

OLD SQUARE TAX CHAMBERS

OLD SQUARE TAX CHAMBERS STANDARD TERMS OF WORK

Version 2.3.5

1. Definitions

In these Standard Terms of Work:

- 1.1. **“Old Square Tax Chambers”** means the barristers chambers practising from 15 Old Square, Lincoln’s Inn, London WC2A 3UE.
- 1.2. **“The Bar Standard Conditions”** means the Standard Contractual Terms for the Supply of Legal Services by Barristers to Authorised Persons 2020 .
- 1.3. Subject to clause 3 below, terms defined in the Bar Standard Conditions have the same meaning in these Standard Terms of Work.

2. Standard Terms of Work

- 2.1. These Standard Terms of Work are the standard terms on which Barristers of Old Square Tax Chambers offer to accept instructions.
- 2.2. These Standard Terms of Work apply to Instructions accepted from 10 August 2021.

3. Incorporation of the Bar Standard Conditions

These Standard Terms of Work incorporate the Bar Standard Conditions with the following modifications:

- 3.1. References to **“the Authorised Person”** include any person instructing the Barrister to provide the Services.
- 3.2. **“The Agreement”** means the agreement on the terms of these Standard Terms of Work.
- 3.3. The following shall be added as Condition 15.3:
“15.3 If any provision of these Conditions is found to be invalid or unenforceable but would be valid or enforceable if its scope of operation were reduced, then the provision in question will apply with such minimum diminution in the scope of its operation as is necessary to make it valid and enforceable”.

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4. Withdrawal of acceptance of Instructions by reason of failure to satisfy the requirements of the Money Laundering Regulations 2017

If a Barrister withdraws acceptance of Instructions in accordance with Condition 4.4 of the Bar Standard Conditions, the Authorised Person shall be liable for fees in respect of work done before the withdrawal of Instructions notwithstanding that by reason of failure to comply with The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 the Barrister has not provided Services.

5. Limitation of liability to Insured Amount

5.1. The Barrister shall not be liable to the Authorised Person, the Lay Client or to any other person, as a result of any loss or damage of whatsoever nature suffered or arising directly or indirectly in consequence of the Services, to pay any amount which would or might be otherwise payable by way of damages and costs as a result of any such loss or damage, beyond the Insured Amount.

5.2. In a case where a claim is made against the Barrister by more than one person, the Barrister's aggregate liability to pay any such amount by way of damages and costs shall be restricted to the Insured Amount. As between two or more such claimants, their claims to damages and costs shall have priority in the order in which they are made.

5.3. In this clause "the Insured Amount" is the greater of:

5.3.1. The amount which the Barrister is actually entitled to recover and does in fact recover in respect thereof from the Barrister's professional indemnity insurers (after allowing for any sum recovered in respect of costs).

5.3.2. In a case where the Barrister has failed to insure with Bar Mutual Indemnity Fund Ltd in accordance with the requirements of the Code of Conduct, the amount which the Barrister would be entitled to recover had the Barrister so insured (after allowing for any sum recovered in respect of costs).

5.4. This clause is without prejudice to clause 6 of these Standard Terms and condition 10 of the Bar Standard Conditions.

6. Total exclusion of liability where advice not confirmed in writing

6.1. The Barrister shall not be liable to the Authorised Person, the Lay Client or to any other person, as a result of any loss or damage of whatsoever nature suffered or arising directly or indirectly in consequence of advice given orally by the Barrister, to pay any amount which would or might be otherwise

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payable by way of damages and costs as a result of any such loss or damage, unless that advice is confirmed in writing by an Opinion or note settled by the Barrister.

6.2. This clause is without prejudice to clause 5 of these Standard Terms and condition 10 of the Bar Standard Conditions.

7. Authorised Person's Duty to inform Lay Client

7.1. At the commencement of any instructions, an Authorised Person must inform the Lay Client of the following matters:

7.1.1. The restrictions on liability in clauses 5 and 6 above.

7.1.2. The Lay Client's right to make a complaint under the Old Square Tax Chambers complaints procedure (details of which are obtainable from the chambers website).

8. Electronic Communication

8.1. A Barrister may send advice and other emails relating to the Services in unencrypted form, unless otherwise instructed in writing, notwithstanding clause 6.1.2 of the Bar Standard Conditions.

9. Payment in advance

9.1. If the Barrister's fees are paid in advance, beneficial ownership of the money shall pass to the Barrister on receipt of the payment.

9.2. If it is agreed that:

9.2.1. a Barrister's fee for any work will be charged according to the time spent on it, but

9.2.2. the Barrister will be paid a fixed fee in advance for it, and

9.2.3. when the work has been done, the Barrister will pay the client any difference between that fixed fee and the fee which has actually been earned the barrister will not hold the difference between the fixed fee and the fee which has been earned on trust for the client, but will be subject to a contractual liability to make the appropriate refund.

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Important Notes

The attention of instructing agents is drawn specifically to the following points:

- (i) The Authorised Person is legally liable for the payment of a Barrister's proper fees whether or not they have been placed in funds by the Lay Client.
- (ii) Liability is restricted (in short) to the amount which the Barrister actually recovers from their professional indemnity insurers in respect of the particular claim..
- (iii) Liability for oral advice is excluded altogether unless that advice is confirmed by the Barrister in writing (which would include confirmation by email). That confirmation may take the form of a formal opinion by the Barrister or a note prepared by the instructing agent which is then approved and settled by the Barrister.
- (iv) The amount of professional indemnity insurance a Barrister has will vary from year to year, and from one Barrister to another, in accordance with the circumstances of the Barrister and the insurance market from year to year. The insurance cover available will be that applicable at the time of the claim and not at any other time.
- (v) At the time of adoption of these Standard Terms, no Barrister is insured for less than £500,000 and none is insured for more than £150m (which is the limit offered by the principal bar insurers). An Authorised Person who wishes to ascertain the amount for which a Barrister is currently insured, or to discuss limitation of liability issues, should discuss the matter with the Senior Clerk or Barrister concerned. The Senior Clerk would be happy to discuss the possibility of a Barrister increasing their insurance cover (if available through the principal bar insurers) though this may have cost implications.
- (vi) It is the duty of Authorised Persons to draw the attention of the Lay Client to the important matter of these restrictions of liability, and the Old Square Tax Chambers complaints procedure.
- (vii) Any person wishing to instruct a Barrister on terms other than the Standard Terms should discuss the matter with one of the clerks at Old Square Tax Chambers. Please note, however, that any alteration in the terms upon which Services are provided may have cost implications.
- (viii) A copy of the standard terms which applied before the current version is available on request from the clerks.

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References

The Code of Conduct of the Bar of England and Wales (4.6/31 December 2020) is accessible at: <https://www.barstandardsboard.org.uk/for-barristers/bsb-handbook-and-code-guidance/the-bsb-handbook.html>

The Old Square Tax Chambers complaints procedure is accessible at: <https://www.taxchambers.com/complaints-procedure/>

The Bar Standard Conditions can be found at:
[https://www.barcouncilethics.co.uk/documents/contractual-terms/?dm_i=4CGD,12EZ2,182YGD,4UGAT,1\(amended](https://www.barcouncilethics.co.uk/documents/contractual-terms/?dm_i=4CGD,12EZ2,182YGD,4UGAT,1(amended)

Version 2.3.5 (amended due to changes to the Bar Standard Conditions and to refer to current Insurance limits) Adopted to apply from 10 August 2021