

LETTER OF ENGAGEMENT

Sealing the Deal with a Letter of Engagement

After meeting with a potential client, you should immediately compose a letter of engagement to formalise your business relationship. The letter not only seals the deal, but it articulates and solidifies expectations of both contractor and client.

Most small businesses respect a formal agreement but appreciate one that is not written like a legal document. Typically they are interested in a gentleman's agreement and not something they will need a lawyer to look over (chances are both you and your client do not have the resources to consult regularly with lawyers). A letter of engagement will stand as a contract between you and your client, making the relationship formal and binding. And if done correctly, this document can protect your interests as you move forward in your business.

Services

A letter of engagement should specify the services you agree to provide. Start the letter by stating, "This is a list of my services as per our conversation today. If there is anything that I have missed or neglected to include, please contact me immediately as these are the services I am currently prepared to provide." This avoids any misunderstanding as to what you have agreed to do. Your client cannot come back months later and say, I thought you were also going to..." This letter provides your client with the opportunity to ask for additional services upfront if necessary, and it protects you from doing work you had not originally planned on.

Timeline and Reporting Mechanisms

Be specific as to the services you will provide, but not the timeline in which they are to be performed. In managing your clients you will need flexibility in order to accomplish all the tasks associated with your business.

For example, if you are collecting information from your client weekly, do not give an exact day or time. If you have specified a pick-up time and are late by even a day you are in breach of the contract. Simply state that you will collect the information weekly, perhaps specifying the beginning or the end of the week.

In your letter you must formalise the necessary reporting mechanisms you plan to use with your client. Provide a time when you will have the month-end prepared and ready to deliver, based on the client's needs this can be monthly or perhaps quarterly. Again, do not be specific as to the times you will meet, as this could change. For example, you may want to state that you will meet with them by the 15th of each month with the previous month's data. This allows for you to schedule a new appointment each month with leeway as to when the actual meeting time is.

Fees and Billing Processes

State the monthly fee charged for your services and the accepted method of payment (CC, cheque, BACS, etc.). You also need to state when the payment is due. If you require payment "at the time of pick-up," you expect to be paid at the time you pick-up weekly information, before the work is done. If you require payment "at the time of delivery," you expect to be paid before you handover the reports in your monthly meeting with the client.

You may also consider payment on a re-occurring date. Billing the client on a given date each month has many advantages - it is a bill that will be more likely to be paid by the client because it's an expected monthly expense.

This also helps your relations with your client, because they will be less likely to avoid you or postpone meetings because of a lack of funds. Make it clear whether or not the payment is for the previous month or for the work to be done in the upcoming month.

Clarify that the set-up fee is in addition to your monthly billing fee.

Registered Mail

Send the letter to the potential client through recorded mail. This signifies to your client the letter's importance and provides you with notification that it has been received. Once you have a receipt, you can rest assured that your client has access to the document and will notify you if any changes are necessary.

A letter of engagement documents expectations of both contractor and client. It can be a means through which both feel comfortable in their business relationship. In this way, a prompt response following your first meeting with a potential client can seal the deal and provide you with a safety net as you move forward in your business.

Proper Business Processes Help Guard Your Success

Producing a formal Letter of Engagement
A word from the ICB's Head of Professional Conduct, barrister Professor Mark Watson-Gandy

To have an enforceable claim for payment for bookkeeping services, a bookkeeper needs to have created a contract with his or her client.

The absence of written terms of engagement does not mean that a contract has not been created. Any formal professional relationship between a bookkeeper and the client with the contemplation of some form of payment is, prima facie, enough to establish the existence of some form of contractual relations.

If the agreement is oral, the court will look to the overall relationship and dealings between the parties to assess its scope and terms. Of course, if there is no written record of that agreement, it is so much harder for a bookkeeper to prove what terms were agreed with the client.

To avoid this, many bookkeepers write a letter of engagement. In practice, this evidences the contract that will govern the provision of bookkeeping services. The terms of an accepted engagement letter will form express terms of the contract.

A letter of engagement reads something like this:

PENNY HALF-CROWN & Co
Certified Bookkeepers

Partners: Penny Half-Crown and George Half-Crown

1, Merry Farthings, Shillingsworth

1st April 3000

Mr Joe Client

3, The Furlongs

Halfacre

Dear Joe,

Thank-you for instructing us as your bookkeepers. We look forward to working with you. As we agreed, we will write up your sales ledgers every month for you.

We are happy to agree a special flat rate for these services for you at a rate of £200 per month, plus VAT. If you decide you want us to do other work for you, we are, of course, happy to do this at our usual hourly rate of £15 per hour, plus VAT.

We will, of course, send you an invoice of any fees you have run up each month so that you can keep a tight rein over what you are spending.

We work on the following terms: -

- All sums must be paid within 28 days of the date of invoice.*
- We can both end this agreement by either of us giving to the other 30 days written notice of our intention to end the agreement.*

- *If the invoice is not paid within 28 days, we charge compound interest on the unpaid bill at a rate of 2% per calendar month until it is paid in full.*

- *We reserve the right to stop work if you fail to make any payment when and as it falls due*

Yours sincerely,

Penny

For Penny Half-Crown & Co

I agree to the terms and conditions set out in this letter of engagement

Signed

Joe Client

Date:

The letter evidences some important information. It records:

- Who the parties are (Penny Half-Crown's partnership and Mr Client).
- What the contract is about (the provision of bookkeeping services).
- What the parties' addresses are.
- The date of the contract.
- The fact it has been agreed to.
- What work is going to be done for the price (writing up the sales ledger only). It is important to make this clear as this forms one of the most common areas of dispute.
- What that price is.
- Whether that price includes VAT (if the bookkeeper is VAT registered).
- What charges will apply if the client wants extra work.
- What credit will be allowed (e.g. here, Mr Client is given 28 days to pay).
- What happens if the client does not pay (e.g. if Mr Client d"s not pay within 28 days, interest can be charged on Half-Crown & Co's bill and they can stop working for Mr Client).
- How the contract will come to an end (e.g. 30 days notice either side).

To work effectively, a letter of engagement must be drafted in clear and certain terms. It must not be open to misinterpretation.

Extra terms can be built in easily - such as exclusion clauses or choice of law clauses that records which country's law and courts govern the agreement (important where the client is foreign or overseas work is envisaged).

The most common cause of disputes is not malice but misunderstandings over what has been agreed between the parties. A clearly drafted letter of engagement does not merely reduce the chances for confusion but improves your prospects of success if the worst comes to the worst.

[The above article was written by Professor Mark Watson-Gandy, who is a barrister at Plowden Buildings, Temple, London EC4Y 9BU. He is special advisor to the Institute on company law and contract law and is Head of ICB's Professional Conduct and Disciplinary Panels.]

Get in Touch

Professor Mark Watson-Gandy's article outlines the main points to remember when putting together a Letter of Engagement but you should include any other points that were discussed between you and your client that form part of your working practice and what the client may therefore expect from you. ICB will always be pleased to look at a draft of any proposed Letter of Engagement that you wish to use, if this would help. It is worth remembering the old saying, "a verbal agreement is not worth the paper it is written on".

You should also be particularly careful when dealing with friends. It is important to remain professional and safeguard both your friends and your integrity.