgent work; a relatively high rate for urgent, extremely valuable or complex work; etc). If the application of the hourly rate results in a bill that is too high or too low, we will suggest a suitable adjustment.

The current hourly charging rate for your work (if applicable) is stated in our covering letter or legal expenses estimate. This is the rate at which we will charge you: there is no further mark up as some other firms add. We review our rates periodically and will tell you of any changes.

If you want to put a limit on the costs, please tell us. This limit can be either the most you are willing to spend on the case, or the most you are willing to spend without further discussion. We cannot guarantee to complete the matter below your limit, only to stop work when our fees reach that level.

For some work, we can offer a fixed fee, which you can agree or instead choose that we should charge at an hourly rate. If you choose a fixed fee, the work covered by it will be only that which is agreed at the outset. Any extra work will be charged additionally, but we will not undertake any additional work without your agreement.

In addition to our fees you may also need to pay various out-of-pocket expenses (disbursements), which we will notify to you as they arise.

Who has to pay?

Our fees and expenses are payable by you, whether or not someone else has agreed to indemnify or reimburse you.

If there is more than one of you, you will be jointly and individually liable for money due to us, so we do not have to ask each of you to pay part of our bill, but can insist that any of you pays us in full.

If you instruct us to do work for a limited company, you will be personally responsible for payment if the company fails to pay. We know that some people do not want to give personal guarantees for their companies, but feel that, if you do not trust your company to pay, you should not expect us to take the risk.

How to pay

We operate a "no cash" policy for payments over £500: all other payments must be by BACS (preferably) or by cheque or by credit or debit card (for which an extra charge, to cover the payment handler's fee, may be made).

At the appropriate time, we will give you details of the relevant bank account to which funds should be credited. Please do not pay funds direct to our account without agreeing this with us - this could trigger a requirement for us to make a "suspicious activity report" under the anti-money laundering legislation, which would delay your work and could damage your interests.

In conveyancing and other transactions, we will let you know before the completion date what fees and expenses are involved, covering the work to date and the estimated remaining work. If substantially more than the estimated future work is in fact required, we may have to render a supplementary bill, but we try to avoid this. If there will be money due to you on completion, we will deduct our charges and expenses from that money and send you the net amount. If there is money needed from you (including for our fees) we expect to have that money (as cleared funds) before completion. In either case, we cannot pay out money to you or on your behalf unless we have that money as cleared funds in our account.

For other work that should not last more than a few weeks, we will either expect payment of an agreed fixed fee in advance or send you a bill when our work is finished. That bill should be paid by return.

For other work that lasts longer, we usually ask for payments as we go, and issue bills at reasonable intervals for work done so far. These may be monthly if we are busy on the case, but will be less frequent when there is less activity. Again, we expect you to pay by return. These interim bills will not necessarily be final bills for all work done to that date: they will be on account of the full bill for the completed work. If you pay late, we charge interest (at the statutory debt rate at that time) on any overdue amounts and may stop work until the account is brought up to date. We will also keep (ie: claim a lien over) any documents or funds of yours that we hold until all sums due to us are paid, and may pay the debt using funds held by us for other purposes on your behalf.

Any money held on your behalf is kept in clients' account (separate from our own office account) until it is needed, and earns interest while unused. Unless the amount payable would be less than our administrative charge, we will credit you with the interest that our bank would have paid were the money held in a separate deposit account, after deducting -

- an administration charge of £25 + VAT for calculating the interest and,
- a fair discount to compensate us for paying you interest before we are paid by the bank

If we deduct income tax from any interest payable to you, we will let you have a tax deduction certificate. If we pay you the money without deducting tax, you must pay the tax due on it, by including it as income in your next tax return

If we introduce you to another adviser (eg: a financial adviser) we may be paid a commission for this. That commission will normally cover the work involved in effecting the introduction and routine liaison with the adviser in future. We will tell you the amount (or likely amount) of the commission, to ensure you have no objection to us keeping it. Any commission will reduce our bill that would otherwise be payable by you. Whether commission is paid or not, we will only recommend an adviser whom we think is right for you.

Minimising our charges

If we have given a fee estimate or agreed a fixed fee, this will be on the basis that no delays or difficulties will be caused by you or others and that there will be no significant unexpected complications or problems.

There are some simple things you can do to help us minimise your bill:

- Please give us all the information we ask for promptly
- For non-urgent information, please contact us by email, letter or fax as we can deal with these much more efficiently than telephone calls
- Putting paperwork in date order and preparing a diary of events helps progress matters quickly.

Querying our charges

If you think we have overcharged you, please tell us: we may have made a genuine mistake, which we would be keen to correct.

Confidentiality

As lawyers, we are under a general professional and legal obligation to keep your affairs private. In addition, our *Personal Data Protection Policy*. In addition, our *Personal Data Protection Policy* ensures we comply with our legal obligations relating to the collection, storage, use and deletion of personal data.

However, we are required by current legislation to make a report to the National Crime Agency (NCA) where we know or suspect that a transaction involves money laundering or terrorist financing. By instructing us to act on your behalf in accordance with these terms of business, you give us irrevocable authority to make a disclosure to NCA if we consider it appropriate - this overrides your rights to confidentiality or legal professional privilege, and we will not be able to tell you if we have made a disclosure report.

Complaints, claims and compliance

We emphasise that we aim to offer all our clients an efficient and cost-effective service, and are confident that we will do so for you. If you are unhappy with any aspect of our service, however, please speak to Malcolm McLean or Anne Nelson, the managers, and we will try to resolve any problems. We want all our clients to be satisfied.

We have a formal complaints procedure, as attached.

We are regulated by the Council for Licensed Conveyancers: [WeWork, 131 Finsbury Pavement, London EC2A 1NT tel 020 3859 0904 - \[clc@clc-uk.org\]\(mailto:clc@clc-uk.org\) - \[www.clc-uk.org\]\(http://www.clc-uk.org\)](#) - and we carry the indemnity insurance cover required by them. If you make a valid claim against us for a loss arising out of work for which we are legally responsible and we are unable to meet our liability in full, you may be entitled to claim from the Compensation Fund administered by the CLC, from whom details can be obtained - https://www.clcuk.org/clc_compensation_fund.pdf.

We are not authorised by the Financial Conduct Authority ("FCA"). However, we are included in the register maintained by the FCA, so that we can carry on insurance distribution activities - broadly, advising on, selling and administering insurance contracts. This would normally be for the issue of conveyancing indemnity insurance policies, where we only deal with one or two insurers, as the market is very restricted. If you would prefer to use an insurance broker for such work (if needed in your case), please tell us at the time. Otherwise, this part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by the Council for Licensed Conveyancers, as above. The FCA's register can be accessed via the FCA's website at www.fca.gov.uk/register/home.do

Communications

We will normally contact you by email, letter or telephone. Please tell us if you prefer us to routinely use a particular method. There is a risk that a communication (particularly by fax or e-mail) might be intercepted or get lost, so please consider carefully which form of communication you would prefer.

If you want to speak to the person handling your work and they are not available, support staff will be happy to help you where they can or take a message. If you just want a call returned, let them know, and we will telephone you as soon as we can. It helps if you leave a message, and saves you money.

We are happy to confirm our advice to you in a letter - please specifically ask us to do this if the advice is important to you.

If there is more than one of you, you may wish to nominate one person to represent you all in dealings with us. If so, please give that person's name as the contact on the authority form. Any one of you can cancel this arrangement by writing to us. Please also bear in mind that we can only represent you if you agree with each other on what is to be done: if there is any conflict of interest, we will have to stop acting for any of you.

There are some particular points to bear in mind in relation to email communication:

- We check our email frequently, except when the office is closed. We will always reply promptly to emails, even if only by way of a brief acknowledgement initially. A full reply may take longer to compose. Please do not assume that, simply because you have sent a message, it has been received: if you do not get an acknowledgement within 24 hours or so, please re-send the message, or contact us in some other way to ensure your message has arrived.
- You should treat the security of email messages about the same as a message on a postcard. Anyone along the chain of distribution could get to see what you or we have said, and it might even end up in someone else's hands. If you or we have sensitive messages to send, we can agree to use encryption - subject to the point that this is illegal in some jurisdictions, and we have no way of ensuring that messages are not routed through those jurisdictions. Please tell us if you want us to encrypt our messages, so that we may discuss how. Alternatively, sensitive messages can be sent by some other, more secure, medium.
- Unless you specifically instruct us otherwise, we will assume that, if you authorise us to communicate with you by email, you also authorise us to communicate by email with you and others on your work.
- We believe emails should be kept fairly brief. Lengthy or detailed messages are not normally appropriate for emails, and we will normally send such messages as attachments or by post.

At the end of a matter

You may terminate your instructions at any time by writing to us, but we may keep all your documents until you have paid us in full.

When our work on any particular subject is finished, we will archive the working file until our audit for that year is finished. Unless there is a good reason for keeping the paper file, we will then scan it for permanent archiving and destroy it - if you would prefer us to send the file to you, instead of destroying it, please tell us when we let you know we are closing the file.

Any original deeds, Wills or other documents we have agreed to hold in safe-keeping for you, will (of course) not be destroyed.

We retain archived files for at least six years - but 15 years for purchases and indefinitely for Wills - and can retrieve them to answer any questions you might have. There is normally no charge for this if the matter has recently finished, as the file will be stored at our office for about six months after the matter ends. Once a file is archived, or if a significant amount of time or work is needed to answer your queries, we may charge retrieval and copying costs and for our time.

We always welcome constructive criticism. If, at any stage of a transaction (particularly at the end) you have any comments or suggestions to make, good or bad, we would be pleased to hear them. We try continuously to improve the service we give our clients, and clients themselves are the best people to tell us how we can achieve this.

We look forward to working with you.

CANCELLATION FORM

To: Nelson McLean Limited
Bell House
Bells Lane
TENTERDEN, Kent
TN30 6ES

Fax: 01580 767101

Email: mail@nelson-mclean.co.uk

I/we hereby give notice that I/we CANCEL our contract with you for the supply of legal services ordered on _____ *[insert date]*

Name(s): _____

Address: _____

Signature(s): _____
(only required if this form is notified on paper)

Date: _____ 20 _____

COMPLAINTS PROCEDURE

If you have any complaint about the way in which your matter has been dealt with, this is the procedure which will be followed:

1. A complaint is an oral or written expression of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience, or detriment.
2. We aim to resolve any complaint you have about the service we have given you as quickly as possible. If you are unable to sort things out with me please let me know in writing and I shall ask Anne Nelson, my co-manager here, to look into your complaint for me.
3. Once we have received your complaint, Anne Nelson will write to you within seven days to explain how your complaint will be investigated, if a complete response to your complaint has not been made by that time. You will be told the latest date by which a complete answer will be given to your complaint (this should be not more than 28 days after we received your complaint). If you have made the complaint verbally - either at a meeting or on the telephone - we will set out in our full response our understanding of the nature of your complaint.
4. The assessment of the complaint will be based upon a sufficient and fair investigation. We will explain in writing our findings and where the complaint is upheld will offer remedial action or redress. This will be actioned promptly.
5. If you are dissatisfied with the way your complaint is handled please let me know in writing and I shall ask another local Licensed Conveyancer or solicitor to conduct a separate and independent review of your complaint for me. You will be told about the conclusion of this review within 28 days.
6. If, after following the review process, you remain dissatisfied with any aspect of our handling of your complaint, you may contact the Legal Ombudsman's office directly to ask them to consider the complaint further:

Telephone: 0300 555 0333

Email: enquiries@legalombudsman.co.uk

Website: <http://www.legalombudsman.org.uk/>

Postal address: Legal Ombudsman PO Box 6806, Wolverhampton WV1 9WJ

Unless he or she agrees there are good reasons not to do so, the Legal Ombudsman will expect you first to let us try to resolve your complaint in line with our above procedure. You can refer your complaint up to 12 months after you have received our final written response to your complaint. You can also use the Ombudsman service if we have not resolved your complaint within eight weeks of us receiving it. A complaint can be referred to the Legal Ombudsman up to six years from the date of the act or omission or up to three years after discovering a problem. The Ombudsman deals with servicereLATED complaints only - any conduct-related complaints should be referred to the Council for Licensed Conveyancers.

We will keep a record of all complaints received and the action taken.