

Part 1

The information for the solicitor to know before agreeing to meet with the new client is discussed here. The SRA Code of Conduct can be referred to here for understanding whether the client can be met with or not. The principles of SRA Code of Conduct require that the solicitor must have certain procedures in place for ensuring that the code is followed. Before the initial interview, the solicitor should have information about the client as to who they are and the purpose for which they desire the meeting with the solicitor. Therefore, before offering the initial interview to the clients, the solicitor should find the information about the client and their background. The solicitor should inform the client about the charges for the interview before the interview. An important piece of information is that of avoidance of conflict of interest. The solicitor should find out information about the client before the interview if there is any potential for conflict of interest and if there is a conflict of interest, then they should not go ahead with the interview.¹ The solicitor should also ensure that they do not act for a client in a matter where their interest is adverse to the interest of another current or former client.² The identification of whether the client is vulnerable or needs support to be able to access your services is an important piece of information that the solicitor should seek about the potential client before meeting them. Furthermore, information about the client before meeting them is needed for verifying their identity in line with the anti-money laundering regulations.

Part 2

Since the Client is seeking legal advice concerning a Contested Wills and Estate matter, the solicitor must keep in mind certain aspects about preparing for the proposed meeting. The practical aspect of this meeting is that the solicitor should meet the client alone so as to encourage them to speak openly with you. When taking instructions from the client, the solicitor should ask questions relating to their personal circumstances or finances. It would be important to consider the requisite capacity of the client to execute the documentation. Therefore, it may be prudent to assess the capacity of the client from their demeanour and also possibly from their documentation. This would also require meeting the client alone so as to ensure that a third party is not answering questions on the client's behalf because this would make it difficult to assess the capacity of the client. It would also be useful to consider whether there is a third party that may place pressure on the client because this would amount to 'undue influence'. Thus, the requirement of meeting the client separately from the third parties is also a part of the STEP code (Society of Trust and Estate Practitioners Code). The STEP Code is for Will Preparation in England & Wales. This was a set of ethical principles which exist for the benefit of clients and one of the principles of the Code is that the solicitor must endeavour to ensure that no member of the client's family or a beneficiary is present at the meeting.

Part C

To Mrs Theresa Green,

This letter sets out the different ways in which your case can be funded.

The first option available to you Deferred Payment Plan, which can be used in trust and probate cases litigation with an agreement between the client and the solicitor. The plan allows the client to defer payment until the time when proceeds are realised or the matter concluded. In contentious

¹ SRA, paragraph 6.2.

² SRA, paragraph 6.5.

trust and probate cases, money is tied up in the deceased's estate and therefore this method may be useful for the client who can pay the money when the proceeds are realised by him.³

Another method is Litigation funding, which is a process in which a professional investor will fund the costs of litigation in return for a share of the proceeds. The benefit of this method is that the investor takes on the funding of the case and the client can be free of this responsibility. In cases where the outcomes involves potential damages or money, clients can think of investor funding as an option. Further benefit to the client is that the funder is only paid on success of the case and the achievement of the outcomes. Another benefit is that the investor is only responsible for funding but he does not have the power or the right to interfere in settlement or other processes.

A third option is CFA (Conditional Fee Agreement), which is an agreement whereby the solicitor charges a reduced fee if the case is not successful, and charges success fee if the case is successful. This is a "no win, no fee" agreement. The benefit of this funding option is that the client only has to pay the solicitor when the case is successful otherwise they are not required to pay any fee to the solicitor. The disadvantage is that the client will still have to pay opponent's costs and expenses in the event of the outcome not being in favour of the client.⁴

A fourth option is Damages Based Agreement (DBA), which allows the solicitor to accept a percentage of the damages received in the event of an outcome of damages. This is an option that is taken by the client to pay the solicitor in place of fees. The benefit of this funding option is that it is capped at 50% of the damages in such cases.⁵

Books

Neil Andrews, 'Costs and Funding' in *The Three Paths of Justice* (Springer, Cham 2018).

Journals

Peter Melamed, 'An Alternative to the Contingent Fee-An Assessment of the Incentive Effects of the English Conditional Fee Arrangement' (2005) 27 Cardozo L. Rev. 2433.

Websites

Bridgette Toy-Cronin, 'New Business Models For Legal Services' (2016) <<https://ourarchive.otago.ac.nz/bitstream/handle/10523/10590/New%20Business%20Models%20for%20Legal%20Services.pdf?sequence=1>>

³ Bridgette Toy-Cronin, 'New Business Models For Legal Services' (2016) <<https://ourarchive.otago.ac.nz/bitstream/handle/10523/10590/New%20Business%20Models%20for%20Legal%20Services.pdf?sequence=1>>

⁴ Peter Melamed, 'An Alternative to the Contingent Fee-An Assessment of the Incentive Effects of the English Conditional Fee Arrangement' (2005) 27 Cardozo L. Rev. 2433.

⁵ Neil Andrews, 'Costs and Funding' in *The Three Paths of Justice* (Springer, Cham 2018).