



TERMS & CONDITIONS OF BUSINESS

1. GENERAL

- 1.1. These terms and conditions together with our client engagement letter and its enclosures (and if applicable any funding agreement) form the contract between you and Levi Solicitors LLP (the “Firm”).
- 1.2. The expressions “you” and “your” refer to you, our client.
- 1.3. The expressions “we”, “us” and “us” refer to Levi Solicitors LLP, a Limited Liability Partnership registered under Company Number OC316402 and who’s registered office is at 33 St Paul’s Street, Leeds LS1 2JJ.Tel: 0113 244 9931.
- 1.4. Levi Solicitors LLP is regulated by the Solicitors Regulation Authority under number 440411. More details can be found at www.sra.org.uk.
- 1.5. The term “Partner”, if used, denotes a member of Levi Solicitors LLP or an employee or consultant of Levi Solicitors LLP with equivalent standing and qualifications.
- 1.6. Further information can be found on our Website at www.levisolicitors.co.uk/about

2. PLACE AND HOURS OF BUSINESS

- 2.1. The person(s) dealing with your matter will be based at the office you normally receive correspondence from. Our normal office hours are 08:30 – 17:30 Monday to Friday. Appointments can be arranged outside of the office when essential to your best interests. Presently our offices are situated at 33 St Paul’s Street, Leeds, LS1 2JJ or Unit 9 Silkwood Park, Fryers Way, Ossett, WF5 9TJ. We also have appointment only offices at 32 Threadneedle Street, London EC2R 8AY and Harrogate Business Centre, Hammerain House, Hookstone Avenue, Harrogate HG2 8ER.

3. PERSONNEL

- 3.1. Your contract is with Levi Solicitors LLP. It is often the case that different matters require different specialisms and we will allocate your matter (with your approval) to the most appropriate person and/or team so as to be able to provide you with the best possible advice. If it becomes necessary to change the

person or team we will notify you as soon as practicably possible.

4. AUTHORITY TO GIVE INSTRUCTIONS

- 4.1. We shall assume, unless we are advised otherwise, that the only person or persons able to give instructions are you, if you wish for us to receive instructions from anyone else you must notify us of this in writing. In the event that you are a corporate entity we shall only take instructions from the Directors, Members and Officers of the corporate entity unless otherwise notified in writing

5. EQUALITY & DIVERSITY

- 5.1. We operate a policy of equality throughout the Firm and we do not discriminate against any person on the grounds of sex, race, marital or civil partnership status, sexual orientation, gender reassignment, pregnancy, maternity or paternity, disability, age, religious or other beliefs.

6. CONFIDENTIALITY AND CONFLICTS

- 6.1. Unless otherwise authorised by you we will keep confidential any information which we acquire about you, unless it is information which is already in the public domain or which is already lawfully in our possession at the time it is communicated by you to us, or we are required to disclose any such information:
 - 6.1.1. To our auditors, external assessors or other advisors or for the purposes of obtaining professional indemnity insurance or similar or;
 - 6.1.2. To any third party under the terms of an arrangement authorised by you regarding the funding of our charges, disbursements or for the purposes of acquiring an insurance policy for your benefit;
 - 6.1.3. By law or regulatory body we are subject to;
 - 6.1.4. To any third party, for example, but not limited to, counsel, experts, After the Event Insurers or any other third party with whom we are required to interact to progress your matter.



6.2. If we engage other professional advisors to assist with the matter, we will endeavour to ensure that they treat as confidential any information we give to them.

6.3. You should treat all information passing between us as confidential. If you do not there is a risk that any legal professional privilege or advice privilege which would normally attach to such communications may be lost. If you are in doubt about this, please let us know.

7. CONFLICT

7.1. Solicitors are not permitted to act where there is a conflict of interest; for example, we cannot usually act for buyer and seller in property transactions, nor claimant and defendant in litigation actions. We cannot disclose to you information about any other client we have, nor will we disclose any information about you to any other client unless specifically authorised to do so in writing by you.

7.2. We have conflict identification procedures in place, and this will help us to avoid situations arising which involve a conflict of interest either between clients or between a client and the Firm.

8. LIABILITY

8.1. We acknowledge that we will be liable to you for losses, damages, costs and expenses including interest ("Losses") caused by our negligence or the negligence of our employees, subject to the following provisions:

8.2. We shall have no other liability of any nature, whether in contract, tort or otherwise, for any Losses whatsoever and/or howsoever caused, arising from or in any way connected with the matters in relation to which you are instructing us.

8.3. Furthermore by agreeing to these terms and conditions you agree that any such claim, whether in negligence or for breach of contract, shall be against Levi Solicitors LLP and not any individual member or employee.

8.4. We shall not be liable if such Losses occur and are due to the provision of false, misleading or incomplete information or documentation or if and to the extent that such Losses are due to any act or omission of any person other than us.

8.5. Unless otherwise agreed between us in writing, our aggregate liability, whether to you or any third party, of whatever nature, whether in contract, tort (including negligence) or otherwise, for any Losses whatsoever and howsoever caused arising from or in any way connected with the matters in relation to which you are instructing us shall not exceed £3,000,000.

8.6. Nothing in these provisions shall exclude or restrict any liability arising from fraud or dishonesty or any other liability which by law cannot be excluded or restricted.

9. INDEMNITY COVER

9.1. We maintain Professional Indemnity Insurance, with Travelers One Creechurch Place, London EC3A 5AF, our policy number is: UCSOL3942267, which means we are covered for claims arising out of your matter, and you are protected by comprehensive professional indemnity arrangements to the limit of our cover, details of which can be supplied on request. This should be read in conjunction with paragraph 8 above.

10. REGULATIONS AFFECTING YOUR CANCELLATION RIGHTS

10.1. This paragraph only applies to consumers (i.e. individuals) and only to private matters (i.e. not associated with your trade or profession) and where we have not met you or we have met you away from our business premises:

10.2. The Consumer Contracts (Information, Cancellation and Additional charges) Regulations 2013 provide that you have the right to cancel this contract if: (a) this contract is a distance contract i.e. a contract concluded under an organised distance service-provision scheme solely by distance communication and we have not met with you before the contract is concluded, or (b) this contract is an off-premises contract i.e. a contract concluded away from our offices (e.g. at your home), or, in limited circumstances, a contract concluded at our offices after meeting with you away from our offices. If our contract is an 'on-premises' contract, you do not have the right to cancel under these Regulations.

10.3. If the right to cancel applies, you have the right to cancel this contract, without giving any reason within 14 days of the date of the letter or email attaching this contract. To do so, you can



let us know by your clear statement via (for example) post, fax or email. If you prefer, you can download and print the cancellation notice from our website <https://levisolicitors.co.uk/model-cancellation-notice/>. You can also use the cancellation form attached to our client engagement letter. To meet the cancellation deadline, it is sufficient that you send your cancellation notice before the end of the 14-day period. If our services have concluded before the end of the cancellation period, your right to cancel will be lost if you have instructed us to commence work before the 14 day period has expired.

10.4. If you are unsure about anything in this sub-section please contact us immediately.

10.5. If you cancel this contract we will, without charge and within 14 days of you telling us, reimburse funds received from you, but only to the extent that they have not already been paid out on your behalf as instructed. Work cannot commence on a matter to which the right to cancel applies within the cancellation period, unless you make an express request. If you requested to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed, until you have communicated to us your cancellation of this contract, in comparison with the full coverage of this contract.

11. LIABILITY FOR COSTS AND EXPENSES

11.1. You are primarily responsible for paying our costs and expenses, even if you have entered into an agreement for another party to pay or share them.

11.2. If our instructions in relation to a matter are received from more than one party, each party for whom we are acting will be jointly and severally responsible for payment of the whole of our costs and expenses.

11.3. By appointing us to act on your behalf you also authorise us to incur such expenses and disbursements as we consider necessary.

11.4. These disbursements will be provided to you at cost. VAT will be added to those expenses and disbursements which are liable to VAT. We will consult with you before incurring any significant expenses and disbursements.

11.5. Examples of expenses and disbursements which we may have to pay on your behalf include Land Registry search and registration fees, stamp duty, court fees, counsel's and other experts' fees.

11.6. We reserve the right to charge expenses of travel, accommodation and meals while travelling away from the office in relation to your matter and also for photocopying costs incurred on your behalf.

12. CHARGES

12.1. Our costs are normally calculated by reference to the rates of the legal personnel who deal with the matter. Hourly rates vary according to the seniority and experience of the legal personnel. Other factors may also be taken into account, including the complexity, urgency and value of the matter, and an additional sum may be added. Time spent on your affairs will include meetings with you and perhaps others; preparing and working on papers; research; correspondence (including emails); making and receiving telephone calls; and travelling.

12.2. Please note that although our hourly rates are set in line with market rates, these rates may differ from those that we can recover from your opponent or are allowed by the Court at assessment. We will endeavour to recover the maximum amount of potential costs however any shortfall on the rates and/or overall costs is recoverable from you.

12.3. Routine letters that we write and receive, routine telephone calls that we make and receive and routine emails that we send and receive will be charged as units of 1/10th of an hour i.e. 6 minutes. Other letters calls and emails will be charged on a time spent basis.

12.4. Our rates are reviewed annually to take into account changes in our overhead costs and inflation, and we will notify you of any changes. We will also notify you of any change in the status of legal personnel which affects their hourly rate. VAT will be added at the rate which applies when the work is done. All estimates or quotations given by us are exclusive of VAT.

12.5. If we have provided you with a quote or fixed fee for the work you require to be carried out then that will be our fee unless we have agreed otherwise. We will endeavour where possible to agree fees where it is appropriate to do so, for example, for carrying out a property



transaction, preparing a will or reviewing papers.

- 12.6. In some case such as litigation matters it is not possible to give a fixed fee for our services and/or disbursements and in those circumstances, we will provide you with an estimate of costs. If we have provided a written estimate of the total charges to you, it is given only as a guide to assist you in budgeting and should not be regarded as a fixed quotation unless otherwise agreed in writing. In the event that our estimate changes we will update any such estimate at least every six months. We will also inform you if any unforeseen but significant additional work becomes necessary (for example, due to unexpected difficulties or if your requirements or the circumstances significantly change during the course of the matter). We will inform you in writing before any significant extra costs or expenses are incurred. We will not incur any disbursements such as experts' fees, counsel's fees or court fees without obtaining your consent to do so
- 12.7. You may set a limit on the costs to be incurred. This means that you must pay costs and/or expenses up to the agreed limit without our needing to refer back to you. We will inform you as soon as it appears that the limit may be exceeded, we will not exceed the agreed limit without first obtaining your consent to do so. If, for any reason, this matter does not proceed to completion, we will charge you for the work done and expenses incurred.
- 12.8. It is normal practice to ask clients to pay sums of money from time to time on account of the costs and disbursements which are expected in the following weeks or months. This helps to avoid delay in the progress of the case. Full details of the payments required on account of charges will be incorporated in the letter sent with the terms of business. We may request further payments on account for costs to be incurred as the matter progresses. For work already completed please see below. When we put these payments towards your bills, we will send you a receipted bill.
- 12.9. We will also utilise any monies recovered on your behalf against our outstanding costs. For example, where we recover any damages or compensation for you this will be used to discharge any fees owing to us prior to those monies in respect of damages being paid to you. For further information, please refer to our costs information sheet. We will offset any such

payment against your final bill, but it is important that you understand that your total costs may be greater than any advance payment.

13. BILLING ARRANGEMENTS

- 13.1. Our invoices are delivered pursuant to the provisions of the Solicitors Act 1974, the Solicitors' (Non-Contentious Business) Remuneration Order 2009 and the SRA Standards & Regulations together with any statutory re-enactment or modification thereof and any regulations made thereunder as applicable from time to time.
- 13.2. Please note that our invoices will be delivered to you in electronic format only, unless you advise us you wish to send the same by other means.
- 13.3. We will be entitled to send you an interim request for payment on account, usually monthly unless otherwise agreed or we have agreed a fixed fee for the entirety of the work. Once the matter has completed, or in anticipation of a matter completing, we will send you a final invoice. This, together with the interim requests on account, shall make up the entirety of our charges for the matter.
- 13.4. Unless you request otherwise, our final bill will only cover work carried out from the preceding interim request for payment on account. You are entitled to request a final statute bill covering the entirety of the work you should do so within 1 month.
- 13.5. You will also have the ability, if you so wish, to have our bills assessed by the Court pursuant to S.70 of the Solicitors Act 1974. Please see Part 3 Remuneration Of Solicitors of the Solicitors Act 1974
- 13.6. Accounts when rendered and requests for payment on account generally should be settled within 7 days. If accounts or requests for payment on account are not paid within 7 days, we reserve the right to do no further work on your behalf until payment is received and to charge interest on overdue accounts at 4% above the Royal Bank of Scotland base rate for the time being in force. If you have any queries about your bill you should contact the fee earner straightaway.
- 13.7. Due to changes in legislation regarding credit card/debit card charges we are only able to



accept credit card payments up to a maximum of £1,000.00 per matter, and debit card payments of up to a maximum of £5,000.00 per matter.

14. MONEY RECEIVED FROM YOU

14.1. Our client engagement letter or Ways to Pay document will usually provide our bank details. In the event that it does not our bank details are Levi Solicitors LLP Client Account, Royal Bank of Scotland, 27 Park Row, Leeds Ls1 5QB. Sort Code: 16-23-17 Account Number: 11733711 These will not change. Be alert for fraudsters pretending to be Levi Solicitors LLP and providing false bank details. Always refer to the original client engagement letter or these Terms and Conditions for the correct bank details and telephone a verified number if in doubt. We will not be liable if you send monies to an account which is not ours.

14.2. Please note that where there is a residual balance on any matter we will attempt to contact you on two occasions, if we are unable to make contact with you any sum under £50 will be donated to a charity of our choice.

15. ANTI-MONEY LAUNDERING RULES

15.1. We are required to comply with the legislation governing money laundering, this includes but is not limited to the Money Laundering Regulations 2017 and the Proceeds of Crime Act 2002.

15.2. To satisfy our internal procedures and regulator obligations we will conduct identification verification. We will require you to provide photo identification and verification of your address. If you are giving instructions on behalf of a corporate entity, we will require not only documentation relating to the corporate entity but also the individual giving those instructions.

15.3. We will also require source of funds documentation in property related transactions.

15.4. We reserve the right to cease acting for you in the event the above is either not provided or is inadequate for our purposes.

15.5. As a part of our obligations under Money Laundering and Proceeds of Crime legislation, we must undertake due diligence in establishing the identity of our clients at an early stage. We are now able to conduct address

identification checks by electronic methods and in order to ensure compliance with these obligations it is now our Firm-wide policy to carry out all address ID checks in this manner.

15.6. These searches may be made with a credit reference or Fraud Prevention Agency, including information from the Electoral Roll. The agencies will record the details of the search whether or not your matter proceeds. Other lenders may share these searches in order to prevent fraud. Scoring methods may be used as part of this process.

15.7. The cost of this procedure is £10.00 plus VAT per person.

16. POLICY ON THE PAYMENT OF INTEREST

16.1. In accordance with the SRA Accounts Rules, client monies are held in an instant access account for immediate availability unless you instruct (or circumstances clearly indicate) otherwise and it is practicable to hold funds without instant access.

16.2. We account to you for gross interest (which should be declared to HMRC) when the Guidance to the SRA Accounts Rules indicates that it is fair and reasonable to do so, that is: at the conclusion of the matter for interest on cleared funds held in our instant access client account if

- the cleared funds exceed £1,000 and are held for more than 8 weeks
- the cleared funds exceed £2,000 and are held for more than 4 weeks
- the cleared funds exceed £10,000 and are held for more than 2 weeks
- the cleared funds exceed £20,000 and are held for more than 1 week

unless the amount calculated is £20 or less and/or there is a written agreement to contract out of payment of interest.

17. TERMINATION

17.1. You may terminate your instructions to us in writing at any time but we will be entitled to keep all your papers and documents while there is still money owing on the account.

17.2. In some circumstances we may consider that we ought to stop acting for you; for example if you cannot give clear or proper instructions on how we are to proceed, or if it is clear that you



have lost confidence in how we are carrying out your work. We may only decide to stop acting for you with good reason, for example, if you do not pay an interim bill or comply with our requests for a payment on account. We must give you reasonable notice that we will stop acting for you. If you or we decide that we will no longer act for you, you will have to pay our charges and expenses as set out above.

17.3. We are entitled to exercise a lien over your file of papers until such time as any outstanding sums have been paid to us.

18. DATA PROTECTION

18.1. We, as a data controller, are bound by the requirements of the General Data Protection Regulation and Data Protection Act 2018. Our lawful bases for obtaining, using, processing and disclosing your personal data are: *Performance of a contract to which the data subject is party, or steps prior to entering into a contract at the request of the data subject and Compliance with a legal obligation the controller is bound to comply with and Legitimate commercial interests.* Our purpose in holding and processing your personal data include: to enable us to discharge the services which we have agreed to provide, updating client records, analysis for management purposes, legal and regulatory compliance, and marketing of our services in ways you would reasonably expect, and which have a minimal privacy impact.

18.2. You also have rights under the law, free of charge (except in limited circumstances), to;

18.2.1. Find out the personal information we hold on you by making a 'subject access request'

18.2.2. Rectification of your personal data if it is inaccurate or incomplete.

18.2.3. Portability (transfer) of your personal data to you in machine-readable form.

18.2.4. Erasure; if you object to us continuing to process your personal data, and the processing can no longer be justified. We can refuse if the data is being held or processed in connection with any legal proceedings or prospective legal proceedings; and, in order to establish, exercise or defend the Firm's legal rights.

18.3. Please make any subject access request in writing to Janet Babington, Levi Solicitors LLP, 33 St Paul's Street, Leeds LS1 2JJ, or by email janet@levisolicitors.co.uk. Please refer to the Privacy Notice on our website.

You have the **right to object** to our direct marketing at any time, by emailing: unsubscribe@levisolicitors.co.uk, or by clicking the box on the Privacy Notice on our website, or by notifying the fee earner responsible for your matter by post/telephone/in person.

19. COMPLAINTS PROCEDURE

19.1. We aim to provide an excellent service but, in the event,, you are unhappy please contact our Complaints Partner at our Leeds office - telephone 0113 244 9931 or email info@levisolicitors.co.uk .You can of course write to at Levi Solicitors LLP ,33 St Pauls Street Leeds LS1 2JJ.

19.2. We will endeavour to acknowledge your complaint with 48 hours and respond fully within 8 weeks.

19.3. You have the right to complain to the Legal Ombudsman within 6 months of our written response (extended time limits of 3 or 6 years may apply in certain circumstances):-
Tel: 0300-555-0333;

Email: enquiries@legalombudsman.org.uk;

Address: PO Box 6806, Wolverhampton WV1 9WJ.

20. THIRD PARTIES

20.1. This firm is committed to best practice in providing our clients with a quality service and, as proof of this commitment the firm holds the Law Society Quality Marks in: Legal Practice Management and Client Care; Conveyancing; Immigration & Asylum; and Immigration Law Advanced. This means that periodic assessments of our files by external assessors are required. All such assessors are bound by the same rules of confidentiality as we are. In order for the assessors to determine that we are consistently following our quality procedures,



they will need to look at a random selection of our files. Our lawful basis for allowing inspection of your file(s) by such external assessors is: Compliance with a legal obligation the controller is bound to comply with, and Legitimate Commercial interests.

- 20.2. Please note that we may use external service providers for administrative activities such as telephone call handling and professional activities such as accountancy. By signing and returning our client engagement letter and/or continuing to instruct us, you give your consent to such providers having such access to the confidential information you provide to us as to enable them to provide their services to us.

21. REFERRALS TO THIRD PARTIES

- 21.1. If we recommend that you use a particular firm, agency or business, we shall do so in good faith and because we believe it to be in your best interest. If we recommend that you use a particular firm, agency or business that we are aware only offer products from one source, we shall notify you in writing of this limitation. If we have any financial or other interest in referring you to another person or business, we will inform you of this in writing. We do not receive prohibited referral fees.

- 21.2. If we recommend that you use a particular firm, agency or business, we shall not be liable to you for any advice you may be given by that firm, agency or business and you are advised that if that firm, agency or business is not another firm of solicitors you will not be afforded the regulatory protection of the Solicitors Regulation Authority or of the SRA Code of Conduct and Solicitors Indemnity Insurance Rules, nor shall you be entitled to the benefit of the Solicitors' Compensation Fund.

22. REFERRALS FROM THIRD PARTIES

- 22.1. If your matter has been referred to us by a non-lawyer third party, such as a claims management company, we shall inform you in our client engagement letter if we have a financial arrangement with that third party and shall disclose to you the amount of any payment we make to that third party to thank them for referring you to us. We do not pay prohibited referral fees.

- 22.2. If we receive a financial benefit as a result of acting for you, we will tell you of the amount in our client engagement letter, and will only be

able to retain it if you signal consent by signing and returning our client engagement letter. If the third party is paying us to provide services to you, we shall disclose to you the amount the third party is paying us to provide those services to you and, if applicable, the amount you are required to pay the third party.

- 22.3. If you have been referred to us by a third party, we confirm that any advice we give you will be independent and that you are free to raise questions on all aspects of your claim, and we further confirm that information disclosed to us by you will not be disclosed to the introducer unless you expressly consent to any such disclosure.

- 22.4. If we are acting for the third party who referred you to us in the same matter and a conflict of interests arises between you and the third party, we might be obliged to cease acting for you.

23. UNDERTAKINGS

- 23.1. No verbal or written representation by a member of the Firm shall amount to an undertaking unless it is in writing and specifically termed an undertaking.

24. FINANCIAL SERVICES

- 24.1. Although the firm is not authorised by the Financial Conduct Authority (FCA) we are included on the register maintained by the FCA in order that we may carry out insurance mediation activity, which is advising on selling and administration of insurance contracts. This part of our business includes arrangements for complaints and redress if something goes wrong and is regulated by The Law Society. You can access the FCA website at <http://www.register.fca.org.uk/>.

25. INTELLECTUAL PROPERTY RIGHTS

- 25.1. We retain copyright and all other intellectual property rights in all documents and other works we develop or generate for you in providing our services including but not limited to, knowhow and working materials as well as final documents.

- 25.2. We may retain for our subsequent use a copy of the advice or opinion of counsel or any other third party obtained in the course of providing our services. We will ensure that any



information capable of identifying you will be concealed.

including the right to unwind the transaction and damages.

26. STORAGE OF PAPERS AND DOCUMENTS

- 26.1. After completing the work, we are entitled to keep all of your documents while there is still money owing on your account.
- 26.2. We will keep our file of papers (except for any of your papers created before the retainer, which you ask to be returned to you) for no more than seven years in secure storage either as a physical file or scanned and kept as PDF documents. We keep the file on the understanding that we have the authority to destroy it seven years after the final bill we send you for this matter (or 7 years from closure). We will not destroy documents you ask us to deposit in safe custody.
- 26.3. As a contribution to the costs associated with storage of papers relating to your matter, we make a charge of £35 plus VAT per matter. If we are acting for you on more than one matter, you will be charged a separate fee for each such matter.
- 26.4. If we retrieve papers or documents from storage in relation to, or accordance with, your instructions, we will not normally charge for such retrieval.

27. THIRD PARTY RIGHTS

- 27.1. It is agreed between us that the Contracts (Rights of Third Parties) Act 1999 does not apply to the terms of our engagement or any subsequent amendment to it unless expressly confirmed in writing by us that the said Act does apply.

28. CONSUMER PROTECTION

- 28.1. The Consumer Protection from Unfair Trading Regulations prohibit unfair commercial practices and misleading acts and omissions. Neither you, nor we, must mislead any other party, either by providing incorrect or ambiguous information, or by omitting to provide material information. For example in a conveyancing transaction you must disclose to us any known defects and other material adverse matters relating to the property which are known to you; failure to do so may give the buyer or tenant rights of redress against you,

29. GOVERNING LAW AND JURISDICTION

- 29.1. The agreement between us shall be governed by and construed in accordance with English law.
- 29.2. The English courts shall have exclusive jurisdiction to settle any dispute which may arise between us. To this end you and we irrevocably agree to submit to the jurisdiction of the English courts. Judgement in any action brought in the English courts may be enforced in the courts of any other jurisdiction.

30. AGREEMENT

- 30.1. Unless otherwise agreed, these terms of business apply to any future instructions you give us.
- 30.2. Your continuing instruction in this matter will amount to your acceptance of these terms and conditions of business. Even so, you will be asked to sign and date the letter of instruction accompanying these terms and return the same to us immediately. We can then be confident that you understand the basis on which we will act for you.
- 30.3. **This is an important document. Please keep it in a safe place for future reference.**
- 30.4. Finally, your prompt help and assistance is essential during the progress of this matter by supplying instructions quickly and answering our correspondence immediately. In litigation matters the court may impose cost penalties where there is delay, or a failure to adopt the court's over-riding objectives, including openness and co-operation between the parties.