

Our Ref: TIR/TIR/LIS30/48
Your Ref:
Date: 08 October 2024

Mr S Vinson
Liskeard Town Council
3 West Street
Liskeard
Cornwall
PL14 6BW

By email only: townclerk@liskeard.gov.uk

Dear Sirs

Thank you for your instructions to act on behalf of Liskeard Town Council ("the Town Council") in connection with to the above matter.

I set out below the instructions we have received, the advice that I have provided and the steps we have agreed to take matters forward. Our Terms of Business explain the basis upon which we will carry out the agreed work. These are available to view on our website <https://coodes.co.uk/about-coodes/terms/>. If you are unable to access these electronically please let me know as soon as possible and I will arrange to send a hard copy to you.

Responsibility for the work

Your work will be carried out by me, Trudy Rosevink. I am a Solicitor specialising in Commercial Disputes. I have overall day to day conduct of this matter and I am assisted by Hayley Blatch, a paralegal in my team. If I am not available to speak to you at any time then my assistant, Nicky Gaunt will be pleased to help you.

I will try to avoid changing the person handling your work but if this not possible I will inform you promptly and explain why the change is necessary. If there is a change in supervisor or any other significant change in the way in which your work is handled, I will let you know.

If you are unhappy with any aspect of the work that I carry out on your behalf, please contact me in the first instance to discuss any concerns. If I am unable to resolve the issue then, as above, you may contact Abi Lutey who is the supervising partner on this matter and manager of the Commercial Disputes & Employment team. Further details of our complaints procedure are set out in the Terms of Business.

Your instructions and requirements

You have advised us that further to the start of 60 weeks of construction works by Cornwall Council in the former cattle market in Liskeard, they have as part of these works erected site boundary fencing which extends across a public access point on the western boundary of the

cattle market car park. This public access point consists of an access point leading to a short tarmac ramp onto Varley Lane which facilitates walking access from the car park to Varley Lane. As a result of the construction site location and the fencing, this access has been shut off. This has impacted local businesses on Varley Lane and created an access issue for elderly and disabled members of the public who use this accessway to get from the car park to the community centre provisions in Varley Lane.

The access point and ramp have been reviewed by an officer from Cornwall Council who have advised that this access and ramp is neither a Byway or Public Right of Way. They also found that the ramp currently in situ does not meet modern standards. You have confirmed that there is no active dispute between the Town Council and Cornwall Council.

You have also obtained a further map from Open Street Maps which shows the apparent existence of a marked footpath / accessway from the car park to Varley Lane. This is in direct contrast to the Cornwall Council online maps.

The live issue is that the Town Council has been approached by local residents and also the Liskerrett Centre which is situated on Varley Lane, who have raised an objection to the closing of this accessway and asked the Town Council to ascertain whether closing this access way is legal.

The public and local businesses who have approached you have claimed that there are rights of way across the car park / ramp access to Varley Lane and that this has been in public use for over 40 years and on that basis, a right of way exists, and Cornwall Council were not entitled to close it off. You have told us however that on the local mapping scheme on the Cornwall Council interactive map there is no designation of this access way and ramp being listed as a public byway or right of way.

You have asked us to provide advice on whether the closing of the accessway by Cornwall Council is legal.

You have advised that this advice is needed by 21 October 2024.

My advice and options available

We will review the documents that you have sent across and provide our advice on the position by 21 October 2024.

Limitations of my advice

Your attention is drawn to the Terms of Business which explain the areas of work that are not included in the scope of the work that we do for you and the limit of our liability to you should we breach your instructions to us.

Coodes is the trading name of Coodes LLP, which is a limited liability partnership. In this letter and in any other documents or communication, the term, partner means a member of Coodes LLP or an employee or consultant with equivalent standing. You are not entitled to

bring any claim arising out of or in connection with the work that the firm does against any individual member, partner, employee or consultant of Coodes LLP in their personal capacity.

Specific issues raised and my advice

If you believe that you have instructed me to do anything different other than what I have set out above, please let me know as soon as possible.

Next steps to be taken by me

Once you have returned a signed copy of the client care letter confirming your agreement to the terms of instruction and paid any monies on account that we have asked for, I will prepare my advice.

Next steps to be taken by you

Before we are able to commence work on your behalf we require you to:

- Return a signed copy of the signature page at the back of this letter by email or alternatively confirm to us by email using the wording as instructed in our final paragraph.
- If requested, pay us monies on account and/or provide any other papers we have asked for in this letter.

Timescale

You have requested this advice to be provided by 21 October 2024.

Cost benefit and risk

Based on the information that you have provided me with and your instructions I consider that the benefit of the work that you have asked us to undertake justifies the legal costs involved. Should I have any concerns about this throughout the matter I will raise these with you.

Data protection

We take the privacy of your data very seriously. To view our full Privacy Policy please visit our website www.coodes.co.uk/privacy. Please read this policy carefully as it contains important information on how and why we collect, store, use and share your personal data. It also explains your rights in relation to your personal data and how to contact us or supervisory authorities in the event you have a complaint. If you are unable to access this electronically please let us know as soon as possible and we will arrange to send a hard copy to you.

Anti-Money laundering & Identification

I confirm we already hold sufficient evidence of your identity and you need not take any further action on this point.

UK Regulations require us to review more closely our arrangements with clients who are known as Politically Exposed Persons (PEPs) or those who are family members or close associates of PEPs. PEPs are individuals who are or have been entrusted with prominent public functions whether in the UK or abroad. (Please refer to our Terms of Business for further details). If you are currently a PEP or have been a PEP during the last 12 months or you are a family member or close associate of a PEP please let us know without delay so that we can ask for further information from you.

As lawyers we are legally obliged to operate a strict Anti-Fraud policy to protect you, deter criminals and minimise the chances of being targeted. To comply, we need to obtain evidence of your identity as soon as possible. Please note we will be checking your identification electronically. Our preferred practice is to invite our clients to complete and submit their personal information via a third party 'Thirdfort' Mobile App. This is a much safer and more convenient way for you to provide this information.

The User Guide explains the process and heightened security advantages against fraud when using this App, see link below. If you are unable to access this by remote means please let us know as soon as possible and we will arrange to send a hard copy to you.

[Thirdfort Client Guide](#)

Before you download the Thirdfort App please wait to receive the text message from Thirdfort which will provide you with an access code. You will need this code to access the App and carry out their instructions to provide your ID. Once successful we will be able to access your ID documentation through our separate Thirdfort user account. If you fill in your information on the App without using the link and code in the text message we will not be able to view your information as it will not be shared with us.

There will be a compliance fee to verify your identity of £30.00 plus VAT per client.

If you do not have access to a smartphone, iPad or tablet to upload the Thirdfort App, we will still verify your identity electronically, however please contact us as soon as possible to discuss other ways to provide your identity and/or authority to instruct us. If you cannot satisfy these requests promptly, we have the right to cancel the Contract immediately on giving written notice to you.

UK Regulations require us to review more closely our arrangements with clients who are known as Politically Exposed Persons (PEPs) or those who are family members or close associates of PEPs. PEPs are individuals who are or have been entrusted with prominent public functions whether in the UK or abroad. (*Please refer to our Terms of Business for further details*). If you are currently a PEP or have been a PEP during the last 12 months or you are

a family member or close associate of a PEP please let us know without delay so that we can ask for further information from you.

Our charges

For a detailed explanation of our standard charges please refer to the Terms of Business. My hourly rate for January 2024 to December 2024 is £300 per hour plus VAT. Hayley Blatch's hourly rate is £220 per hour plus VAT. These will be reviewed annually. I have provided you with an estimate of £1,500 plus VAT to deal with providing this advice. There is also a cost of £30+VAT for our ID verification and compliance checks that we are required to undertake.

Please can you therefore make a payment on account of £1,836.00 (£1,500+VAT and compliance fee of £30+VAT) in respect of our costs.

We will inform you if any unforeseen extra work becomes necessary, for example due to unexpected difficulties or the circumstances significantly change during the matter. We will also inform you in writing of the estimated cost of the extra work before incurring additional costs should this arise.

Invoicing and payment arrangements

We will send you interim invoices for our charges and expenses every month. We will send you a final invoice for charges and expenses on conclusion of the matter. Where an interim invoice remains unpaid after 28 days, you may be notified that no further work will be carried out on your matter until it is paid. If we hold sufficient funds on your behalf we will usually deduct our charges from these funds.

Sending funds to us

Wherever possible please pay any such monies us electronically to our bank account or alternatively by debit/credit card.

Please note that we can accept payment by debit or credit cards in respect of our costs and/or disbursements only and not for those of third parties or any transactional monies.

Please give Nicky Gaunt a call on 01872 246221 who will be able to assist you.

Given recent high profile media cases of email interception and fraudulent alterations to bank details and in particular, those relating to solicitor firms, PLEASE NOTE that you cannot rely on any bank details sent to you by email, even if they appear to come from this firm. It is your responsibility to check with us that you are using the correct bank details for any payments to be made to us in order to avoid fraud. Please also note we will not be held responsible for any liability arising out of funds being sent by any party to an incorrect account.

Any payment by cheque needs to be sent direct to our St Austell Office. Please ensure that you include our reference details on the reverse of the cheque.

Funding our charges and expenses

There are different options which may be available to you to fund our charges and expenses. In summary these options are:

1. Legal expenses cover that you have on an existing insurance policy;
2. Legal expenses insurance taken out specifically for this matter;
3. A Conditional Fee Agreement;
4. Damaged-based Agreements;
5. Funding by the legal aid system;
6. Third party funding.

I enclose an overview which provides more detailed information on these options. Unless you inform me otherwise, I do not believe that any of the above options are appropriate for this matter and the most appropriate means is payment from your own funds as the matter progresses. If you wish to discuss the funding options please contact me.

Recovery of costs/liability of costs of other parties

It is unlikely that the Company will be able to recover the costs of any pre-action/advisory work from the other party unless Court proceedings are issued. Once the proceedings are issued and if the Company is successful it may be that some of the costs can be recovered from the other side. The actual amount could be agreed by the parties in settlement negotiations or decided by the Court during the assessment of costs at the end of the case. The rules that govern this recovery include reasonable proportionality regarding the costs claimed together with other factors. Court costs management is now in practice during a case and can constrain the recoverable amount decided on assessment. You should be aware that it is unlikely that you will recover the full amount you have been billed by us, either on settlement or on assessment. The rule of thumb is usually 60-75% but it may be less or it could be more depending on the Court's view. However, you will remain responsible to us for any shortfalls.

Conversely if the other party was successful after issue of proceedings then they may be entitled to recover costs from the Company. In certain circumstances costs could be recoverable from you on the basis of a third party costs order. I will discuss this with you further as matters progress. Again, the actual amount of the costs that can be recovered can be agreed between the parties in any settlement negotiations or decided by the Court during an assessment of the costs.

You should note that some applications to Court can result in Orders for payment of the costs within 14 days of the Order.

I will provide a more detailed explanation for recoverability of the costs should proceedings

be issued.

Preservation of documentation

Once litigation has been contemplated it is essential that the Company and anyone in its employ understands the legal position and obligation in respect of documentation.

There are three essential points to take on board:

Do not destroy any documents which might be relevant to the matters in issue. Suspend routine document destruction policies. The Court rules expressly require me to notify you, as soon as litigation is contemplated, of the need to preserve disclosable documents, including electronic documents that would otherwise be deleted in accordance with a document retention policy or in the ordinary course of business. Failure to comply with this could lead to the court drawing adverse inferences.

"Document" has a very wide meaning under the Court rules. It includes all media in which information of any description is recorded, for example, tapes, computer records and emails, as well as paper.

The definition of a document also extends to electronic material that is not easily accessible, such as electronic documents stored on servers and back-up systems, and electronic documents that have been deleted. It also includes information stored and associated with electronic documents, known as metadata.

Do not create any new documents which might be disclosable in the litigation, until what can and cannot be done safely, is clear. It is very important that the Company does not create any new documents that it might have to disclose to the other side that could damage the case, should proceedings be commenced and the matter become disputed.

Some documents that are created may be protected by litigation privilege. However, you will need to monitor carefully any communications about the dispute by personnel within the Company, whether internal or external. This includes communications between, or involving, those who are not witnesses or potential witnesses, or who are not involved in making decisions about the way in which the litigation should be conducted. It may be appropriate to inform your personnel not to communicate about the dispute at all, unless they are instructed to do so. In any event, you should inform your personnel to take particular care when using email.

You should also inform your personnel not to amend, or in any way annotate, existing documents. Documents containing any relevant annotations will be treated as separate documents and may need to be disclosed even if the original document was not disclosable. Informal annotations, in particular, can be prejudicial to the case of the party that is obliged to disclose them.

Do not ask any third parties to send you documents, or to send them to us. If you do, you risk having to disclose documents that could otherwise properly have been withheld.

There are certain documents that the Company may not have in its possession, and may not have the legal right to possess, inspect or copy (for example, the working papers of the Company's accountants). Those third-party documents will not be disclosable, unless they come into the Company's possession.

It is therefore extremely important that neither you nor any other personnel ask any third parties to send you (or me) documents that may relate to the dispute, until I have had the opportunity to assess the documents they propose to send.

It is likely, however, that most documents held by professional third parties on the Company's behalf are, on a proper analysis, within its control. If so, those documents will be disclosable if they assist or damage any party's case.

Disclosure

If proceedings are issued and the matter becomes disputed there is a stage at which both parties are compelled to disclose to each other any damaging documents, as well as those that are helpful. The disclosure process, therefore, forces parties to be realistic about their chances of success in the litigation and, for that reason, many disputes settle either shortly before or shortly after disclosure. It is for this reason that all documentation must be preserved. We will provide you with further advice in respect of disclosure if and when it arises.

Court deadlines

As you may be aware, once proceedings have been issued there will be various procedural deadlines which arise as a result of the Civil Procedure Rules ("CPR") which govern the Court process and/or Court Orders, with which the parties will need to comply. The Court takes the failure to comply with such deadlines very seriously and will impose sanctions. In certain situations such a sanction could lead to the case being struck out and a Costs Order made against the party in breach. Since the Jackson Reforms it is now harder to obtain relief from sanctions in such circumstances. With this in mind, if any action is required by you in order to meet a deadline it is your responsibility to ensure this is done. You must let us know immediately if you are unable to comply so that we can consider whether an extension is possible and advise you accordingly.

Alternative Dispute Resolution

There is now an obligation on parties to a dispute to consider the use of Alternative Dispute Resolution ("ADR"). From the outset of a case the Pre-Action Protocol to the CPR require parties to co-operate in the exchange of information and documentation and to consider whether the matter can be settled before and without the need to issue Court proceedings. Where parties fail to behave in this way and unreasonably refuse to consider ADR the Court can impose cost sanctions. This obligation continues throughout the lifetime of the case and is something which the Court will also consider as part of its active management of a case. ADR includes methods of Dispute Resolution such as mediation, adjudication and

expert determination. We will discuss all the methods of ADR and any possible cost implications further with you if and when it becomes appropriate.

Conclusion

I trust that the above information explains how we will deal with this matter, but if you have any questions relating to this information please do not hesitate to contact me.

These are important documents which we would urge you to keep in a safe place for future reference.

Your continuing instructions will amount to your acceptance of the terms set out in this letter, our Terms of Business and the accompanying schedule of our charges. However, so that we can be confident that you understand the basis upon which the firm works for you, as soon as possible we ask that you sign and email a copy of this page back to us or alternatively confirm by email: "I/we "confirm receipt of letter **client care letter - company** dated **8 October 2024** which I/we have read and understood".

Yours faithfully

Coodes LLP

Coodes LLP

Correspondence Address:

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St Austell, PL25 4FD

Office:

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Email: trudy.rosevink@coodes.co.uk

TIR/LIS30/48

I/we confirm receipt of this letter which I/we have read and understood.

Signed:
Dated:

Signed:
Dated: