

# JUDICIAL FACTORY APPOINTMENT TO A SOLICITOR'S FIRM

## INFORMATION FOR CLIENTS

**A Judicial Factor has been appointed to this firm of solicitors. This leaflet gives a brief explanation of the role of the Judicial Factor and what it means for you.**

### **What is a Judicial Factory?**

Most firms of solicitors in Scotland hold money for clients and The Law Society of Scotland has rules which firms must follow for dealing with this money. The Law Society of Scotland's compliance team carries out regular inspections of all solicitor firms in Scotland to ensure that they comply with these rules. On rare occasions the Compliance Team may suspect that client money is missing or the accounting records are in such a mess they cannot tell if client money is missing. In that event, to protect the public and other solicitors, the Law Society of Scotland asks the Court of Session to appoint a Judicial Factor to that firm. The decision to make the appointment is one for the Court.

The appointment by the Court is on an interim basis which usually lasts for at least three weeks. This gives the solicitor affected the opportunity to oppose the appointment. The Court can recall the appointment or can make it permanent. If it is made permanent, the solicitor concerned will not be able to practise as a solicitor.

### **What does the Judicial Factor do?**

The Judicial Factor is an Officer of the Court and in that respect acts independently of the Law Society of Scotland. The Judicial Factor secures the premises and all the accounting records. She has to freeze all the bank accounts of the firm and the solicitor. This may mean cheques which are going through the banking system are returned for that reason and not necessarily because there is insufficient money in the account. If it happens to you, contact the Judicial Factor.

To minimise inconvenience to clients during the interim period, the Judicial Factor, where possible, trades the solicitor's practice so that arrangements can be made for ongoing legal work.

The Judicial Factor sets up her own bank accounts. She has to bring the accounting records up to date. If the records are very poor or incomplete, it can take some time for her to establish what money should be held for clients. This can result in a delay in releasing monies to clients but the Judicial Factor's team works to keep any delay to a minimum.

The assets of the firm and the solicitor may be sold to enable creditors to be paid.

The Judicial Factor carries out a full investigation into the circumstances which gave rise to the court appointment. She prepares a report to the relevant Committee of the Law Society of Scotland which then decides whether it is appropriate to take disciplinary action against the solicitor concerned. In addition, if she discovers any issue of dishonesty or criminal activity, she sends a report to the Crown Office.

### **How does it affect me?**

During the interim period, the solicitor is asked to identify ongoing legal work so that it can be carried out by the Judicial Factor's team. However, this is only a temporary arrangement. She usually asks another local firm to take on the files, deeds and papers from the firm. This means that there is one point of contact for clients. The new firm of solicitors gets in touch with clients where there is ongoing work or where they have a Will or Title Deeds to confirm that they are happy for them to act. However, you do not need to use this firm. You can choose to instruct whichever solicitor or firm you wish.

If money is due to you, the Judicial Factor's team are your first point of contact. They will advise you how you can obtain this money.

The Judicial Factor is obliged to recover monies which are due to the firm, such as outstanding fees. Generally in the course of the first six months, she will, contact those clients who, according to the accounting records, owe money to the firm.

## **FREQUENTLY ASKED QUESTIONS**

### **What happens to my Will or Title Deeds held by the firm?**

When the Judicial Factor is appointed, she changes the locks on the premises to secure all the papers and deeds. If you want reassurance that your Will or Title Deeds are in the office, her team are happy to check for you. They will continue to be held by her until she can arrange for another local firm to hold them securely. If you would prefer, she will arrange for them to be released to you or your new solicitor on receipt of a mandate. This a written request for the Will or Title Deeds.

If you owe any money to the firm, then the Judicial Factor will expect this money to be paid or an arrangement made for the debt to be settled, before she releases the Will or Title Deeds.

Once she has passed the files and deeds to another firm, they will hold them in a safe place and will release a Will or Title Deed on production of a mandate.

### **What do I do if I want my file passed to another firm of solicitors?**

The Judicial Factor has a style of mandate which her team will send to you or your new solicitor. This needs to be completed by you and the new solicitor. As in the case of Wills and deeds, if monies are due to the former firm then the Judicial Factor is obliged to make an arrangement to have this money paid before the file can be released.

## **What do I do to get back money due to me?**

If the former firm is holding money for you, you should contact the Judicial Factor, either in the solicitor's office if it is still open, or at the address or number below. You will be sent a claim form which asks how much you think is due to you and to whom you would like the money paid, if not directly to you. If the accounting records are very poor or incomplete, your help is sometimes needed to deal with the claim. You may be asked for the receipt you were given by the firm or confirmation from your Bank when a payment was made and for how much. This lets the Judicial Factor fill in the gaps and process the claim. The Judicial Factor's Team will let you know if a fee was due to the firm for work carried out on your behalf. This sum will be deducted from your claim and the Judicial Factor will agree with you the sum due.

If the records are poor or incomplete, it can take several months to determine whether the firm has enough money in the client account to pay your claim in full. Money may have been stolen by the solicitor. If there is insufficient money, the Judicial Factor will arrange for you to receive a claim form from the Guarantee Fund Department of the Law Society of Scotland. All principal solicitors in Scotland contribute to what is known as the Scottish Solicitors Guarantee Fund. It is administered by the Law Society of Scotland through the Guarantee Fund Committee and is designed to compensate clients who have suffered loss as a result of the dishonesty of their solicitor.

The Guarantee Fund Department will help you to complete their form. Their details are below. The Judicial Factor's Office will provide the Guarantee Fund Department with information which the Judicial Factor holds regarding your claim so that your claim can be dealt with as quickly as possible.

### **Further information**

If you have any other question, or wish any more information regarding the above, please contact:

Judicial Factor's Office  
26 Drumsheugh Gardens  
Edinburgh  
EH3 7YR.  
tel: 0131 476 8196  
email: [mornagrandison@judicialfactor.org.uk](mailto:mornagrandison@judicialfactor.org.uk)

If you need information about the Guarantee Fund, contact:

Lorna Davies,  
Guarantee Fund Administrator  
Law Society of Scotland  
26 Drumsheugh Gardens  
Edinburgh  
EH3 7YR  
tel: 0131 226 7411  
email: [lorna.davies@lawscot.org.uk](mailto:lorna.davies@lawscot.org.uk)