

(date)

(name)

(address)

pension law services

Dear Mesdames, Dear Sirs (or) (name),

Thank you for your invitation to advise you, [made originally by (name) in several telephone conversations with me and subsequently at our meeting on (date)]. Pensions is the area of law in which I specialise, and I hope that I shall be able to help you with any pension law that you need. This letter explains the basis on which we can agree my work, the extent of our respective responsibilities and how I am to be paid.

A the question

(Brief summary of facts and questions).

[B A conflicts of interest]

I have been asked to advise both (name) & Co Ltd, as the scheme employer, and the trustees of the (name) Pension Scheme and draw your attention to some consequences. First there is a risk of a conflict of interest between the employer and the trustee.

Where there is a conflict, one adviser cannot advise both parties. We need to discuss this issue before my terms of engagement are agreed. There is no legal objection to a solicitor advising both parties to a transaction, where there is no conflict or where there is a common interest, which is defined in the Code published by the Solicitors' Regulation Authority as follows:

'... for the purposes of Chapter 3 of the SRA Code of Conduct, means a situation where there is a clear common purpose in relation to any matter or a particular aspect of it between the clients and a strong consensus on how it is to be achieved and the client conflict is peripheral to this common purpose.'

My impression is that in the present situation there is no actual conflict between the employer and the trustee and that here is a substantial common interest between them. If a material conflict of interest were to arise between the employer and the trustees, it is likely, because of

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confidential information that I will received from both, that I would have to cease to advise both, unless one party, after receiving advice on the point, were to agree to me continuing to advise the other.

If therefore you wish me to advise one party only, which is prudent, I suggest that I advise the trustees and that the employer is advised by its normal solicitors. If the trustees instruct me to advise and unless they instruct me otherwise on this point, I shall assume that they and the employer work on an "open-book" basis and that advice that I prepare will be read by the employer as well as the trustees, or vice versa if the employer instructs me.

C contact terms

I attach to the covering email a PDF copy contract signed by me but undated. If you agree it please make a print of it, sign and date it and email a copy back to me. If you do not agree it, please ring me so we can discuss what terms would be acceptable to you.

I attach to the covering email two specimen contracts, one with each of you. If each of you or whichever of you instructs me agree them, I shall prepare copies for signing. If not, please ring me so we can discuss what terms would be acceptable to you. When these are agreed I will prepare a copy for signing.

D money laundering etc

All professionals, banks and others are subject to Government imposed responsibilities under the money laundering and anti-crime and -terrorist legislation and are required to make enquiries about new clients. Part of this exercise is to know that the person with whom I am dealing is who he or she (or it) claims to be.

The necessary details about (*name*) are available on the Companies House website, copies of which I have downloaded. In addition I need please to see personal ID of you and at least one director involved in the present transaction. The ID can be in the form of (a) either a passport or driving licence and (b) either an up to date bank/credit card statement or a council tax/utilities bill at your present address. I will accept copies certified by another solicitor, chartered accounts or similarly qualified professional as true copies of the originals and attach a suitable note to the covering email.

Before advising individuals, I need, in order to comply with counter money-laundering and terrorism regulations, to see personal ID, usually (a) either a passport or driving licence and (b) either an up to date bank/credit card statement or a council tax/utilities bill at your present address. I will accept copies certified by another solicitor as true copies of the originals. I will also accept a certificate from another solicitor in the form of the specimen attached to the covering email.

E trustees' appointment

As I shall be advising the pension scheme's trustee there is a requirement that I am appointed by it in the way required by s47 the Pensions Act 1995. I attach to the covering email a letter from them to me which satisfies that requirements. If you agree it, I shall make two prints of it, sign both and send them to you for one to be countersigned and returned it to me.

F information required

Please supply up to date copies of the scheme's trust deeds, rules, dispute resolution procedure, conflicts policy, members' booklets, recent announcements and letters to members, the latest actuarial valuations, trustees' report and accounts and return to the Pensions Regulator and any recent correspondence with the Regulator, HMRC, the Pensions Advisory Service and ombudsman, the actuary and any members who have raised queries or complaints.

Please also, if I am likely to be required to advise about them, let me have similar information about other pension schemes in relation to which the employer is a scheme employer

G costs estimate

At this stage, as my appointment will be to advise as and when needed, I cannot make any realistic estimate of the likely cost of any work that you might require. My charging rate is £300 plus VAT per hour. On the basis not my timesheet to date, of which I attach a copy to the covering email, my costs to date would be £[.....] plus VAT, but I aim, when the work had been done or at any convenient point during my work, to agree amounts to be billed and not necessarily to rely solely of time calculated amounts. Whenever it is possible in respect of any particular instruction I shall try to give you an estimate of its cost

H the employer's normal solicitors

I take it that [your (*or*) the employer's normal solicitors are (*name*) [LLP] of (*address*). I am accustomed to working alongside other solicitors in my specialist field of work and, as I am a sole practitioner in a highly specialised area, other solicitors do not feel vulnerable about their clients. If you think that it might be useful, I will be pleased to be in touch with them about any advice that I give that relates to other aspects of the employer's business.

I look forward to hearing from you.

Yours faithfully