

# Annex two: Draft guidance on price and service transparency

---

*This annex contains draft guidance in relation to potential price publication requirements. It includes example category specific guidance in residential conveyancing and family and draft definitions of the other possible areas for price publication.*

## **General**

The guidance below applies to the areas of legal services that the SRA has required price and service delivery transparency from firms it regulates. Note that these are minimum standards; we are aware that many firms already exceed these standards (particularly in areas of service description) because they see the clear benefits to their business and their clients in doing so. We encourage firms to provide additional information where they consider that it would aid their clients, potential clients or the public in understanding the services on offer.

## **Principles of price publication**

- Whichever way prices are shown, the total cost should be shown where practicable. This must include disbursements and VAT.
- Appropriate instant online quote generators can be used to provide price transparency.
- However, where it is not practicable to give overall costs at the beginning, any costs that are known such as hourly rates, fixed fees for certain elements, the charging basis for any unbundled services etc. should be stated. It will be good practice to list factors that could increase or decrease overall costs.
- The cost of likely or typical disbursements should be stated, together with a brief description of what the disbursement covers (if this is not obvious from the name of the disbursement). Where it is not practicable to give precise costs of disbursements at this stage (eg expert reports) then the type of disbursement should be described and a range of costs provided where this is practicable.
- Any likely exceptions to the prices shown should be explained.
- Where charges will attract VAT this must be stated.

## Looking to the future: better information, more choice

- If a fixed price is quoted, it should be clear what the price includes and excludes, and in what circumstances (if any) it will be exceeded.
- If conditional fee or damages-based agreements are available, then the circumstances in which clients may have to make payments themselves (including from any damages) should be explained.
- If an hourly rate is shown, then average costs or a range of average costs for the type of matter should be quoted where this is practicable and where to do so would not be misleading. Any variation of the hourly rates, for example, based on who provides the work at the firm should be set out.

### **Specified types of residential conveyancing**

#### *Definition*

By residential conveyancing we mean:

The branch of legal practice dealing with the conveyance of residential real property or real estate which includes:

- the transfer of legal title, ownership or any legal or equitable interest in such property from one party to another
- the grant of an encumbrance on any such property such as a mortgage or a lien
- the drawing of documents which affect such transfers or grants or establish a title or interest in such property
- the examination of the title or ownership of such property

*The types of residential conveyancing matter to which the price transparency requirements apply are:*

- freehold sales and purchases
- leasehold sales and purchases
- mortgage and re-mortgages

#### *Price information*

The requirements cover the most commonly purchased services in this area which we understand to be sale and purchase of registered freehold or leasehold residential property and/or the grant of a mortgage over such property.

## Looking to the future: better information, more choice

Many of these services are offered by providers on a fixed fee basis.

In such cases, providers may choose to adopt a 'menu' approach, listing the indicative fixed prices considering the factors that will vary the fees or they may prefer to use an online quote generator.

A draft template has been developed between the Council for Licensed Conveyancers, Chartered Institute of Legal Executives and the SRA and is provided below. It sets out the information that should be provided as part of a complete price estimate in the relevant services.

Firms will need to determine what information they need to collect to arrive at a full and accurate estimate. We would expect estimates provided in this way to be reflected in the final bill for services, subject to new information emerging that affects price.

Each firm will need to make sure that it gathers from potential clients all the relevant information about their transaction that might affect the final cost. This may vary between firms.

The information that is commonly collected to generate an estimate includes some or all of the following elements:

- whether a first-time buyer
- value of sale/purchase
- whether a remortgage
- whether freehold or leasehold
- whether a new build
- whether first registration of title
- whether mortgage or not
- whether an Islamic mortgage

## Looking to the future: better information, more choice

- in purchase cases, whether primary residence, buy to let or second/holiday home
- whether multiple owners
- whether a shared ownership scheme
- whether using a help to buy scheme
- whether purchase under right to buy
- whether purchase at auction
- whether property has been repossessed.

These inputs are suggestions only and may change over time and firms will need flexibility to change their approach. However, the information is generated, for the sake of comparability, it is necessary to set standard outputs for estimates.

### **Conveyancing estimate template**

The following sets out the detail of price information that should be provided, regardless of the channel for communication. Not all transactions will incur a cost against all of the line items below and some firms might not make a charge for electronic transfers, for example. However, where the item is charged the full costs under each item should be included in each estimate. Subtotals are only necessary where there is more than one item to be shown.

#### **Conveyancer's fees**

- Legal fee (shown separately for sale and purchase if both).
- VAT on legal fees.
- Mortgage administration fee (if any).
- Subtotal.

#### **Search fees**

- Search fees.

## Looking to the future: better information, more choice

- VAT on search fees.
- Subtotal.

### **Disbursements**

#### *Purchase*

- Stamp Duty Land Tax form.
- Land Registry fee.
- Land Registry searches.
- Electronic money transfer fee.
- Subtotal.

#### **Sale**

- Official copies.
- Electronic money transfer fee.
- Subtotal (or just this figure).

#### **Stamp duty**

- Likely stamp duty.

**Grand total** (*this will give clients a clear understanding of the total cost of the transaction*)

Note re referral fees: Practitioners are reminded of their obligations under Standard 5.1 of the Code of Conduct for Solicitors, RELs and RFLs and 7.1 of the Code of Conduct for Firms to disclose details of any referrals fees to clients that seek to instruct them.<sup>1</sup>

#### *Service information*

Ways to meet this obligation could include:

---

<sup>11</sup> <http://www.sra.org.uk/sra/consultations/code-conduct-consultation.page#download>

A page on your website briefly describing the stages in the conveyancing process, the average length or range of time taken and the factors (chains, mortgages, valuations, title problems etc) that may lead the process to take longer.

Posting profiles of the firm's staff that deal with conveyancing including their experience and qualifications.

## **Family – undefended divorce and financial disputes *arising out of divorce***

*By undefended divorce we mean;*

The legal dissolution of a marriage by a court in England and Wales, which is not formally defended by either party and where the standard procedure in England and Wales is followed, including:

- filing a divorce petition if acting for the petitioner, or completing and returning an Acknowledgement of service if acting for the respondent.

If acting for the petitioner, applying for Decree Nisi and once Decree Nisi is pronounced, filing an application for Decree Absolute. But not including:

- advice and assistance in relation to children
- advice and assistance in relation to finances
- service of the petition on the respondent and/or application to court for deemed or substituted service is required.

*By financial disputes arising out of divorce*

By financial disputes arising out of divorce we mean where either where parties cannot agree on financial matters following, or during the process of obtaining a divorce, including:

- how assets should be divided
- whether to sell the matrimonial home or other assets
- maintenance
- pension sharing
- or where parties have agreed on financial matters but require legal advice and/or representation to secure a consent orders.

*Price information*

It should be possible to give a total cost for an undefended divorce, subject to any likely exceptions and excluding finance and children elements. Firms often offer undefended

## Looking to the future: better information, more choice

divorce on a fixed fee basis. But there may be other offers (e.g. help with the process, a one-off meeting etc.) in which case the costs of these should also be made clear.

Likely disbursements (usually the court fee) should be included.

It will usually not be possible to give a likely overall price, for the financial elements of a case at a stage where there has been no contact with the client. However, firms may be able to give a range of average prices based on their experience in the area, in which case the factors which could lead to variations in that range should be stated and care should be taken to ensure that any estimates are not misleading.

Firms should provide details of:

- hourly rates and any variations based on type of fee earner
- any fixed fees
- the charging basis of any unbundling services that are offered
- any likely or typical disbursements.

It will be good practice to provide a list of factors that could affect costs such as:

- how much is agreed with the former partner or spouse
- any co-respondents
- whether mediation is used
- the value and complexity of any assets e.g. overseas assets or if there are pensions to value or other expert opinions required or any complex tax issues
- the length of the marriage/ civil partnership and whether there are children of the family.

*Service description*

For undefended divorce the stages, standard time limits and usual or average time taken should be provided.

For financial disputes, the length of time caused by the variables involved will mean it will be difficult to provide a useful estimate but there should be:

- a brief description of the stages
- any likely timescales that can be given e.g. typical times to first hearing.

**Definitions of other services as possible areas for price and service transparency:**

**For individual consumers:**

***Drafting of a will***

means:

the preparation of a legal document setting out a person's wishes in relation to the management and distribution of their property and where relevant, the care of any minor children in the event of their death

***Probate/ Estate Administration***

means:

the collection and distribution of money, property and other assets belonging to a person following their death, including:

- applying for a grant of probate or letters of administration
- paying debts
- paying any inheritance tax liability
- funeral expenses
- distributing what remains to their beneficiaries in accordance with a will or where there is no will, distributing in accordance with the intestacy rules.

But not including where probate is contested



### ***Drafting of a lasting Power of Attorney***

means:

the preparation of a legal document which allows a person to appoint one or more people the legal authority to help them make decisions, or to make decisions on their behalf.

### ***Motoring offences***

means:

a summary only offence under Part I of the Road Traffic Act 1988 and/or s89 of the Road Traffic Regulation Act 1984 where the client is pleading guilty and the matter is dealt with at the first appearance.

not including:

- advice and representation in relation to a special reasons hearing
- instruction of an expert.

### ***Employment tribunal***

means:

providing advice and representation to employees in relation to their bringing of a claim before the Employment Tribunal against their employer. Including actions for:

- unfair dismissal
- discrimination
- equal pay
- wrongful dismissal.

### ***Personal Injury claimant***

***means:***

providing advice and representation in relation to a claim for personal injury including:

- a physical injury, disease or illness, or
- a psychological injury or illness.

Personal injury claimant cases will usually be funded based on conditional fees or damages based agreements. In that case price information must include:

- details of any success fee or percentage that may be payable from damages

## Looking to the future: better information, more choice

- details of any disbursements that the client may be liable for (such as ATE insurance, counsel's fees or obtaining a medical report) and the circumstances in which liability will arise
- an explanation of any other circumstances when the client may be liable to contribute towards own solicitors costs
- an explanation of any potential liability for other side's costs.

Firms should not use the term "no win no fee" without an explanation of these details and potential liabilities.

### **For small businesses:**

#### ***Employment tribunal***

means:

providing advice and representation to employers in relation to defending claims before the Employment Tribunal brought by an employee. Including actions for:

- unfair dismissal
- discrimination
- equal pay
- wrongful dismissal

#### ***Debt recovery***

means:

the process of recovering money or property from a debtor when they have failed to pay back the debt within a time that was previously arranged.

#### ***Licensing applications in relation to business premises***

means:

providing advice and assistance and representation to businesses in relation to licensing applications for business premises, including:

- for the sale or supply of alcohol
- change of opening hours
- for entertainment purposes.