



CLC HANDBOOK

FOR LICENSED CONVEYANCERS,
LICENSED BODIES &
RECOGNISED BODIES

February 2011



Introduction -

Outcomes-focused Regulation

The Legal Services Act

The ***Legal Services Act 2007 (LSA 2007)*** introduced ***Regulatory Objectives*** championing the interests of consumers of legal services:

- Protecting and promoting the public interest;
- Supporting the constitutional principle of the rule of law;
- Improving ***access to justice***;
- Protecting and promoting the interests of consumers;
- Promoting competition in the provision of services;
- Encouraging an independent, strong, diverse and effective legal profession;
- Increasing public understanding of the citizen's legal rights and duties; and
- Promoting and maintaining adherence to the ***professional principles***.

The objectives focus upon the principled behaviour of legal services providers and the interests of the consumer and the public. They are therefore best supported through regulation based in ***principles*** and focused upon positive ***Client Outcomes***.

Outcomes-focused and principles-based regulation

Our ***regulatory arrangements*** must uphold the ***Regulatory Objectives*** and are therefore concentrated on delivery of high standards alongside the 3 Cs of ***client***, competition and choice.

The ***Code of Conduct*** is the parent document of the ***CLC Handbook***; it sits above all other Codes in our ***regulatory arrangements*** and must be complied with at all times. It specifies the ***Outcomes*** you as members of the ***CLC*** regulated community are expected to deliver. The following behaviours are considered essential to delivery of these ***Outcomes***:

1. Act with independence and integrity.

2. Maintain high standards of work.
3. Act in the best interests of **Clients**.
4. Comply with duty to the court.
5. Deal with regulators and ombudsmen in an open and co-operative way.
6. Promote equality of access and service.

These six **Overriding Principles** are derived from the **Regulatory Objectives** set out above. The six have equal ranking and permeate our entire **regulatory arrangements**; you/the body you own or manage must act in this principled manner at all times. The **Overriding Principles** are underpinned by **Principles** and **Specific Requirements**:

Outcomes – *delivery of a positive result for clients; it is the end result of the applications of a principle or specific requirement;*

Principle – *an essential quality; a characteristic, behaviour or ethic, which must be demonstrated so that positive outcomes are generated for clients;*

Specific requirement – *a strict direction for conduct.*

Should a circumstance present an apparent conflict between a **principle** and another regulatory requirement you should opt for that which delivers the most positive Outcome for the **Client** concerned whilst maintaining independence, integrity and high standards of work. If in doubt, contact the **CLC** for advice.

Minimising prescription

Our **regulatory arrangements** are intended to ensure that **clients** receive a service tailored to their needs; and legal service providers develop new and different ways of delivering services to their **clients**. We will always look to provide **principles** rather than **specific requirements** wherever possible in order that we promote, not just allow, competition and choice. More prescriptive, '**specific requirements**' are present only where they are required in the public interest and to protect the consumer. Such non-principled regulatory requirements will be applied in a principled-based manner wherever possible so that any penalty imposed is proportionate to a breach.

In providing you with flexibility we are also giving you responsibility - of good governance, quality assurance and risk management. The **Guidance** attached to Codes is there to provide useful information to the regulated community and in the case of **Example Policies or Procedures** to provide a possible route to the positive **outcomes** sought, but importantly, not the only route. If you are able to generate the same or better **outcomes** another way you are free to do so.

Applicability of Codes

All individuals/bodies regulated by the **CLC** must comply with the Codes which the Index labels Universal. The Codes underpin the **Code of Conduct** and are in place to support the delivery of that Code's **Outcomes**. The relevant **Code of Conduct Principles** and **Specific Requirements** are referenced in each Code so each one can be referenced as a standalone document where needed. The Universal Codes pertain to all **Regulated Services** which a body provides. The Codes identified as Specific – located in the rear of this Handbook – are relevant only to those bodies/ individuals specified.

We retain the discretion to waive a particular requirement of the **regulatory arrangements**. A body may apply for a modification of its **licence** to this end or we may apply a waiver due to particular circumstances.

Words presented in bold italicised font – such as **Regulated Services** above - are defined in the Glossary of Terms provided at the rear of this handbook.

Frameworks & Policies

We currently operate the following 7 Frameworks:

- **Compensation Fund** Operating Framework;
- **Continuing Professional Development** Framework;
- **Licensed Body (ABS)** Licensing Framework;
- **Licensed Conveyancer** Licensing Framework;
- **Professional Indemnity Insurance** Framework;
- **Recognised Body** Certification Framework; and
- Student Training Framework.

[hyperlinks to each Framework will be inserted on website version]

These define our operating parameters, setting out the process which will be followed in the relevant instances e.g. the **Compensation Fund** Operating Framework sets out the rules by which the **CLC** manages its compensation scheme. We have provided the **Compensation Fund, Continuing Professional Development** and **Professional Indemnity Insurance** Frameworks within the **CLC** Handbook for your reference. The remaining frameworks are available to view on the **CLC** website *[insert hyperlink]* (along with the 3 provided here and our Fees Framework) and are not provided in the Handbook as they are the frameworks under which you applied to be regulated by us, and through which your **licence** or **certificate** was granted.

Policies mandate the performance of our activities. They set out the principles and values which will be applied in our approach to the relevant instances. The **CLC** Regulatory and **Enforcement** Policies are provided in the Handbook due to their relevance to all of the **CLC** regulated community and to the **regulatory arrangements** set out in this Handbook.

The Regulatory Policy explains what we as a regulator of legal services are seeking to achieve and how our regulatory philosophy is put into practice. The **Enforcement** Policy explains how we identify and respond to non-compliance with our regulatory requirements and the factors which determine the form our response takes.

Welcome to the **CLC!**

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Universal Arrangements



Introduction

This **Code of Conduct** was made in accordance with s.20 of the **Administration of Justice Act 1985** and s.83 of the **Legal Services Act 2007**.

All individuals and bodies regulated by the **CLC** must comply with this Code and its associated **regulatory arrangements**. In this Code “you” refers to individuals and bodies (and the employees and managers within them) regulated by the **CLC**. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code. Your main driver should be the delivery of positive **client outcomes**. The Code comprises **principles** and **specific requirements**, which taken together deliver positive **Outcomes** for your **Clients** and, particularly in relation to **Overriding Principle 6**, for others you deal with.

To effectively secure the protection of, and the provision of choice for, the consumer of legal services, you must at all times comply with the following **Overriding Principles**:

1. Act with independence and integrity;
2. Maintain high standards of work;
3. Act in the best interests of your **Clients**;
4. Comply with your duty to the court;

5. Deal with regulators and ombudsmen in an open and co-operative way;
6. Promote equality of access and service.

These are underpinned by **principles** of behaviour which must be demonstrated and **specific requirements** which must be complied with in order that the **Overriding Principles** are supported.

Disciplinary proceedings may be taken against you if the **CLC** believes there has been a breach of this Code, meaning that **clients** do not receive the standard of legal services they should reasonably expect to receive. The **CLC's** response will be informed by the **CLC's** Regulatory and **Enforcement** Policies.

In exceptional circumstances the **CLC** may waive a provision, or provisions, of the **regulatory arrangements** for an individual, body or circumstance for a particular purpose, or purposes, and with the **conditions** specified in the waiver.

Overriding Principle 1. Act with independence and integrity

Outcomes - you must deliver the following **Outcomes**:

- 1.1 **Clients** receive good quality independent information, representation and advice;
- 1.2 **Clients** receive an honest and lawful service;
- 1.3 **Client money** is kept separately and safely.

Principles - delivery of these **Outcomes** requires you to act in a principled manner:

- a) You do not allow your independence to be compromised.
- b) You act honestly, professionally and decently.
- c) You do not conduct yourself in a manner which may result in a breach of the law nor in any other manner which may bring the legal profession into disrepute.
- d) You **carry on** Reserved Legal Activity only through a person entitled to **carry on** that activity.
- e) You do not give false or misleading information relating to the provision of **Reserved Legal Activities**.
- f) You do not allow fee arrangements to prejudice your independence or professional judgement.
- g) You do not conduct business under a misleading name.
- h) You keep **Client money** safe.
- i) You do not publicise your business through unsolicited communications in person or by telephone.
- j) Your advertising is clear, accurate and fair.
- k) You keep **Client money** entirely separate from your money or the money of the entity.
- l) You do not take unfair advantage of any person, whether or not a **Client** of the business.

Specific Requirements - you must also comply with the following **specific requirements**:

- m) You comply with **anti-money laundering and prevention of financing terrorism legislation**.

- n) When acting as a **CLC** licensee, you accept instructions only to act in a matter which is regulated by the **CLC**.
- o) All business **communications**, websites and office premises display information confirming the entity is regulated by the **CLC** and the names of the **Managers** (identifying those who are **Authorised Persons**).

Overriding Principle 2. Maintain high standards of work

Outcomes- you must deliver the following **Outcomes**:

- 2.1 **Clients** are provided with a high standard of legal services;
 - 2.2 **Client** matters are dealt with using care, skill and diligence;
 - 2.3 Appropriate **arrangements**, resources, procedures, skills and commitment are in place to ensure **Clients** always receive a high standard of service.
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Principles - delivery of these **Outcomes** requires you to act in a principled manner:

- a) You provide the level of service appropriate for, and agreed with, the **Client**.
- b) You keep your skills and legal knowledge up-to-date.
- c) You ensure all individuals within the entity are competent to do their work.
- d) You supervise and regularly check the quality of work in **Client** matters.
- e) You comply fully with any undertaking given by you.
- f) You **systematically** identify and mitigate risks to the business and to **Clients**.
- g) You promote ethical practice and compliance with regulatory requirements.
- h) You enable staff to raise concerns which are acted on appropriately.
- i) You maintain proper governance, management, supervision, financial, and risk management **arrangements** and **controls**.
- j) You administer oaths, affirmations and declarations properly.
- k) You deliver services in accordance with timetables reasonably agreed with the **Client**.

Specific Requirements - you must also comply with the following **specific requirements**:

- l) **Control** of an entity is from a permanent fixed address in England or Wales.

- m) A **Manager** who is an **Authorised Person** is responsible for supervising the services provided by the entity's employees.
- n) You make provision for alternative supervision **arrangements** in case of illness, accident or other unforeseen event.
- o) You maintain proper records to evidence your **arrangements** and **controls** and how they are applied.

Overriding Principle 3. Act in the best interests of your Clients

Outcomes - you must deliver the following **Outcomes**:

- 3.1 Each **Client's** best interests are served;
- 3.2 **Clients** receive advice appropriate to their circumstances;
- 3.3 **Clients** have the information they need to make informed decisions;
- 3.4 **Clients** are aware of any referral arrangements and that they are consistent with your responsibilities both to them and to the **CLC**;
- 3.5 **Clients** are aware of any limitation or any condition resulting from your relationship with another party;
- 3.6 **Clients'** affairs are treated confidentially (except as required or permitted by law or with the **Client's** consent).

Principles - delivery of these **Outcomes** requires you to act in a principled manner:

You only accept instructions and act in relation to matters which are within your professional competence.

- a) You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**).
- c) You do not act for a **Client** where you judge it is not in their best interests for you to do so.

- d) You do not accept instructions from a person nor continue to act for a **Client** whose interests conflict directly with your own, the entity's, or another **Client**.
- e) You disclose **client** information only as the **Client** has instructed (or as required by the **CLC's regulatory arrangements** or by law), keeping effective records of any disclosures you make.
- f) You only recommend a particular person, business or product when it is in the best interests of the **Client**.
- g) You cease acting in a matter if the **Client** so instructs or, in the absence of such instructions where it is reasonable to do so.
- h) You provide the **Client** with information which is accurate, useful and appropriate to the particular **Client**.
- i) You only provide **reserved legal activities** whilst you have **CLC**-approved **professional indemnity insurance** in force.
- j) You provide the **Client** with all relevant information relating to any fee arrangements or fee changes.
- k) You advise **Clients** of the name and status of the person dealing with their matter and the name of the person responsible for overall supervision.
- l) You consult **Clients** on key decisions in a timely way.
- m) You **promptly** advise **Clients** of any significant changes to projected **costs**, timelines and strategies.

Specific Requirements- you must also comply with the following **specific requirements**:

- n) Where the entity represents parties with different interests in any transaction each party is at all times represented by different **Authorised Persons** conducting themselves in the matter as though they were members of different entities.
- o) You ensure there are adequate indemnity arrangements in respect of **claims** made against you for work carried out by you after you have ceased to practise.
- p) If you seek to exclude or limit liability, you do so only to the extent that such exclusion or limitation is above the minimum level of cover provided by **CLC**-approved **professional indemnity insurance**; you must obtain the written informed consent of the **Client** for such exclusion or limitation to be effective.
- q) When providing services which are not regulated by the **CLC**, you advise your **Client** of this and inform them in writing that the activity is not
 - covered by **CLC**-approved **professional indemnity insurance**,
 - covered by the **CLC Compensation Fund** administered by the **CLC**, and
 - the **Legal Ombudsman** does not have jurisdiction to determine **complaints** made about the service you are providing.

- r) Before or when accepting instructions, you inform **Clients** in writing of the terms on which the instructions are accepted, a complete, accurate estimate of fees and **disbursements** to be charged and if and when they are likely to change.
- s) You **promptly** inform the **Client** in writing of the existence and amount of any sum payable (whether directly or indirectly) as a result of receipt of that **Client's** instructions.
- t) With the exception of **disbursements**, you do not delay completion because fees are outstanding to you.
- u) You discuss and agree with the **Client** how **costs** will be paid, whether directly by the **Client**, by public funding, through an insurance policy or otherwise.

Overriding Principle 4. Comply with your duty to the court

Note: this Principle will only be applicable if the **CLC's** application to regulate **advocacy** and **litigation** services is successful

Outcomes - you must deliver the following **Outcomes**:

- 4.1 You act in the interests of justice;
- 4.2 You act in good faith towards **Clients**.

Principles - delivery of these **Outcomes** requires you to act in a principled manner:

- a) You promote and protect the **client's** best interests.
- b) You do not compromise your professional standards or independence.
- c) You assist the court in the administration of justice.
- d) You do not knowingly or recklessly mislead or deceive the court, or allow the court to be misled.
- e) You ensure that the Court is informed of all relevant decisions and legislative provisions (whether this has a favourable or unfavourable effect on the case you are advancing).
- f) You comply with any Court Order (unless an application for a stay is pending or the Order has been revoked by the Court) ;
- g) You advise your **Client** to comply with Court Orders and of the consequences of failing to do so.
- h) You properly protect sensitive evidence.

- i) You safeguard the well being of children and other vulnerable persons.

Specific Requirement - you must also comply with the following specific requirement:

- j) You ensure that the court is made aware of any relevant legal or factual matters which are likely to have a material effect on the outcome of the proceedings.

Overriding Principle 5. Deal with regulators and ombudsmen in an open and co-operative way.

Outcome - you must deliver the following ***Outcome***:

- 5.1 You act in accordance with your regulatory responsibilities.
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Principles - delivery of these ***Outcomes*** requires you to act in a principled manner:

- a) You are open and honest in your dealings with us.
- b) You comply with the ***CLC Code of Conduct*** and the ***CLC's other regulatory arrangements***.
- c) You comply ***promptly*** and fully with a ***CLC*** direction or request.
- d) You comply with any ***authorisation, permission*** or ***condition*** endorsed on your ***licence, Recognised Body Certificate*** or ***Licensed Body Licence***.
- e) You co-operate with any ***CLC*** investigation.
- f) You co-operate with any ***Legal Ombudsman*** investigation.
- g) You comply ***promptly*** and fully with any ***Legal Ombudsman*** Order.
- h) You co-operate with other regulators and ombudsmen.

Specific Requirements - you must also comply with the following ***specific requirements***:

- i) You make the ***Compensation Fund*** contribution determined by the ***CLC***.

- j) You **systematically** identify, monitor and manage risks to the delivery of this Code's **outcomes**.
- k) You **promptly** notify insurers in writing of any facts or matters which may give rise to a **claim** under **CLC**-approved **professional indemnity insurance**.
- l) You **promptly** notify the **CLC** in writing of any facts or matters which may give rise to a **claim** under its **Compensation Fund**.
- m) As a **CLC** licensee operating in an entity regulated by another regulator you must comply with that regulator's regulations at all times in a way which is reasonably consistent with this Code.
- n) You obtain permission from the **CLC** before offering **Reserved legal activities**:
 - as a new business;
 - in an entity regulated by another **Approved Regulator**; or
 - through a entity with a **Manager** who is not a **Licensed Conveyancer**.
- o) You notify the **CLC** of any material breach of this Code, whether by you, the entity or any other person.
- p) You notify the **CLC** of a change as set out in the **CLC**'s Notification Code.

Overriding Principle 6. Promote equality of access and service.

Outcomes - you must deliver the following **Outcomes**: -

- 6.1 The service is accessible and responsive to the needs of individual **Clients**, including those who are vulnerable;¹
- 6.2 No-one - **Client**, employee, colleague, job applicant, trainee or other party - you deal with feels discriminated² against (whether directly or indirectly), victimised or harassed;
- 6.3 You accept responsibility where the service you provide is not of the expected standard and provide appropriate redress for the **Client** where necessary;
- 6.4 Handling of **complaints** takes proper account of **Clients'** individual needs, including those who are vulnerable;
- 6.5 **Complaints** are dealt with impartially and comprehensively.

Principles - delivery of these **Outcomes** requires you to act in a principled manner:

- a) You comply with **Equalities legislation**.
- b) You make reasonable adjustments to prevent persons with disabilities from being placed at a substantial disadvantage.

- c) You provide equal opportunities for all partners, employees or applicants in employment and training.
- d) You make all reasonable efforts to ensure your service is accessible and responsive to **Clients**, including those with vulnerabilities.
- e) Your **complaints** procedure is clear, well-publicised and free.
- f) You treat **complaints** seriously and provide appropriate redress options.
- g) You deal with **complaints** fairly and within 28 days.
- h) You identify and address systemic *Client Complaints* issues.

Specific Requirements - you must also comply with the following **specific requirements**:

- i) Any allegation of (direct or indirect) discrimination, victimisation and harassment is investigated thoroughly, resulting, where appropriate, in disciplinary action.
- j) You advise **Clients** from the outset of their right to make a **complaint**, how to make it, to whom, and the timeframes involved.
- k) You advise **Clients** of their right to have their **complaint** escalated to the **Legal Ombudsman** and provide them with contact details and timeframes of that body.
- l) You keep a record of **complaints** received and any action taken as a result.

¹ a **Client** may be vulnerable because of a range of characteristics such as low-literacy levels; disability; distress; limited knowledge of, or limited skills in, use of English; or lack of knowledge of their legal entitlements. Vulnerability can only be assessed on a case-by-case basis.

² On the grounds of age, disability, gender reassignment, marital and civil partnership status, pregnancy and maternity, race, religion or faith, sex or sexual orientation.



Accounts Code & Guidance

Accounts Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

In the case of an **Authorised Person** who no longer holds a **Licence** or **Certificate of Recognition**, this Code applies as if that **Licence** or **Certificate of Recognition** were still in force until such time as any relevant part of this Code has been fully and appropriately complied with.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

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- ***Clients* receive an honest and lawful service (Outcome 1.2);**
- ***Client money* is kept separately and safely (Outcome 1.3);**
- **Appropriate *arrangements*, resources, procedures, skills and commitment are in place to ensure *Clients* always receive a high standard of service (Outcome 2.3);**
- **Each *Client's* best interests are served (Outcome 3.1).**

Appropriate handling of ***Client money*** helps you deliver these ***Outcomes*** and requires you to act in a Principled Manner:

1. **Act with Independence and Integrity. (Overriding Principle 1)**
2. **Maintain High standards of Work. (Overriding Principle 2)**
3. **Act in the Best Interests of your *Clients*. (Overriding Principle 3)**
4. You keep ***Client Money*** Safe. (CoC P1h)
5. You promote ethical practice and compliance with regulatory requirements.(CoC P2g)
6. You maintain proper governance, management, supervision, financial and risk management ***arrangements*** and ***controls***. (CoC P2i)

You must also comply with the following ***specific requirements***:

7. You keep ***Client money*** entirely separate from your money or the money of the entity. (CoC P1k)
8. You comply with anti-money laundering and prevention of financing terrorism legislation. (CoC P1m)
9. You:
 - 9.1.1 ensure that your partners, employees and directors (including partners, employees and directors who are not ***Authorised Persons***) comply with this Code;
 - 9.1.2 use each ***Client's money*** only for that ***Client's*** matters;

- 9.1.3 only pay money into, and withdraw money from, the **Client Account** and the **Office Account** for purposes related to the provision of services regulated by the **CLC**;
- 9.1.4 establish and maintain proper accounting systems, procedures, processes and internal **controls**, to ensure compliance with this Code;
- 9.1.5 ensure there is no debit balance on the **client** side of a **client** ledger account nor a credit balance on the office side of a **client** ledger account;
- 9.1.6 remedy any breach of these requirements **without delay**;
- 9.1.7 account to the **Client** as soon as possible after completion of any transaction or after a retainer has been terminated.

Payment into Client Account

- 10.1. Subject to the provisions of the 10.4 and 11.1 requirements, upon receiving **Client Money** you pay it into a **Client Account without delay**.
- 10.2 Money held in a **Client Account** is available immediately, even at the sacrifice of interest, unless the **Client** otherwise instructs.
- 10.3 Money held in **Separate Designated Accounts** is not aggregated with money held in other **Client Accounts**.

Guidance – Payment into Client Account

- (i) When a **client account** is being opened, written notice should be given to the **Bank** or **Building Society** concerned in clear terms that the account is to be a **Client Account** and, in particular, that it may not be resorted to for the purpose of setting off against any other account of the body. The **Bank** or **Building Society** should also be asked to acknowledge its acceptance of this in writing.
- (ii) You/the entity may keep one **Client Account** or as many **Client Accounts** as you think fit.
- (iii) Subject to Requirement 10.3, the **CLC** permits schemes proposed by **Banks** to aggregate sums held in a number of **Client Accounts** in order to maximise the interest payable.
- (iv) **Client Accounts** are not intended to provide banking facilities for **Clients**.
- (v) There are criminal sanctions against assisting money launderers – see Anti-Money Laundering and Combating Terrorist Financing Code.

- 10.4 Only **Client Money** is paid into or held in a **Client Account** except:
- 10.4.1 such money belonging to you as an **Authorised Person** as may be necessary for the purpose of opening or maintaining the **Client Account**;
- 10.4.2 money to replace any sum which for any reason has been or is about to be withdrawn from the account in breach of 12.5, such money then becoming **Client Money**;
- 10.4.3 where you receive money and are in doubt as to whether it is wholly **Office Money** you pay such money into a **Client Account** and within one calendar month of receipt ascertain and withdraw such part as is **Office Money**.

Guidance – Client Money

(i) **Client Money** includes money held or received:

(a) as agent, bailee or stakeholder;

(b) for payment of stamp duty land tax, Land Registry fees and telegraphic transfer fees (this does not become **Office Money** unless an obligation to pay out of **Office Account** has been incurred and the payment is recorded in the office columns of the appropriate **client** ledger account).

(c) as a payment on account of **costs** generally.

(ii) Money held to the sender's order is **Client Money** if accepted and must be held in a **Client Account** unless it is received on the express terms that the cheque or draft (as opposed to the money itself) may not be presented for payment without the sender's consent. In this case you are under a professional obligation to return the cheque or draft to the sender on demand.

(iii) A payment made by you to a **Client** which is credited to **Client Account** in accordance with requirement 10.4.2 becomes **Client Money** and must be recorded in both the **client** and office columns of the appropriate **client** ledger account.

(iv) You cannot be your own **Client** for the purposes of this Code; if a transaction is conducted for a **manager**, money held or received on your behalf is in principle **Office Money**. However, money received in such a case may still be **Client Money**, e.g.:

(a) where you/the entity act for a lender, money held or received on behalf of the lender is **Client Money**;

(b) where you/ the entity act for a **manager** and his spouse jointly (assuming that the spouse is not also a **manager** in the entity), money received on their joint behalf is **Client Money**:

(c) where you/the entity acts for an employee (whether or not a **Licensed Conveyancer**), consultant or director, such person is regarded as a **Client** of the entity and money received on his behalf is **Client Money**, even if that person conducts the transaction himself.

Money to be withheld from Client Account

- 11.1 Notwithstanding the provisions of this Code, you do not pay into a **Client Account** money:
- 11.1.1 which a **Client** instructs you to withhold from such an account, such instruction being either on a **Durable Medium** from the **Client** or acknowledged by you on a **Durable Medium** to the **Client**;
or
- 11.1.2 which has been withheld from **Client Account** with the written authorisation of the **CLC**. (Authority is given only in very exceptional circumstances).

Withdrawal and Transfer from Client Account

- 12.1 Subject to requirement 12.3, there must be withdrawn from a **Client Account**:
- 12.1.1 **Without Delay** following discovery, money that has been incorrectly paid into it;
- 12.1.2 as soon as possible and in any event within one calendar month of receipt,
Office Money paid into it in accordance with requirement 10.4.3;
- 12.1.3 **Without Delay Office Money** no longer necessary to maintain a **Client Account**;
- 12.1.4 within 28 days of the date on which a bill of **costs** is sent to a **Client**, money held on account of **Costs** and **Disbursements**, provided it is made clear to the **Client** or the paying party on a **Durable Medium** either before or at the time the bill of **costs** is sent that such money will be applied towards or in payment of that bill of **costs**. (The work for which the money is applied under this requirement must have been completed, whether at the end of a matter or at an interim stage (with the **Client's** agreement)).
- 12.2 In addition to the withdrawals referred to in requirement 12.1 and subject to requirement 12.3, there may only be withdrawn from **Client Account** money:
- 12.2.1 properly required for payment to or on behalf of a **Client**;
- 12.2.2 properly required for payment of a Disbursement on behalf of a **Client**;
- 12.2.3 properly required in full or partial reimbursement of money already expended by you out of the **Office Account** on behalf of a **Client**;

- 12.2.4 properly required in full or partial reimbursement of money for which you have incurred a liability to make a payment out of **Office Account** on behalf of a **Client**;
- 12.2.5 which is transferred to another **Client Account** ;
- 12.2.6 Where the **CLC** has given written authority for a specific payment to be made to a nominated payee or where the **CLC** has approved a scheme for automated payments direct from **Client Account**.
- 12.3 Withdrawals out of **Client Account** under requirements 12.1.4, 12.2.3 and 12.2.4 are specific sums relating to **Costs** or **Disbursements**. Round sum withdrawals on account of **Costs** or **Disbursements** are not permitted.
- 12.4 Money withdrawn under 12.1 and 12.2 does not exceed the total of the money held to the credit of both the **Client** and the **Client Account** in which the money is held.
- 12.5 You replace **Without Delay** any shortfall to a **Client** or to a **Client Account** by payment into **Client Account** under 10.4.2.

Guidance – Client Account Withdrawal & Transfer

(i) Money held on account of **Costs** and **Disbursements** becomes **Office Money** on the date the bill of **costs** is sent to the **Client** (requirement 12.1.4).

(ii) Money is 'expended' under requirement 12.2.3 at the time when a cheque is despatched, not when it is cleared. Money is also regarded as expended by the use of a credit account so that, for example, search fees, taxi fares and courier charges incurred in this way may be transferred to the **Office Account**.

(iii) Requirement 12.2.4 permits you to transfer from **client** to office **bank** account monies where a direct debit scheme is in operation. A liability to pay out of **Office Account** is deemed to have incurred when the anticipated payment from office **bank** account has been evidenced on a **Durable Medium** and recorded on the office side of the appropriate **client** ledger account.

(iv) The purpose of requirement 12.2.6 is to enable you, with the written authority of the **CLC**, to participate in schemes for automated payments to be made direct from **Client Account**. The **CLC** will generally only authorise individual payments to enable **aged balances** to be cleared.

(v) Bearing in mind note (ii), you should take care in drawing against a **Client Account** cheque or draft which has not yet been cleared. If the cheque or draft should be dishonoured, you will have to make a payment under requirement 10.4.2 to ensure there is no breach of requirement 12.4.

(vi) Similarly, if when acting for a **Client** you withdraw money from **Client Account** on the strength of information that a telegraphic transfer is on its way, but that transfer does not arrive, you will have to make a payment under requirement 10.4.2 to ensure there is no breach of requirement 12.4.

(vii) A manager of a body or the Head of Finance & Administration of a **Licensed Body** must be able to operate the **Office Account** of the body in order to be able to comply with requirement 12.5.

12.6 Undrawn **Costs** or **Disbursements** must not remain in **Client Account** either in anticipation of future errors which could result in a shortage on that account or any current shortage on that account and are not available as a set off against any general shortage on **Client Account**.

12.7 Any withdrawal in your favour is recorded in both the **client** and office columns of the appropriate **client** ledger account in accordance with requirement 13.

12.8 Subject to requirement 12.9 a withdrawal from **Client Account** is made as follows:-

12.8.1 cheques or other written instructions for withdrawal from **Client bank** account are signed by an **Approved Person**;

12.8.2 where CHAPS terminals or other electronic systems are used to withdraw monies from **Client bank** account and authority has not been given in accordance with requirement 12.8.3, such systems are operated by an **Approved Person**;

12.8.3 where payments are authorised electronically, such authority is only given by an **Approved Person**.

Guidance – Withdrawals

(i) Nothing under requirement 12.8 shall prevent any other person from operating such systems or processes in conjunction with an **Authorised Person**, provided that such systems or processes cannot be operated by that other person alone.

(ii) Oral authorisations to the **Bank** are no longer permitted without confirmation of such authorisation on a **Durable Medium**.

12.9 Authority in accordance with requirement 12.8 is not required for the transfer of money from one **Client Account** to another **Client Account** at the same **Bank** or **Building Society** except where either is a **Separate Designated Account**. (Authority for any such transfer is required in accordance with requirement 12.8).

- 12.10 A transfer of money from the ledger account of one **Client** to that of another **Client** is only made if it would have been permissible under this Code for the money to be withdrawn from **Client Account** in the case of the first **Client** and for the money to be paid into **Client Account** in the case of the second **Client**.
- 12.11 A withdrawal from a **Client Account** in your favour is by way of a cheque to you or by way of a transfer to your **Office Account**.
- 12.12 Withdrawals in cash from a **Client Account** are not permitted.
- 12.13 Except with the prior written authority of both **Clients** no sum in respect of a **Private Loan** from one **Client** to another is paid out of funds held for the lender:
- 12.13.1 to the borrower directly; or
- 12.13.2 by a payment from one **Client Account** to another; or
- 12.13.3 by a transfer from the ledger account of the lender to that of the borrower;
- 12.14 All monies held in the **Client Account** are paid to the **Rightful Recipient** as soon as there is no longer any proper reason to retain these funds.

Guidance – Withdrawals & Transfers

(i) Monies remaining in **Client Account** that cannot be paid to the **Rightful Recipient** can be dealt with under requirement 12.2.6 (bearing in mind the Aged Balance **Guidance** attached to this Code).

(ii) Provided certain criteria have been met, withdrawals are allowed where the **CLC** has given authority and the balance has been static for over 12 months.

Accounting Records

- 13.1 You update **Accounting Records** at least once a week and ensure they are properly written up to show clearly all dealings with:
- 13.1.1 **Client Money** received, held or paid, including **Client Money** withheld from a **Client Account** under 11.1; and
- 13.1.2 **Office Money** and any other monies received, held or paid in any **Office Account**.
- 13.2 **Accounting Records** are sufficient to:

- 13.2.1 show and explain accurately every transaction relating to each **Client**;
- 13.2.2 disclose at any time total indebtedness to each **Client** and also each **Client's** total indebtedness to you/the entity.
- 13.3 All dealings with **Client Money** are appropriately recorded:
 - 13.3.1 In a **client** cash account or in a record of sums transferred from one **client** ledger account to another; and
 - 13.3.2 on the **client** side of a separate **client** ledger account for each **Client** or for each **Client** matter;
 - 13.3.3 with sufficient narrative on the ledger and cash account to explain each entry.

Guidance – Accounting Records

- (i) Where **Banks** operate automatic transfers to **Client Accounts** offering a higher rate of interest, separate cash accounts are not required to record these transfers.
- (ii) Only **client** ledger accounts in the name of a **Client** are allowed. General or suspense **client** ledger accounts are not permitted.

- 13.4 If **Separate Designated Accounts** are used:
 - 13.4.1 a combined cash account must be kept in order to show the total amount held in **Separate Designated Accounts**; and
 - 13.4.2 a record of the amount held for each **Client** must be made either in a deposit column of a **client** ledger account, or on the **client** side of a **client** ledger account kept specifically for a **Separate Designated Account**, for each **Client**;
 - 13.4.3 upon receipt of information that interest has been credited to the Separate Designated Account, corresponding entries must be made in the Accounting Records.
- 13.5 The current balance on each **client** and office ledger account is shown, or is readily ascertainable, from **Accounting Records** kept in accordance with this Code.
- 13.6 All dealings with **Office Money** relating to any **Client** must be appropriately recorded in an office cash account and on the office side of the appropriate **client** ledger account.
- 13.7 When acting for both lender and borrower in a mortgage transaction between them, separate **client** ledger accounts for both **Clients** need not be opened provided that the funds belonging to

each **Client** are clearly identifiable and the lender is an institutional lender which provides mortgages in the normal course of its activities.

Guidance – Separate Designated Accounts

(i) 'Clearly identifiable' means that, looking at the ledger account, both the nature and owner of the mortgage advance are unambiguously stated.

(ii) Although a separate ledger account is not opened for the lender, the mortgage advance credited to the **client's** ledger account belongs to the lender, not to the borrower, until completion takes place.

Improper removal of such funds from a **Client Account** is contrary to requirement 12.4.

13.8 You retain on a **Durable Medium** a central record or file of copies of all bills of **costs** distinguishing in each bill between **Costs**, paid **Disbursements** and **Disbursements** not yet paid at the date of the bill and VAT.

Reconciliations

13.9 At least once in each calendar month you:

13.9.1 prepare a **bank** reconciliation statement by comparing the balance on the **client** cash account with the balances shown on the **client bank** statements and passbooks (after allowing for all unrepresented items) of all **Client Accounts** and **Separate Designated Accounts** and any **Client Money** held by you/the entity in cash;

13.9.2 as at the same date prepare a listing of all the balances shown by the **client** and office ledger accounts and compare the total of the **client** ledger credit balances with the balance on the **client bank** reconciliation statement; and

13.9.3 prepare a reconciliation statement showing the cause of the differences (if any) shown by each of the above comparisons.

13.10 The steps required under requirement 13.9 are:

13.10.1 prepared to a date not more than five weeks after the date to which they were last prepared; and

13.10.2 completed within 7 days of the date to which they are prepared.

13.11 Records maintained in accordance with requirements 13.1 to 13.9 are kept separate from those for any other business. Where the accounts of more than one business are maintained on the same system, they are capable of being reproduced independently by the system.

13.12 You have immediate and unrestricted access to the **Accounting Records**.

Guidance – Reconciliation Statements

(i) Where, as a result of carrying out the comparisons and preparation of the reconciliation statement under requirement 13.9, any shortfall on **Client Account** is revealed it must be made good **Without Delay** by a payment into **Client Account** in accordance with requirement 10.4.2.

(ii) Where, as a result of carrying out the comparisons and preparation of the reconciliation statement under requirement 13.9, any credit balance on the office side of a **client** ledger account is revealed, it must be rectified by the appropriate action **Without Delay**.

(iii) Any outstanding credit on the **client bank** reconciliation should be cleared by a payment into **client bank** account **Without Delay**. The absence of a corresponding entry at the **bank** may create a shortfall on the relevant **client** ledger account.

Retention of Records

13.13 You retain on a **Durable Medium** for at least six years from the date of the last entry all documents or other records required by requirement 13.1 to 13.9.

13.14 You retain for at least two years:

13.14.1 all paid cheques, unless any relevant **Bank** or **Building Society** has agreed on a **Durable Medium** that it will retain such cheques or copies of the cheques on a **Durable Medium** on his behalf for that period; and

13.14.2 originals or copies of all other authorities for the withdrawal of money from the **Client Account**.

13.15 All statements and passbooks, as printed by the **Bank** or **Building Society** for **Client Accounts**, **Separate Designated Accounts**, accounts in which **Client Money** has been held and any **Office Account** is retained for at least six years from the date of the last entry.

Misappropriation of Clients' Money

13.16 Upon discovery of any misappropriation of **Client Money** you notify the **CLC Without Delay**. (The shortfall caused by the misappropriation must be rectified **Without Delay** by payment into **Client Account** in accordance with requirement 10.4.2).

CLC Monitoring

- 14.1 In order to monitor compliance with the **CLC's** Code, at the time and place determined by the **CLC**, you produce all information held on a **Durable Medium** relating to the business (to include his **Accounting Records**, papers, files and financial accounts) as would be reasonably required to enable the preparation of a report.
- 14.2 For the purposes of requirement 14.1, you hold **Accounting Records** on a **Durable Medium** and produce/make these available to the **CLC's** appointee in the manner required by the **CLC**.

Guidance – CLC Monitoring

- (i) Reasons are not required to be given for an inspection.
- (ii) You are required to provide, where required by the **CLC's** appointee, access to any computerised system.

Guidance - Disciplinary Consequences

(iii) If it appears to the **CLC** that there has been a contravention of this Code, disciplinary proceedings may be taken against you as **Manager** or as an entity under the **Code of Conduct**.

(iv) Where following an inspection instituted under requirement 14.1 it appears to the **CLC** that there is reason to believe you have failed to comply with a provision of this Code, the **CLC** may require you to pay a reasonable sum as is determined by the **CLC** to cover the cost of a further inspection.

(v) Any report made by the **CLC's** appointee may be sent by the **CLC** to the Crown Prosecution Service or the **Serious Organised Crime Agency** or to any of the accountancy bodies recognised by the **CLC**. It may be used as the basis for a preliminary investigation and may be taken into account by the **CLC** in relation to the possible disqualification of a **Reporting Accountant** under requirement 16.7.3.

14.3 The **CLC** is entitled to seek verification from your **Clients**, staff and **Banks** or Building Societies. If necessary, you provide written permission for such information to be given.

14.4 If you do not give the **CLC** permission to remove original documents from your premises, you provide us with photocopies on our request.

Deposit Interest

15.1 When holding **Client Money** in a **Separate Designated Account** you seek a reasonable rate of interest on money held in that account and must account to the **Client** for all interest earned on that account.

Guidance – interest directions

Without prejudice to any other remedy, a **Client** may apply to the **CLC** for a direction as to whether or not interest should have been earned in respect of **Client Money** held on his behalf by an **Authorised Person**. If the **CLC** directs that interest should have been earned then it may issue a direction as to the sum you pay to the **Client** in lieu of interest.

- 15.2 If the **CLC** directs pursuant to paragraph 22 of Schedule 8 to the **1990 Act** that such a sum should be paid, you pay to the **Client** the amount directed within fifteen days of the **CLC** sending notification of that direction.

Guidance – Deposit Interest

(i) If appropriate, the **CLC** may require you to obtain an interest calculation from the relevant **Bank** or **Building Society**.

- 15.3 You provide sufficient information in writing to enable the **Client** to give informed consent in writing if it is felt appropriate to depart from requirement 15.1. This includes expressly drawing the **Client's** attention to any contracting out provision which may be contained in **terms of engagement**.

Guidance – Informed Consent/contracting out

(i) Whether it is appropriate to contract out depends on all the circumstances, for example, the size of the sum involved or the nature or status or bargaining position of the **Client**.

(ii) The larger the sum of interest involved, the greater your obligation to demonstrate that a **Client** who has accepted a contracting out provision was properly informed and has been treated fairly and reasonably.

Accountant's Reports

- 16.1 If you have at any time during an **Accounting Period** held or received **Client Money** you procure the delivery by the **Reporting Accountant** to the **CLC** of an Accountant's Report for that period.
- 16.2 The **Accountant's Report** is delivered to the **CLC** within six months of the end of the **Accounting Period** except that, where on the date of coming into force of this Code, the **Accounting Period**

has already ended. The form of the **Accountant's Report** to be delivered shall be that prescribed by this Code.

- 16.3 If you have two or more places of business and choose separate **Accounting Periods** for these, you provide a separate **Accountant's Report** for each place of business.
- 16.4 You immediately notify the **CLC** of any changes to the identity, address and other relevant details of the **Reporting Accountant**.
- 16.5 Subject to Requirement 16.7 the **Reporting Accountant** is qualified to sign and give an **Accountant's Report** on behalf of an **Authorised Person** if he is a member of an accountancy body recognised by the **CLC** and holds a current practising certificate issued by that body when he signs the report.

Guidance – Accountant's Reports (1)

- (i) Even when this Code does not require delivery of a Report, a condition on a **licence** to practise may impose a separate and binding obligation to that effect.
- (ii) When **Client Money** is held or received by an entity, any **Manager** will have held or received **Client Money**.
- (iii) Employees do not usually hold **Client Money**, even if they are signatories on an entity's **Client Account**.
- (iv) If an employee does hold **Client Money**, an **Accountant's Report** will need to be delivered.
- (v) You must apply to the **CLC** for consent to vary the **Accounting Period**.
- (vi) When an entity is being wound up, you may be left with **Client Money** which is unattributable or belongs to a **Client** who, despite efforts, cannot be traced. It may then be appropriate to apply to the **CLC** for authority to withdraw this money from the **Client Account** under requirement 12.2.6 (see **CLC's Aged Balance Guidance** attached to this Code).
- (vii) It is not a breach of requirement 16.5 for you to retain an independent accountant to write up the books of account and to instruct the same person to prepare and sign the **Accountant's Report**. However, the accountant will have to disclose these circumstances in the **Accountant's Report**.

Requirements to be qualified to certify Accountant's Reports

- 16.6. The **Accountant's Report** is certified by a member of one of the following accountancy bodies:

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Institute of Chartered Accountants in Ireland;
- (d) the Association of Chartered Certified Accountants;
- (e) the Association of Authorised Public Accountants.

16.7 The **Accountant's Report** is not certified by an accountant who:-

16.7.1 either at any time between the beginning of the **Accounting Period** to which the **Accountant's Report** relates and the signing of the **Accountant's Report** they were a partner, employee or officer in the entity to which the **Accountant's Report** relates or was employed by the same employer as the **Authorised Person** for whom the **Accountant's Report** is given; or

16.7.2 they have been disqualified under 16.7.3 and have been given by the **CLC** notice of disqualification which has not been withdrawn.

Guidance - Disqualification of Accountants

(i) The **CLC** may disqualify an accountant from giving an **Accountant's Report** if:

- a) they have been found guilty by the disciplinary tribunal of their professional body of professional misconduct or discreditable conduct; or
- b) it is satisfied that the **Reporting Accountant** has failed in their **Accountant's Report** to properly identify and explain to the satisfaction of the **CLC** any breaches of this Code.

(ii) In coming to a decision the **CLC** will take into account any representations made by the accountant and their professional body.

(iii) The **CLC** shall notify you if you are likely to be affected by an accountant's disqualification, and may also publish notification of such disqualification in the **CLC's** 'Chronicle' or other publication.

16.8 You ensure that your **Reporting Accountant's** rights and duties are stated in **terms of engagement**, which include the terms set out in the Schedule. The **terms of engagement** and a copy are signed by both you and the **Reporting Accountant** and you retain the copy.

16.9 The **Reporting Accountant** examines your **Accounting Records** and other relevant documents at your office, not their own, and does not remove any original records from the premises.

- 16.10 You provide the **Reporting Accountant** with details of all accounts kept or operated by you in connection with your entity at any **Bank** or **Building Society** at any time during the **Accounting Period** to which the **Accountant's Report** relates, including **Client Accounts**, **Office Accounts** and accounts which are not **Client Accounts** but which contain **Client Money**.
- 16.11 The **Reporting Accountant** examines your **Accounting Records** to ensure compliance with this Code and carries out the checks and tests as prescribed on the **CLC** website and Management Information System.
- 16.12 The **Reporting Accountant** signs and delivers to the **CLC** the **Accountant's Report** together with the completed checklist in the form prescribed by the **CLC**.

Guidance – Accountant's Report (2)

- (i) Although requirement 16.12 requires the **Reporting Accountant** to deliver to the **CLC** the **Accountant's Report** together with the completed checklist, requirement 16.1 requires you to procure the delivery of the **Accountant's Report** to the **CLC** by the **Reporting Accountant** within the due date. The **Reporting Accountant** must provide you with a copy of the **Accountant's Report** and completed checklist.
- (ii) Factors to be considered in determining whether a breach is 'trivial' include the amount involved, the nature of the breach, whether the breach was deliberate or accidental, how often the same breach occurred, and the time which passed before discovery and correction (especially the replacement of any shortage).
- (iii) If an **Accountant's Report** is qualified only by reference to trivial breaches but which shows a significant difference between liabilities to **Clients** and **Client Money** held, either you or the **Reporting Accountant** must provide the **CLC** with an explanation for this difference, as required by the **Accountant's Report Form**.

General Saving Provisions

- 17.1 When acting on a **Client's** instructions, you have the general right on the grounds of **Client** privilege to decline to produce any document the **Reporting Accountant** requests for examination purposes. Where such a refusal occurs, the **Reporting Accountant** must qualify his **Accountant's Report** and include an explanation for such qualification.

Guidance – General Savings Provisions

- (i) Upon receiving a written application from you the **CLC** may waive in writing in any particular case any of the provisions of requirement 16 and may revoke any waiver.
- (ii) Nothing in this Code deprives you of your entitlement to money standing to the credit of

a *client* ledger account.

Reporting Accountant's Terms of Engagement - Schedule 1

- 18.1 The terms on which you instruct a **Reporting Accountant** include the following:-
- 18.2 'In accordance with the **CLC** Accounts Code you are instructed:
- 18.2.1 to conduct tests and checks prescribed by the **CLC**;
- 18.2.2 to sign and deliver to the **CLC** the **Accountant's Report** together with the completed checklist in accordance with requirement 16.11; and provide me with a copy;
- 18.2.3 to report directly to the **CLC** without prior reference to me/this firm/this company if, in the course of carrying out work in preparation of the **accountant's report**, you discover evidence of theft or fraud affecting **client money** or information which is likely to be of material significance in determining whether I am/this entity is a **fit and proper person** to hold **client money**;
- 18.2.4 to report directly to the **CLC** should your appointment be terminated following the issue of, or the indication of intention to issue, a qualified **Accountant's Report** or following the raising of concerns prior to the preparation of an **Accountant's Report**;
- 18.2.5 to retain these **terms of engagement** for at least two years after termination of the retainer and to produce them to the **CLC** on request; and
- 18.2.6 following any report made to the **CLC** under 18.4 and 18.5, to provide to the **CLC** on request any further relevant information in your possession or in the possession of your firm.
- 18.3 By accepting instructions under requirement 16 of the Accounts Code you agree that:-
- 18.3.1 the **CLC** will rely upon the content of your Report,
- 18.3.2 a duty of care is owed by you to the **CLC**; and
- 18.3.3 your liability to the **CLC** will be limited to the loss and costs suffered by the **CLC** arising from items which you have negligently failed to specify in your Report.
- 18.4 To the extent necessary to enable you to comply with the preceding paragraphs, I/We waive my/the firm's/the company's right of confidentiality. This waiver extends to any report made, document produced or information disclosed to the **CLC** in good faith in accordance with these instructions, even though it may subsequently transpire that you were mistaken in your belief that there was cause for concern'.

Aged Balances Guidance

Purpose of Guidance

The purpose of this **Guidance** is to help the regulated community resolve the problem of **Aged Balances**; this money cannot be withdrawn from the **client account** without written authority of the **CLC**. The **Guidance** intends to highlight issues which may arise and suggest possible solutions. However, it is up to the individual **Authorised Person** to decide which options best suit their circumstances.

Part 1 of this note sets out ways in which you can avoid or minimise **Aged Balances**; and

Part 2 sets out the procedure which the **CLC** will adopt when it considers whether to give written authority in accordance with requirement 12.2.6 of the **CLC** Accounts Code.

Part 1 ~ How to Avoid Aged Balances - Example Procedure

On Receipt of Instructions: -

1. (a) obtain the **client's bank** details (name and address of **bank**, sort code, account number and name) e.g. by keeping a copy of cheques issued by the **client**;

(b) alternatively, obtain the **client's** credit card details.

Completion Statements

2. (a) "Completion Statement" means an itemised statement of money paid in and out concluding with a balance either owed by or to be paid to the recipient.

(b) Draft Completion Statements should be prepared and checked prior to exchange of contracts.

(c) All Completion Statements (whether in draft or final form) should be checked for accuracy by reference: -
 - (i) to the account or alternatively to their credit card account; and
 - (ii) to the **client** ledger, with evidence from the **rightful recipient** on **Durable Medium**.

Client Ledger Card

3. The **client** ledger card should be checked to ascertain whether a balance remains after the last payment is made and, if so, the balance should be accounted for immediately to the **Rightful Recipient**.
4. It is good practice to ensure that: -

- (i) the **client** ledger balances are reviewed monthly to identify unexpected or dormant **client** balances;
 - (ii) If a balance is held against a contingent liability, a note is made on the **client** ledger card (alternatively the file) clearly identifying that liability; and
 - (iii) a schedule of **client** balances held for 3 months or more is maintained stating in each case the **client(s)** name(s), file/ledger number, the **Rightful Recipient**, the balance outstanding, the date of last movement and the reason for the balance.
5. Before a file is closed or archived: -
- (a) the **client** ledger card should be checked to ensure: -
 - (i) no balance is outstanding;
 - (ii) all cheque payments have been cleared by the **bank**;
 - (b) a copy of the **client** ledger card showing a nil balance on both the **client** and **office account** should be placed on the file.

Unpresented Cheques

6. Unpresented cheques should be reviewed on a regular basis.
- (a) Unpresented Mortgage Redemption Cheques ~ the **Rightful Recipient** should be contacted within 12 days or no later than one month after payment has been tendered and then at frequent intervals; *[do we need to define 'frequent'?*]
 - (b) All other cheques ~ the **Rightful Recipient** should be contacted after no more than two months after the cheque has been tendered and then at a minimum of two monthly intervals.
7. If a cheque has been lost or remains unpresented after six months: -
- (a) a stop should be placed on the original cheque;
 - (b) the cheque should be written back to the **client** ledger account; and
 - (c) the monies paid: -
 - (i) either direct to the **Rightful Recipient's bank** account, alternatively credit card account; or
 - (ii) at the **Rightful Recipient's** direction.

Retention Monies

8. Where possible you should seek agreement providing for retention monies to be held on terms that provide for payment to a named person at a specified **bank** account if the terms for their release have not been satisfied within a specified period.
9. If no such term has been agreed: -
 - (a) the file should be reviewed every three months; and
 - (b) you should seek to obtain such an agreement.
10. It is good practice to maintain: -
 - (a) a schedule of retention balances stating in each case the **client(s)** name(s), the file/ledger number, the amount of and the reason for the retention and the last date for release; and
 - (b) a separate note of the reason for the retention and the last date for release on the **client** ledger card.

Aborted or Delayed Transactions

11. Regular contact should be maintained with the **client** where the matter has either aborted or been delayed.

Part 2 - Obtaining Authority from the CLC

1. Requirement 12.2.6 of the **CLC** Accounts Code provides that money may be withdrawn from **Client Account**, where -

“the **CLC** has given written authority for a specific payment to a nominated payee”.

Authorisation

2. The **CLC** will consider giving this authorisation as follows: -

- 2.1 where the Aged Balance is less than £20.00:-

- (a) the **CLC** must be provided with: -

- (i) an Undertaking in the following terms: -

“In consideration of the **CLC** giving written authority in accordance with Requirement 12.2.6 of the **CLC** Accounts Code for the withdrawal of the monies set out in the schedule to this Undertaking (the “Annex”) I/We [names] undertake to the **CLC** that I/we shall within 14 days of a request from the **Rightful Recipient** pay the sum outstanding as set out in the Annex in accordance with this direction.”

(ii) the Annex which sets out in each case the **client(s)** name(s), the file/ledger reference, identifying the property to which the transaction related, the **Rightful Recipient**, the balance outstanding and the date of last movement;

(b) on receipt of the Undertaking the **CLC** may give written authority for withdrawal of the sums set out in the Annex from the **client account**;

(c) on receipt of the written authority from the **CLC** you can transfer the balances as set out in the Annex from **client** to office **bank** account providing the relevant entries have been made to a suitable office nominal ledger account e.g. "Write Offs" and places a copy of the authority issued by the **CLC** on the **clients'** file.

2.2 Where the Aged Balance amounts to £20 or more but less than £100 the **CLC** must be provided with: -

(a) a schedule setting out in each case the **client(s)** name(s), the file/ledger reference, identifying the property to which the transaction related, the **Rightful Recipient**, the balance outstanding and the date of last movement;

(b) a copy of the **client** ledger card(s); and

(c) a signed certificate giving brief details of how the balance has arisen and stating you have taken all Reasonable Steps to trace the **Rightful Recipient** but have been unable to trace that person.

The **Rightful Recipient** is the person to whom monies held by the **CLC Body** on **client account** are correctly due.

2.3 'Reasonable Steps' are dependent on the particular circumstances and the sum involved. Examples are: -

- attempting to contact the **Rightful Recipient** at all known addresses, by all known telephone numbers and at any known e-mail address, or through Estate Agents;
- attempting to return funds using available **bank** or credit card details of the **Rightful Recipient**;
- contacting known friends/relatives of the **Rightful Recipient**;
- advertising in a local newspaper.

2.4 Where the Aged Balance is £100 or more the **CLC** must be provided with the information set out in 2.2(a) and (b) and, in addition: -

- (a) details of the Reasonable Steps taken to trace the **Rightful Recipient**;
- (b) brief details indicating how the balance has arisen; and
- (c) any other information the **CLC** may request.

2.5 If authority is given by the **CLC** for a withdrawal under paragraph 2.2 or 2.4

it will only be on the basis that a cheque or funds transfer for the sum so authorised must be drawn on the **client account** payable to the **CLC**. On receipt, the cheque will be placed to the credit of the **CLC's Compensation Fund** and utilised for the benefit of such Fund. You should place a copy of the authority issued by the **CLC** on the **clients'** file.

2.6 Where the **Rightful Recipient** cannot be identified, the **CLC** will, in exceptional

circumstances, give authority under Requirement 12.2.6 of the **CLC** Accounts Code for the withdrawal of funds from **client account** on the basis that a cheque or funds transfer for any sum so authorised must be drawn on the **client account** payable to the **CLC**. On receipt, the cheque will be placed to the credit of the **CLC's Compensation Fund** and utilised for the benefit of such Fund. You should place a copy of the authority issued by the **CLC** on the **clients'** file (or if this is not available in a central record hold it on a **Durable Medium**).

2.7 If the **Rightful Recipient** contacts you after funds have been paid into the

CLC's Compensation Fund you should contact the **CLC** with a view to the **Rightful Recipient** making a **claim** for reimbursement on the **Compensation Fund** unless the body is no longer trading in which case they should contact the **CLC** directly.



Anti-Money Laundering & Combating Terrorist Financing Code & Guidance

Anti-Money Laundering & Combating Terrorist Financing Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the CLC must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcome**:

- **Client matters are dealt with using care, skill and diligence. (Outcome 2.2)**

Combating Money Laundering (AML) and Terrorist Financing (CTF) helps you deliver these **Outcomes** and act in a principled manner:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. You comply with anti-money laundering and prevention of financing terrorism legislation. (**CoC P1m**)
3. You **systematically** identify and mitigate risks to the business and to **Clients**. (**CoC P2f**)
4. You promote ethical practice and compliance with regulatory requirements. (**CoC P2g**)
5. You maintain proper governance, management, supervision, financial and risk management **arrangements** and **controls**. (**CoC P2i**)

You must also comply with the following **specific requirements**:

6. You have appropriate management **arrangements** and systems and **controls** in place to comply with anti-money laundering regulations.

7. You ensure that management **arrangements**, systems and **controls** enable the identification, assessment, monitoring and management of AML/CTF risk and are appropriate to the nature, scale and complexity of your activities.
8. You carry out regular reviews of the adequacy of management **arrangements**, systems and **controls**.
9. You ensure that, in order to meet your responsibilities under the AML/CTF Legislation Regulations your management **arrangements**, systems and **controls** include:-
 - (a) an appropriate AML/CTF policy ;
 - (b) appropriate and regular training for employees (of which a record must be kept) in relation to AML/CTF to enable employees to recognise and deal with transactions and other activities which may be related to AML/CTF;
 - (c) appropriate internal reporting procedures;
 - (d) management and retention of records of **CDD** and information about, suspicion reports received by the business;
 - (e) appropriate measures to ensure that AML/CTF is taken into account in the day to day operation, including the application of appropriate **CDD** for:-
 - (i) dealing with existing **clients**;
 - (ii) the taking on of new **clients**;
 - (iii) dealing with **Beneficial Owners**;
 - (iv) incorporating changes in the services provided;
 - (f) appropriate **CDD** measures to ensure that procedures for identifying and verifying new **clients** and **Beneficial Owners** do not unreasonably deny access to the services to potential **clients** who can not reasonably be expected to produce detailed evidence of identity.
10. You :-
 - (a) appoint a Nominated Officer with responsibility to receive suspicion reports and make reports to SOCA;
 - (b) appoint a **manager** (who may or may not be the Nominated Officer) with responsibility for ensuring the business complies with these;

(c) ensure that the Nominated Officer or **manager** has an appropriate level of authority and independence , and access to resources and information sufficient to enable them to carry out that responsibility.

11. Records must be stored on **Durable Medium**.

Anti-Money Laundering and Combating Terrorist Financing **Guidance**

Introduction

1. **Overriding Principle 2** of the **CLC Code of Conduct** requires you to Maintain High standards of Work. The approach set out below aims to help you comply with that principle. You are not obliged to adopt this approach, but it offers you an example of the minimum commitment that the **CLC** considers is likely to be needed for compliance. Should you use the provided example as your starting point, it is likely that you would need to make amendments to ensure that it matches your particular circumstances. The procedures you adopt should apply a risk-based approach, taking into account the nature of your work, **clients**, and the number of employees.
2. For more detailed **guidance** on this please see the **CLC's** Interim **Guidance** on prevention of Money Laundering and Combating Terrorist Financing [[insert hyperlink](#)].

Contents:

3. AML/CTF **Example Policy**
4. AML/CTF **Example Procedure**
5. AML/CTF Nominated Officer **Example Policy**
6. Training Records Example
7. Internal Reporting Form and Record of Decision Example
8. Wording to be incorporated into the **Terms of Engagement** Example
9. For Information - External Reporting

-
3. **AML/CTF Policy Example**

'IMPORTANT

It is essential that that the business and its employees comply with the letter and spirit of this policy since failure to do so may amount to a criminal offence for which it is possible to be sentenced to a term of imprisonment.

1. As a business, we are committed to complying with the ***anti money laundering legislation***, in particular the Proceeds of Crime Act 2002, the Terrorism Act 2000 (each as amended) and the Money Laundering Regulations 2007.
2. We must at all times take steps to ensure that our business is not used to launder the proceeds of crime or to assist terrorist financing.
3. We must explain to ***clients*** the need to obtain proof of identity and the limitations on our duty of confidentiality to them either in our ***terms of engagement*** or otherwise in writing.
4. We accept that the Nominated Officer has full autonomy in carrying out their duties.
5. We will ensure that you are given appropriate and regular training to help you comply with AML/CTF, this policy and the procedures of the business.
6. We will communicate to you details of any types of business we have decided not to accept.
7. We will regularly monitor and review our policies, procedures and training.
8. We require all of the business's members to follow carefully the procedures set out in the Procedures Manual.

4. AML/CTF Procedures Example

'IMPORTANT

It is essential that that the business and its employees comply with the letter and spirit of these procedures since failure to do so may amount to a criminal offence for which it is possible to be sentenced to a term of imprisonment.

Procedures

1. You must not act or continue to act for a ***client*** until all requirements for ***Customer Due Diligence (CDD)*** or Enhanced ***Customer Due Diligence (EDD)*** have been met. If these cannot be met, you must
 - not establish a new business relationship; or
 - terminate any existing business relationship.

You must then consider whether to make an internal report to the Nominated Officer.

2. The purpose of **CDD** and EDD is to help you decide whether your **clients** are the persons they say they are and that you can:
 - know with some certainty whether your **clients** are acting on behalf of another (called a **beneficial owner**)
 - establish there is nothing to prevent you providing the service requested
 - assess whether the purpose of the instruction is consistent with the lifestyle and economic means of your **clients**
 - establish there are no obvious elements which suggest that any transaction is unusual or over complex in the context of those instructions.

3. Whenever instructed by any **client** you must obtain evidence as early as possible that:
 - the **client** is the person he or she claims to be, for example, by a current signed passport or current UK photo driving licence; and
 - a person of that name lives at the address given, for example, by a utility bill less than 3 months old or mortgage statement;unless we already hold evidence of that **client's** identity which is both relevant and up-to-date and there are no reasons to believe that any of the details have changed.

4. You should find out whether there is a **beneficial owner** in which case you must be satisfied who that person is. A **beneficial owner** is the person who ultimately owns and controls the **client** on whose behalf a transaction is being conducted (see further paragraphs 6.14 – 6.19 of the **CLC's** Interim **Guidance** for the Prevention of Money Laundering and Combating Terrorist Financing). There may be more than one. If the **client** is a **company** you must identify who owns 25% or more of the structure and who exercises effective management and control.

5. Further examples of acceptable ID evidence are set out in the Acting for Lenders and Mortgage Fraud Code and **Guidance**. Photocopies should always be certified as being true copies of the original and signed and dated by the person making the copies.

6. EDD checks must be made in any situation which by its nature can present a higher risk of money laundering or terrorist financing. The 2007 Regulations identify two specific examples where EDD must be carried out:
 - where the **client** has not been physically present for identification purposes; or
 - where the **client** is a Politically Exposed Person

7. The most frequent circumstance in which you must carry out EDD is likely to be when you do not meet your **client** at the time you establish and verify identity. In addition to the usual steps taken to verify identity for **CDD**, you should obtain at least one additional document of identity or verify identity electronically through [state specific source the business uses].
8. Further **CDD guidance** can be found in the Acting for Lenders and Prevention & Detection of Mortgage Fraud Code and **Guidance**.
9. You keep a record and take copies of all relevant documentation about the **client's** identity and address and we must keep them for at least 5 years.
10. You make reasonable enquires and take copies of all relevant documentation relating to the source of funds and we must keep them for at least 5 years.
11. If you are not satisfied with the documentation or explanation you are given you should consider whether to make further enquires (either orally or in writing), where appropriate, seeking **guidance** from a supervisor or someone with more experience within the business.
12. Examples of Warning Signs which you should take into account in deciding whether to make an internal suspicion report are set out in the Acting for Lenders and Prevention & Detection of Mortgage Fraud Code and **Guidance**, paragraph 15, and include:
 - secretive **clients**;
 - involvement of unconnected third parties
 - unusual instructions
 - overpayments of money.No list of examples provided at any one time can ever be exhaustive and you will need to exercise your skill and judgment to assess any circumstances involved in a transaction which may seem to you or to an ordinary member of the public to be unusual or out of the ordinary.
13. You should not accept payments of cash in excess of [£100] either made directly to you or into the firm's **bank** account.
14. If the nature of the transaction, the documentation or information you have been given would have aroused suspicions for a reasonable and honest **Authorised Person**, then you must immediately make an internal suspicion report in writing using our prescribed form to [name] who is our Nominated Officer (or in his absence [name]). [The business should suggest a procedure to support its employees when dealing with customer enquiries once a report has been made.]
15. Once you have made a report to the Nominated Officer, no further action should be taken regarding the transaction without the specific authority of the Nominated Officer.
16. You must not disclose your suspicions or the fact that you have made a report to the Nominated Officer to any other person, in particular the person who is the subject of such a report, since

this may amount to “tipping off”, which is also serious criminal offence for which you could be imprisoned.

17. You must respond ***promptly*** to requests from the Nominated Officer for any further information.

5. AML/CTF Example Policy for the body’s appointed Nominated Officer

1. The business requires you as its Nominated Officer to comply with this policy in addition to complying with the business’s AML/CTF policy.
2. Failure to carry out your duties may cause you to commit a criminal offence.
3. You will have access to all files, records and information and be given sufficient resources and authority to fulfil the role and be allowed to carry out your duties without fetter, influence or interference.
4. Upon receipt of each internal suspicion report from any of the business’s members , you must acknowledge receipt in writing to the person making the report. You must then consider carefully whether a report should be made to the ***Serious Organised Crime Agency*** (SOCA).
5. You must make a report to SOCA in the prescribed form where you have actual knowledge or suspicion, or where (based on what an ordinary member of the public might think) there are reasonable grounds to know or suspect a money laundering offence has been committed. You will need Consent from SOCA for an ongoing transaction to proceed.
6. If you do make a report to SOCA then you must ensure that you maintain regular telephone contact with them where Consent is required.
7. You must maintain a record of each decision you have made and keep it for at least 5 years whether or not you send a report to SOCA.
8. You must support and advise members of staff who make internal suspicion reports to you, emphasising the implications for them of “tipping off”. In particular you must do this where you are waiting for Consent to proceed from SOCA.
- [9. You may also be the MLRO of the business].’

6. Example of AML/CTF Training Record

| Date | Details of training | Name of attendee | Attendee’s signature | Trainer’s signature |
|------|---------------------|------------------|----------------------|---------------------|
| | | | | |

The signature of the attendee acknowledges that training has been received to satisfy the current requirements of the body's AML/CTF policy.

7. Example of Internal Reporting Form and Record of Decision

'Neither this form nor any copy is to be kept on the *client* file

PART 1

| | |
|--|--|
| Name of Person making report | |
| Name of Nominated Officer | |
| Name(s) of client | |
| File Reference Number | |
| Address of Property involved | |
| Reasons for making the report | |
| Additional Information | |
| Signature of person making the report: | |
| Date: | |
| PART 2 | |

| | |
|--|------|
| (To be completed by the Nominated Officer) | |
| Date received | |
| Additional information requested | |
| External report: Yes / No | Ref |
| Reason for decision | |
| Signature of Nominated Officer | Date |

8. Example of wording to be incorporated into the *Terms of Engagement*

8.1. Proof of Identity

We must by law obtain satisfactory evidence of your identity and address. Please help us to do so by giving us the information and documentation we ask for. We are unable to proceed with your transaction and will not be able to exchange contracts until this has been provided.

8.2. Confidentiality

As lawyers, we are under a general professional and legal obligation to keep your affairs private. However, we are required, by current legislation, to make a report to the Serious Organised Crime Agency (SOCA) where we know or suspect that a transaction involves Money Laundering or Terrorist Financing. By instructing us to act on your behalf in accordance with these **terms of engagement** you give us irrevocable authority to make a disclosure to SOCA if we consider it appropriate.

8.3. You agree that this authority overrides any confidentiality or entitlement to legal professional privilege. We shall be unable to tell you if we have made a report.

-----End of Examples -----

9. External Reporting Form

- 9.1. A copy of the current Suspicious Activity Report (SAR) may be accessed on the website for the **Serious Organised Crime Agency** by following the links at www.soca.gov.uk and downloading the form. Alternatively, a SAR may be filed electronically by registering for and activating the On-line service on the Reporting SARs” button.
- 9.2. For information or assistance with submitting SARs, SARs online queries, consent issues or general Financial Intelligence Unit matters telephone the UK Financial Intelligence Helpdesk on 020 7238 8282 and select the appropriate option. The UKFIU Dialogue Team can be contacted 24/7 by email on fiudialogue@soca.x.gsi.gov.uk. Any messages on SAR-related issues will be dealt with through the Proceeds of Crime Dialogue Office. This is not to be used for SAR reporting – it is a means of addressing concerns via e-mail. Urgent disclosures (e.g. those requiring consent) can be transmitted electronically or by fax on 020 7238 8256.

UKFIU

Serious Organised Crime Agency

PO Box 8000

London

SE11 5EN



Complaints Code & Guidance

Complaints Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the follow **Outcomes**:

- **You accept responsibility where the service you provide is not of the expected standard and provide appropriate redress for the *Client* where necessary (Outcome 6.3);**
- **Handling of *complaints* takes proper account of *Clients'* individual needs, including those who are vulnerable (Outcome 6.4);**
- ***Complaints* are dealt with impartially and comprehensively (Outcome 6.5).**

Effective handling of **complaints** helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Maintain high standards of work. (*Overriding Principle 2*)**
2. **Promote equality of access and service. (*Overriding Principle 6*)**
3. You make all reasonable efforts to ensure your service is accessible and responsive to ***Clients***, including those with vulnerabilities. (**CoC P6d**)
4. Your **complaints** procedure is clear, well-publicised and free. (**CoC P6e**)

5. You treat **complaints** seriously and provide appropriate redress options. (CoC P6f)
6. You deal with **complaints** fairly and within 28 days. (CoC P6g)
7. You identify and address systemic **Client complaints** issues. (CoC P6h)
8. You operate a procedure which is appropriate to the needs of **clients** and which allows **complaints** to be made by any reasonable means.
9. You deal with **complaints** constructively and impartially, basing decisions upon a sufficient investigation of the circumstances.
10. Where redress offers are accepted, these are actioned within 28 days.
11. You treat fairly members of staff who are the subject of a **complaint**.

You must also comply with the following **specific requirements**:

12. You advise **Clients** from the outset of their right to make a **complaint**, how to make it, to whom, and the timeframes involved. (CoC P6j)
13. You advise **Clients** of their right to have their **complaint** escalated to the **Legal Ombudsman**, and provide them with contact details and timeframes of that body. (CoC P6k)
14. You keep a record of **complaints** received and any action taken as a result. (CoC P6k)
15. **Complaints** are investigated under the supervision of one of your senior **managers**/members.
16. You respond in writing to **complaints** within 7 days. Where a full response cannot be given in this timeframe, you acknowledge receipt of the **complaint**, give the reason for the delay and commit to responding fully within 28 days of receipt of their initial **complaint**.
17. The response includes:
 - a clear explanation of your assessment of the **complaint**;
 - your decision on it,
 - offer of remedial action and/or redress where a **complaint** is upheld;
 - information on your **complaint**-handling review procedure (if applicable), its timeframes and how it can be accessed;
 - information on the complainant's right to refer the **complaint** to the **Legal Ombudsman**, its timeframes and contact details.
18. Should your procedure make provision for review of how a **complaint** was handled it must be carried out in a timely manner and not inconvenience the complainant.

Complaints Guidance

Legal Ombudsman

1. We have adopted the **Legal Ombudsman's** definition of a **complaint**. Please see this Handbook's Glossary.

2. Contact information for **Legal Ombudsman**:

Tel no: 0300 555 0333

Email: enquiries@legalombudsman.org.uk

Website: www.officeforlegalcomplaints.org.uk <http://www.legalombudsman.org.uk/>

Legal Ombudsman

PO Box 15870

Birmingham

B30 9EB

3. The **Legal Ombudsman** can normally only investigate a **complaint** if it has already been through your own **complaints** procedures. If the ombudsman receives a **complaint** concerning you/the body which has not been through your **complaints** process, it will be referred to you to be dealt with in the first instance. It is therefore acceptable for you to include the following terms in any **complaints** procedure,

"Unless it agrees there are good reasons not to do so, the **Legal Ombudsman** will expect you to allow us to consider and respond to your **complaint** in accordance with the procedure set out above, before they will consider it."
4. The **Legal Ombudsman** can accept **complaints** up to 6 months after the completion of your own **complaints** process, or within 12 months of the complainant discovering a problem (whichever is later). The complainant may also refer their **complaint** to the **Legal Ombudsman** if your own **complaints** process has taken 8 or more weeks to complete.
5. The **Legal Ombudsman's** jurisdiction covers service-related **complaints**; the ombudsman will refer any conduct-related **complaints** to the **CLC**.
6. The **Legal Ombudsman** will charge a case fee (currently £400) if the **complaint** is upheld following a formal determination. It currently operates a 2 free upheld **complaints** system i.e. legal service providers pay the case fee for the 3rd upheld **complaint** over a 12 month period.

Requirements of the Code

1. Should your response timescales be shorter than those identified in the Code we would not require you to alter them.
2. Provision must be made for **complaints** to be made by any ‘reasonable means’; determination as to what constitutes ‘reasonable’ is at your own discretion, taking into account the body’s size, profile and **clients**, though we would expect the minimum provision to be in person, telephone and by letter. NB. Bodies may wish to also provide Customer Feedback Forms and provide for **complaints** to be made via the body’s website.

Example Procedure

Overriding Principle 6 of the **CLC Code of Conduct** requires you to promote equality of access and service. The Procedure template below aims to help you comply with that principle. You are not obliged to adopt this approach, but it offers you an example of the minimum that the **CLC** considers is likely to be needed for compliance. Should you adopt the procedure, it is likely that you would need to make amendments to ensure it works with the number of your employees, the nature of your work and your **Clients** e.g. sole **practitioners** should only have **complaint** determination review **arrangements** in place with other bodies if the review would be carried out in a timely manner. NB. If you do not have a review system in place, the complainant should be referred directly to the **Legal Ombudsman**.

Complaints Example Procedure

If you have any complaint about the way in which your matter has been dealt with this is the procedure which will be followed:

| | |
|----|--|
| 1. | A complaint is an oral or written expressions of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience, or detriment. |
| 2. | We aim to resolve any complaint you have about the service we have given you as quickly as possible. If you are unable to sort things out with the person who has been dealing with you please contact [name, contact details]. [Alternatively, for a sole practitioner – If you are unable to sort things out with me please let me know in writing and I shall ask [name, contact details] to look into your complaint for me]. |
| 3. | Once we have received your complaint, [name above] will write to you within 7 days to explain how your complaint will be investigated if a complete response to your complaint has not been made by that time. You will be told the latest date by which a complete answer will be given to your complaint (this should be not more than 28 days after we received your complaint). If you have made the complaint verbally - either at a meeting or on the telephone - we will set out in our full response our understanding of the nature of your complaint |
| 4. | The assessment of the complaint will be based upon a sufficient and fair investigation. We will explain in writing our findings and where the complaint is upheld will offer remedial action or |

| | |
|----|--|
| | redress. This will be actioned promptly. |
| 5. | [If you are dissatisfied with any aspect of our handling of your complaint, please feel free to contact [name, contact details], who will conduct a separate review of your complaint [Alternatively, for a sole practitioner – If you are dissatisfied with the way your complaint is handled please let me know in writing and I shall ask [name, contact details] who will conduct a separate review of your complaint for me.] You will be told about the conclusion of this review within [28] days. |
| 6. | <p>If after following the review process you remain dissatisfied with any aspect of our handling of your complaint, you may contact directly the Legal Ombudsman to ask them to consider the complaint further:</p> <p>Tel no: 0300 555 0333</p> <p>Email: enquiries@legalombudsman.org.uk Website: http://www.legalombudsman.org.uk/</p> <p>Legal Ombudsman PO Box 15870 Birmingham B30 9EB</p> <p>Unless it agrees there are good reasons not to do so, the Legal Ombudsman will expect you to allow us to consider and respond to your complaint in accordance with the procedure set out above in the first instance. You can refer your complaint up to 6 months after you have received our final written response to your complaint. You can also use the Ombudsman service if we have not resolved your complaint within 8 weeks of us receiving it. A complaint can be referred to the Legal Ombudsman within 12 months of you discovering a problem. The ombudsman deals with service-related complaints; any conduct-related complaints will be referred to the Council for Licensed Conveyancers.</p> |

Good Practice

This section provides you with **guidance** and examples of good practice, which you are not required to adopt but which you may wish to consider.

1. Learning from **complaints** is an essential part of overall customer care. **Complaints** data provides you with a useful ‘business barometer’ to prevent recurrence of similar-themed **complaints**, identify any training needs and increase **client** satisfaction. To this end, you may wish to record **complaints** by themes or categories which are useful to your business.

2. It is good practice to offer access to a review of how a **complaint** was handled. If you are the body's only **Manager** you may wish to arrange for another firm to carry out a separate review of the **complaint**. Any review should be completed within 28 days of the request for the separate review and should not inconvenience the complainant.
3. It is considered good practice for the senior management to review **complaints** trends. Lessons can then be learned and applied across the organisation, creating an environment in which **complaints** are seen as opportunities to improve systems and services. It is also considered good practice to periodically review the **complaints**-handling process to identify if there are any improvements needed.
4. **Complaints** enable staff to develop a better understanding of the service user's point of view. All staff should be aware of the **complaints** procedure and take **complaints** seriously. If **complaints** identify a systemic issue it may be appropriate to organise staff training to address it. Some organisations recognise and reward those members of staff who handle **complaints** well.
5. It is beneficial for staff to feel that their **complaints**-handling procedures support them. It would be in their interests if the procedure meant that any accusations made against staff were known only to them and to those investigating the **complaint**. It is likely to be beneficial to the body if its staff – and if possible, its **clients** - are involved in developing **complaints** procedures.
6. To enhance the accessibility of your **complaints** process you could give consideration to **clients** being able to lodge a **complaint** via your website; allowing someone else to make the **complaint** on behalf of a vulnerable **client**; and providing the **complaints** procedure in large print. This list is certainly not exhaustive; procedures should be tailored to the needs of **clients** wherever appropriate.
7. Some organisations produce customer feedback leaflets which include an overview of the body's **complaints** procedure and sometimes a **complaint** form or slip. Others survey complainants to gauge satisfaction with the **complaint**-handling process. Below are some possible questions which those considering customer satisfaction surveys may find useful.

Possible 'How well did we do?' Survey Questions

- How did you find out about our **complaints** procedure?
- Was the **complaints** procedure information useful and easy to understand?
- How did you initially contact us with the **complaint**?
- What was the nature of your **complaint**?
- Did staff make you feel it was okay to make a **complaint**?
- Were you given a clear explanation of the **complaints**-handling process?
- Did you need help from us to make your **complaint**? If yes, did you get it?
- Did we keep you well-informed about the progress of your **complaint**?
- Did you find our staff helpful in dealing with your **complaint**?
- Did you feel the **complaint** was dealt with quickly enough?

- Did you feel the investigation into your **complaint** was thorough?
- Did you feel the investigation into your **complaint** was conducted fairly?
- Did you feel we understood your **complaint**?
- Was our response meaningful?
- Was our response easy to understand?
- Did our response address all the points you had raised?
- After the investigation into your **complaint** did we do what we promised?
- Were you satisfied with the final outcome of your **complaint**?
- How do you rate your overall experience of the **complaints** process?
- Do you have any suggestions as to how we could improve how **complaints** are dealt with?
- Do you feel that your age, disability, ethnicity, gender, race, religion or sexuality led to any barrier in accessing the **complaints** procedure?
- Do you feel that age, disability, ethnicity, gender, race, religion or sexuality adversely impacted upon how your **complaint** was dealt with?
- Do you have any additional comments?

Some also profile the complainants to determine if there is a particular equalities group which feels disproportionately dissatisfied with the process.

8. In addition to **complaints**, any compliment and comments you receive provide you with an opportunity to learn what is working well, as well as what isn't. It may be appropriate to publicise these to staff so they know what customers want e.g. displaying thank-you letters, promoting service improvements made as a result of **complaints**.



Conflicts of Interest Code & Guidance

Conflicts of Interest Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the CLC must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Each *Client's* best interests are served; (Outcome 3.1)**
- ***Clients* have the information they need to make informed decisions; (Outcome 3.3)**
- ***Clients* are aware of any limitation or any condition resulting from your relationship with another party. (Outcome 3.5)**

The prevention, detection and mitigation of **conflicts of interests** help you deliver these **Outcomes** and act in a principled manner:

1. **Act with Independence and Integrity. (Overriding Principle 1)**
2. **Act in the best interests of your *Clients*. (Overriding Principle 3)**
3. You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (**CoC P3b**)

4. You do not act for a **Client** where you judge it is not in their best interest for you to do so. (CoC 3c)
5. You do not accept instructions from a person nor continue to act for a **Client** whose interests conflict directly with your own, the entity's, or another **Client**. (CoC P3d)

You must also comply with the following **specific requirements**:

6. Where the entity represents parties with different interests in any transaction each party is at all times represented by different **Authorised Persons** conducting themselves in the matter as though they were members of different entities. (CoC P3n)
7. Before or when accepting instructions to act for a second **Client** you inform each **Client** in writing that the body has been asked to act for another **Client** in the same matter and you explain the relevant issues and risks to them.
8. You only act for both **Clients** if each **Client** has provided informed written consent that you may act for another **Client** in the matter.
9. You do not act, or do not continue to act, for a **Client** where your ability to give independent advice is in any way restricted. This may arise if:
 - (a) you owe separate duties to act in the best interests of two or more **clients** in relation to the same or related matters, and those duties conflict, or there is a significant risk that those duties may conflict; or
 - (b) your duty to act in the best interests of any **client** in relation to a matter conflicts, or there is a significant risk that it may conflict, with your own interests in relation to that or a related matter.
10. If a conflict arises which was or should have been foreseen, you do not charge either **Client** a fee for the work undertaken (other than for **disbursements** properly incurred).
11. As an exception to requirement 6, and provided no conflict of interest arises, if you are a body with only one **Authorised Person** you may act for more than one **Client** where one of the **Clients** is a lender providing mortgages in the normal course of its business activities.

Conflicts of Interest Guidance

Assessment of circumstances

1. You should assess all relevant factors to determine if there is a conflict of interest between **Clients**. For instance, if there is an imbalance in bargaining power between the **Clients**, or a

Client is vulnerable, or their interests are markedly different and cannot be reasonably reconciled.

2. You should assess all relevant factors to determine if there is a conflict of interest between yourself and a **client**. For instance, if there is a financial interest or a personal or commercial relationship.

Arm's length transactions

3. A body may act for two or more **Clients** in an arm's length transaction for value where each **Client** is represented by a different **Authorised Person**, except where a conflict of interest arises.
 - a) A matter will not generally be regarded as an arm's length transaction where the parties are related by blood, adoption or marriage or in a stable relationship (e.g. a cohabiting couple or the parties otherwise treat each other as family members).
 - b) The determining factor is not the specific relationship but the existence of any inequality of influence or disproportionate bargaining power which may give rise to a conflict of interest between the **Clients**.

Conveyancing transactions

4. You must consider carefully whether a conflict of interest arises or is likely to arise when the body receives instructions to act for different **Clients** in the same matter where the seller is:-
 - (i) a developer or builder; or
 - (ii) a lessor granting a lease



Continuing Professional Development Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- ***Clients are provided with a high standard of legal service (Outcome 2.1);***
- ***Client matters are dealt with using care, skill and diligence (Outcome 2.2);***
- ***Appropriate arrangements, resources, procedures, skills and commitment are in place to ensure Clients always receive a high standard of service (Outcome 2.3);***
- ***Each client's best interests are served (Outcome 3.1).***

Keeping your legal knowledge up-to-date and relevant helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Maintain High Standards of Work. (Overriding Principle 2)**
2. **Act in the Best Interests of your Clients. (Overriding Principle 3)**
3. You keep your skills and knowledge up-to-date. (**CoC** P2b)
4. You ensure all individuals within the entity are competent to do their work. (**CoC** P2c)

5. You promote ethical practice and compliance with regulatory requirements. (**CoC** P2g)
6. You only accept instructions and act in relation to matters which are within your professional competence. (**CoC** P3a)
7. You provide equal opportunities for all partners, employees or applicants in employment and training. (**CoC** P6c)

You must also comply with the following *specific requirements*:

8. In each year in which you hold a *licence* you complete **Continuing Professional Development** in such courses, lectures, seminars or other programmes or other activities approved by the **CLC**.
9. You are able to demonstrate that the subject matter of the course or activity is relevant to your professional development or area of practice and to help you deliver positive **Outcomes** to your **Clients**.
10. Each year you inform the **CLC** - in such form as the **CLC** may from time to time prescribe - whether or not you have complied with the **CLC**'s requirements for **continuing professional development** as they apply to you.
11. You keep an up-to-date **training record**. You provide the **CLC** with this record upon its request.
12. You attend, and pay to attend, a specific course that the **CLC** has directed you to attend (as an alternative to disciplinary action).



Dealing with non-*Authorised Parties* Code and *Guidance*

Dealing with non-*Authorised Parties* Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- ***Clients* receive an honest and lawful service; (Outcome 1.2)**
- ***Clients* are provided with a high standard of legal services; (Outcome 2.1)**
- ***Client* matters are dealt with using care, skills and diligence; (Outcome 2.2)**
- **Each *Client's* best interests are served; (Outcome 3.1)**
- ***Clients* are aware of any limitation or any condition resulting from your relationship with another party. (Outcome 3.5)**

Demonstrating probity in your dealings with non-**Authorised Person** parties helps you deliver these **Outcomes** and act in a principled manner:

1. **Maintain High Standards of Work. (Overriding Principle 2)**
2. **Act in the Best Interests of your *Clients*. (Overriding Principle 3)**

3. You do not conduct yourself in a manner which may result in a breach of the law nor in any other manner which may bring the legal profession into disrepute. (**CoC P1c**)
4. You do not take unfair advantage of any person, whether or not a **Client** of the business. (**CoC P1l**)
5. You promote ethical practice and compliance with regulatory requirements. (**CoC P2g**)
6. You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (**CoC P3b**)

You must also comply with the following **specific requirements**:

7. You do not have dealings with any non-Authorised third person **carrying on reserved legal activities** including conveyancing (unless there is clear evidence that person is an **exempt person** (see schedule 3 **2007 Act**).
8. You report to the **CLC** (without submitting your transaction file) where a non-**Authorised person** is **carrying on reserved legal activities**, including conveyancing, which appears to be or to have been a breach of s.14-16 **2007 Act**.

Dealing with non-Authorised Parties

9. You :-
 - (a) avoid extending your duty of care to persons who are not **clients** by seeking to ensure that, to your knowledge, you do not provide legal advice (in the circumstances provided by Hedley Byrne v Heller [1964] AC 465) on which they may seek to rely;
 - (b) not accept any undertaking which an Unqualified Third Person may offer in the course of a transaction;
 - (c) incorporate special provisions into the draft contract to take account of the problems which arise because the other party has no **Authorised Person** acting (see below);
 - (d) ensure that any power of attorney is valid, properly granted and effective for all relevant purposes;
 - (e) advise the **client** in writing that you are dealing with a non-**Authorised Person** Party and explain all the steps which are being taken to protect the **client's** position.

Acting for the Lender

10. You do not give the unqualified agent additional assistance in a way which might establish a **Authorised Person/client** relationship either with the Non-**Authorised Person** Party or with the

borrower, or leave you open to a negligence claim either from your lender **client** or from the borrower.

11. You comply with s. 69 Law of Property Act 1925, by allowing mortgage advances to be paid only to those properly entitled to receive them.
 12. You ensure that on completion, any payments are sent to a named **bank** or **building society** account held by you, an **Authorised Person, licensed body** or their **clients**, and not to some intermediate party.
-

Dealing with Non-*Authorised Parties* Guidance

The Effect of s.14-16 *Legal Services Act 2007*

1. It is an offence for a person who is not an **Authorised Person** and is not an **Exempt Person** to carry out **Reserved Legal Activities**.
2. Where a non-**Authorised Person** person carries out **reserved legal activities**, the non-**Authorised Person's client** is likely to be guilty of aiding and abetting the offence. The **Authorised Person** acting for the other party may also be guilty of procuring the commission of an offence by inviting or urging the non-**Authorised person** to provide a draft contract or transfer or to progress the transaction.
3. An undertaking offered by a non-**authorised** third person should not generally be accepted as it is not enforceable in the same way as an undertaking given by you or by another **Authorised Person**.

Checks

4. You should first check with the **CLC**, the Law Society or other **Approved Regulator** whether a person is an **Authorised Person** entitled to provide reserved instrument activities, as required by paragraphs A3.2 and B3.2 of the CML Handbook, or is otherwise an **Exempt Person** (schedule 3 **2007 Act**).
5. If unable to obtain that confirmation you should write immediately:-
 - (a) to the non-**Authorised Person**:-
 - (i) asking for an explanation why the prohibition under s.14-16 **2007 Act** does not apply to them; and

(ii) stating that in the absence of such explanation you cannot enter into any dealings with him unless there is clear evidence that no offences will be committed. An example of clear evidence would be a letter from an **Authorised Person** confirming that he will prepare the relevant documents;

(b) to your own **client** explaining why you can not deal with the non-**Authorised Person** unless clear evidence is forthcoming.

Conveyancing - Acting for the Buyer

6. You should consider the following and, if appropriate, amend the contract:-

(a) replies to the Property Information Questionnaire and all other preliminary enquiries and requisitions signed by the seller;

(b) the deposit must be paid to you as stakeholder. If the seller will not agree to this, it may be possible to agree to place the deposit in a deposit account in the joint names of you and the seller;

(c) either the seller must attend personally at completion, or an authority must be handed over on completion signed by the seller for the purchase money to be paid to his agent. The reason for this is that the protection provided by s. 69 Law of Property Act 1925 only applies when a document containing a receipt for purchase money is handed over by a **Recognised Body** or solicitor, or the seller himself;

(d) deeds and keys are given to the person entitled to receive them (the buyer). If an authority on behalf of the buyer is offered to you, it is for you to decide whether or not to accept it, bearing in mind that no authority, however expressed, can be irrevocable;

(e) The purchase money, including any deposit, is paid either to the seller or to the seller's properly authorised agent.

Conveyancing - Acting for the Lender

7. You are not obliged to undertake work which would normally be carried out by the borrower's legal adviser (such as drafting and preparation of the instrument of transfer). However, it is essential to the lender **client** that good title is transferred to the borrower.

8. Compliance with s. 69 Law of Property Act 1925 may mean that you require either that the borrower to attend personally on completion, or that a signed authority from the borrower in favour of his agent is received on completion.

9. On completion, title documents should normally be handed over to the borrower.



Disclosure of Profits & Advantages Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Clients receive good quality independent information, representation and advice; (Outcome 1.1)**
- **Clients receive an honest and lawful service; (Outcome 1.2)**
- **Clients have the information they need to make informed decisions; (Outcome 3.3)**
- **Clients are aware of any referral arrangements and that they are consistent with your responsibilities both to them and to the CLC. (Outcome 3.4)**

Transparent referral arrangements help you deliver these **Outcomes** and act in a principled manner:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. **Maintain high standards of work. (Overriding Principle 2)**
3. You do not allow your independence to be compromised. (**CoC** P1a)
4. You act honestly, professionally and decently. (**CoC** P1b)
5. You do not conduct yourself in a manner which may result in a breach of the law nor in any other manner which may bring the legal profession into disrepute. (**CoC** P1c)

6. You promote ethical practice and compliance with regulatory requirements. (**CoC P2g**)
7. You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (**CoC P3b**)
8. You only recommend a particular person, business or product when it is in the best interests of the **Client**. (**CoC P3f**)
9. You provide the **Client** with all relevant information relating to any fee arrangements or fee changes. (**CoC P3j**)
10. Where the entity represents parties with different interests in any transaction each party is at all times represented by different **Authorised Persons** conducting themselves in the matter as though they were members of different entities. (**CoC P3n**)

You must also comply with the following **specific requirements**:

11. When accepting instructions, you inform the **Client** in writing:-
 - 11.1 of the existence of any arrangement for the introduction of the **Client** to the body by another person; and
 - 11.2 any sum paid in connection with the introduction, or, if it is not practicable to inform the **Client** of the exact sum, the maximum sum which may be paid.
12. When introducing a **Client** to another person you inform the **Client** in writing:-
 - 12.1 of the existence of any arrangement for the introduction of the **Client** by the body to another person; and
 - 12.2 any sum received in connection with the introduction, or, if it is not practicable to inform the **Client** of the exact sum, the maximum sum which may be paid.



Equality Code & Guidance

Equality Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **The service is accessible and responsive to the needs of individual Clients, including those who are vulnerable; (Outcome 6.1)** ¹
- **No-one – Client, employee, colleague, job applicant, employee or other party – you deal with feels discriminated against (whether directly or indirectly), victimised or harassed. (Outcome 6.2)** ²

Accessible employment and business **arrangements** help you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Promote Equality of Access & Service. (Principle 6)**
2. You comply with relevant **Equalities legislation**. (**CoC P6a**)
3. You make reasonable adjustments to prevent persons with disabilities from being placed at substantial disadvantage. (**CoC P6b**)
4. You provide equal opportunities for all partners, employees or applicants in employment and training. (**CoC P6c**)
5. You make all reasonable efforts to ensure your service is accessible and responsive to **Clients**, including those with vulnerabilities. (**CoC P6d**)

You must also comply with the following specific requirement:

6. Any allegation of (direct or indirect) discrimination, victimisation and harassment is investigated thoroughly, resulting, where appropriate in disciplinary action. (CoC P6i)

¹ A **Client** may be vulnerable because of a range of characteristics such as low-literacy levels; disability; distress; limited knowledge of, or limited skills in, use of English; or lack of knowledge of their legal entitlements. Vulnerability can only be assessed on a case-by-case basis.

² On the grounds of age, disability, gender reassignment, marital and civil partnership status, pregnancy and maternity, race, religion or faith, sex or sexual orientation.

Equality Guidance

This **guidance** aims to help you deliver these **Outcomes** by providing you with an overview of the effect of the Equality Act. You should refer to the Act itself in determining what steps are appropriate and reasonable for you to take in meeting the Act's requirements.

[Government Equalities Office - Equality Act 2010](#)

Scope of the Equality Act 2010

1. The Equality Act 2010 received Royal assent on 8 April 2010. The Act not only amalgamates existing discrimination law but strengthens the law by:
 - protecting a broader range of characteristics, and
 - extending the duties regarding age, sexual orientation and religion or belief.

Characteristics protected by the Act

2. The Act protects the following characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation:

| | |
|------------|---|
| Age | A person belonging to a particular age group. This applies to both young and older people, though much of the Act's emphasis is upon equality for older people. |
|------------|---|

| | |
|---------------------------------------|---|
| Disability | A person has a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This can also apply to a person who has previously had a disability. |
| Gender reassignment | A person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex. A transsexual person is a person who has the protected characteristic of gender reassignment. |
| Marriage and civil partnership | A person who is married or is a civil partner. This does not include someone who is engaged or a divorcee or person whose civil partnership has been dissolved. |
| Pregnancy & Maternity | This includes any illness the woman may suffer as a result of the pregnancy. Covers the period from when the pregnancy begins to 26 weeks after she has given birth. |
| Race | Includes colour, nationality and ethnic or national origins. |
| Religion and Belief | Any religion and includes a lack of religion. Belief means any religious or philosophical (not political) belief and includes a lack of belief. |
| Sex | A man or a woman. |
| Sexual orientation | A person's sexual orientation towards— (a) persons of the same sex, (b) persons of the opposite sex, or (c) persons of either sex. |

What does this all mean for me?

- 3.1 You must ensure that service delivery and if you are an employer, employment **arrangements**, provide equality of opportunity and experience for individuals or groups with the protected characteristics.
- 3.2 You must not discriminate, victimise or harass anyone on the basis of the protected characteristics. Terms in contracts, collective agreements or rules of undertakings are unenforceable/void if they result in unlawful discrimination or victimisation. In some circumstances, employers are explicitly liable for harassment by third parties in the workplace.
- 3.3 You are required to make reasonable adjustments to prevent a person with a disability being placed at a substantial disadvantage from someone who does not have a disability. An adjustment can be a one-off, physical, action such as making premises more accessible, or it may be an adjustment which is made on numerous cases, such as visiting a **client** at home if they are unable to access your premises.
- 3.4 You are not permitted to ask job applicants questions related to health or disability prior to offering a position (unless the questions are made for prescribed relevant reasons).
- 3.5 You cannot discriminate against someone because they are perceived to have, or are associated with someone who has, a protected characteristic e.g. carers. NB. This is bolstered by the concept of 'discrimination arising from disability'.
- 3.6 The enforceability of pay secrecy clauses is limited.
- 3.7 Tribunals are able to make recommendations that will affect all of an employer's staff, not just the claimant.
- 3.8 The Act also repeals or replaces rules of family property law which discriminated between husbands and wives.

What is meant by discrimination, harassment and victimisation?

4. This table provides an overview of each term:

| | |
|------------------------------|---|
| Direct discrimination | <p>A person is treated less favourably than another person because of their age, disability, marital status, race, religion or belief, sex, or sexual orientation.</p> <p>Includes less favourable treatment because of the victim's association with someone who has that characteristic (e.g. is disabled), or because the victim is wrongly thought to have it (e.g. a particular religious belief).</p> |
|------------------------------|---|

| | |
|--------------------------------|---|
| Indirect discrimination | A requirement or condition has a disproportionately adverse effect on a particular equalities group and cannot be objectively justified. |
| Victimisation | A person is treated less favourably than other persons because they have made allegations of discrimination or harassment. |
| Harassment | A person feels that the behaviour of another has violated their dignity, or created an intimidating, hostile, degrading, humiliating or offensive environment for them. |

Reasonable adjustments

- 5.1 You have a duty, wherever reasonable, to remove barriers which would place a disabled person at a substantial disadvantage due to:
- a) a provision/criterion/practice (PCP) e.g. making information available in an accessible format, such as large print;
 - b) a physical feature e.g. making premises accessible; or
 - c) the absence of an auxiliary aid or service e.g. providing special computer software for a disabled employee.
- 5.2 The cost of a reasonable adjustment must be incurred by the business and cannot be passed onto a disabled **client** by way of a disbursement or additional charge.
- 5.3 The definition of what constitutes 'reasonable' is based upon a 'substantial disadvantage' or 'unreasonably adverse experience' threshold.

Service Provision

6. A provider of services to the public or a section of the public (for payment or not) must not discriminate, harass or victimise a person requiring the service.

Employment Arrangements

- 7.1 Employers must not discriminate, harass or victimise any person in their employment **arrangements**, offers, terms and opportunities for promotion, transfer or training (or for any other benefit, facility or service).
- 7.2 As an employer you are responsible for the actions of your employees and as a **manager** you are responsible for the actions of agents.

Partnerships

8. A firm or proposed firm must not discriminate, harass or victimise any person in its partner **arrangements**, offers, terms and opportunities for promotion, transfer or training (or for any other benefit, facility or service).

Limited liability partnerships (LLP)

9. An LLP or proposed LLP must not discriminate, harass or victimise any person in its partner **arrangements**, offers, terms and opportunities for promotion, transfer or training (or any other benefit, facility or service).

Ancillary Duties

- 10.1 You must not discriminate or harass where the discrimination or harassment arises out of, or is closely connected with, the end of a service or employment relationship.
- 10.2 You must not instruct, cause, induce or aid another party to contravene their responsibilities under the Act.

Family Law

11. The Equality Act abolishes the presumption of advancement, by which, for example, a husband is presumed to be making a gift to his wife if he transfers property to her, or purchases property in her name.

Human Rights Act 1998

12. You should also be mindful of the Human Rights Act which incorporated the European Convention on Human Rights into English Law. The basic human rights protected by this legislation include:
 - the right to liberty;
 - the right to a fair trial;
 - the right to respect for private and family life;
 - freedom of thought, conscience and religion, and freedom to express your beliefs;
 - freedom of expression;
 - freedom of assembly and association; and
 - the right not to be discriminated against in respect of these rights and freedoms.

Enforcement

- 13.1 The **CLC** will investigate concerns relating to discrimination and disciplinary proceedings will be taken if it is satisfied that there is a case to answer.

13.2 Where a court or tribunal decides that you have committed an unlawful act of discrimination that finding will be treated by the **CLC** as a breach of the **Overriding Principle to Promote Equality of Access and Service**.

Equality – Example Policy

Introduction

Principle 6 of the **CLC Code of Conduct** requires you to promote equality of access and service. The Policy template aims to help you comply with that principle. You are not obliged to adopt this approach, but should you implement a written policy, the example provided offers you an idea of the minimum that the **CLC** considers is likely to be needed for compliance. Should you use the provided example as your starting point it is likely that you would need to amend this policy to ensure that it matches your particular circumstances. The policy you adopt should take into account the number of employees, the nature of your work and your **Clients**.

Equality & Diversity Policy [Example]

1. Our commitment

We are committed to:

- recognising diversity;
- preventing and tackling unlawful discrimination;
- promoting equality of opportunity for all our clients and staff; and
- providing an equally high standard of service to all clients, irrespective of their age, disability, marital status, race, religion or belief, sex (including people who have had gender reassignment), or sexual orientation;
- making reasonable adjustments so a person with a disability is not placed at a substantial disadvantage to a person without a disability;
- all stakeholders and employees complying with the commitments of this policy.

2. We will comply with Principle 6 of the **CLC Code of Conduct** which requires us to promote equality and diversity, and with the duties of the Equality Act 2010.

3. We will neither enable nor tolerate any of the following:

| | |
|--------------------------------|---|
| Direct discrimination | A person is treated less favourably than another person due to their age, disability, marital status, race, religion or belief, sex, or sexual orientation. |
| Indirect discrimination | A requirement or condition has a disproportionately adverse |

| | |
|----------------------|---|
| | effect on a particular equalities group and said requirement/condition cannot be justified. |
| Victimisation | A person is treated less favourably than other persons because they have made allegations of discrimination. |
| Harassment | A person feels that the behaviour of another has violated their dignity, or created an intimidating, hostile, degrading, humiliating or offensive environment for them. |

4. Clients

- 4.1 We will ensure that no individual client, or a client group, is discriminated against in accessing our services and functions or in the quality of service provided.
- 4.2 Instructions will not be refused on the basis of unlawful discrimination.
- 4.3 Our complaints handling-process is responsive to Client’s individual needs (particularly those that are vulnerable or have disabilities).

5. Employees

- 5.1 We will ensure that all partners, employees and applicants have equal employment opportunities. Our recruitment, appointment, appointment terms and conditions, promotion, training and benefits opportunities will not be discriminatory.

6. Policy Implementation & Evaluation

- 6.1 A senior member of staff is responsible for the implementation of this policy and ensuring all employees are aware of their duties under it, providing training and information as appropriate.
- 6.2 This member of staff will monitor the extent of compliance with this policy across the organisation. Appropriate data will be collected to inform this review.
- 6.3 Allegations of discrimination will be investigated under our grievance procedures. We will take such allegations very seriously and where an employee or stakeholder is found not to have complied with the policy we will take disciplinary action against them.
- 6.4 We will provide training to ensure staff are aware of their responsibilities under this Policy.
- 6.5 This policy will be updated as legislative and regulatory requirements are revised, in light of lessons learned by the business and in view of any good practice identified.

Good Practice

Introduction

1. Equality is about providing everyone with the same level of fairness i.e. an equal chance to contribute and participate. Diversity is about understanding and treating people as individuals i.e. recognising difference.
2. The recognition of diversity and promotion of equality should not be an additional consideration but an intrinsic element of any business as it can bring great benefits and economic advantages - increasing your capacity to serve a diverse *client* base, offering *clients* a range of skills sets and attributes, and the opportunity to harness creativity and continuously improve and enhance your reputation as both an employer and a service provider – but it is only when a body’s cultural ethos and structural factors recognise this that these benefits can truly be felt. The following section highlights some principles of good practice that you may wish to consider adopting in order to feel these benefits.

Equality Policy

3. It is important that the implementation and success of an organisation’s Equality & Diversity Policy is *systematically* monitored, reviewed and evaluated. The policy is only likely to be successful if it is accompanied by a diversity training plan and communications plan which embeds diversity within the organisation’s culture. This may include education provision to ensure senior partners/ *managers* are aware of the benefits of diversity and providing frontline staff with training to equip them for dealing with the different needs of a diverse range of *clients*.

Flexible and part-time working

4. Working parents have the right to request flexible working. It is likely to benefit both staff and the needs of the business if flexible and part-time working patterns are available on request to all staff, not just those with child care responsibilities.
5. Arrangements might include four-day weeks or nine-day fortnights, working from home, working hours other than 9 to 5, career breaks, sabbaticals, or longer periods of unpaid leave over the summer months,
6. Provision of such arrangements can help you retain existing staff (who feel that the business allows them to achieve an appropriate work/life balance) as well as recruit new staff (who are drawn to you as an employer who provides such arrangements). It can also enable the business

to better meet the needs of **clients** e.g. open for business at times other than Monday to Friday 09.00-17.00.

7. Provision of such arrangements should be positively promoted. It is important that these working patterns are not equated with lesser commitment, meaning those choosing to work flexibly are penalised for doing so i.e. adoption of flexible working patterns should not adversely impact upon an individual's career progression – transparent work allocation and promotion procedures will aid this - and terms/targets/ workloads should be rearranged appropriately.

Outreach/mentoring

8. The combination of an outreach programme and provision of formal support networks and mentoring schemes (as opposed to informal mentoring which can cause, or reinforce, diversity-based segmentation and segregation) can help make entry into, and retention and progression within, the legal profession less challenging for those from 'non-traditional' backgrounds. Where such schemes are in place they should be evaluated to determine their effectiveness.

Accreditation Schemes

9. Equality accreditation and organisational assessment schemes - such as those provided by [Cornwall Diversity Toolkit](#), [Stonewall Diversity Champions Programme](#) , [Job Centre Plus Two Ticks Disability Scheme](#) , the [Working Families Charity](#), [Back to Work Company](#) and the jobs recruitment website [Where to Work](#) - can assist you in benchmarking your procedures against best practice as well as giving the business external endorsement of its diversity credentials.

Diversity Profile

10. Recording, monitoring and publishing the body's diversity profile will provide potential staff and **clients** with information on the representative nature of the business and help you identify any under-representation at varying stages of recruitment and career progression, indicating areas where action may be needed to address under-representation.
11. Equality Impact Assess every major activity or policy decision you plan to undertake, enabling you to ensure that in delivering the **outcomes** you intend does not have an unintended consequence on, or create an unnecessary barrier to, different groups. The [local government website](#) gives you an overview of Equality Impact Assessments, but you may wish to develop your own toolkit.



Estimates & *Terms of Engagement* Code & *Guidance*

Estimates & *Terms of Engagement* Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The ***Code of Conduct*** requires you to deliver the following ***Outcomes***:

- ***Clients receive good quality independent information, representation and advice; (Outcome 1.1)***
- ***Client matters are dealt with using care, skill and diligence; (Outcome 2.2)***
- ***Clients have the information they need to make informed decisions. (Outcome 3.3)***

Providing timely Estimates and ***Terms of Engagement*** which are easy to understand helps you deliver these ***Outcomes*** and to act in a principled manner:

1. **Act with independence and integrity. (*Overriding Principle 1*)**
2. **Maintain high standards of work. (*Overriding Principle 2*)**
3. **Act in the best interests of your *Clients*. (*Overriding Principle 3*)**
4. You act honestly, professionally and decently. (**CoC P1b**)

5. You do not give false or misleading information relating to the provision of **Reserved Legal Activities**. (CoC P1e)
6. You **promptly** advise **Clients** of any significant changes to projected **costs**, timelines and strategies. (CoC P3m)
7. Where the entity represents parties with different interests in any transaction each party is at all times represented by different **Authorised Persons** conducting themselves in the matter as though they were members of different entities. (CoC P3n)

You must also comply with the following **specific requirements**:

Estimates

8. Any estimate of **costs** is stored on a **Durable Medium** and states:-
 - 8.1 the name of the **Client**, and the nature of the transaction;
 - 8.2 the basis on which fees for abortive work will be payable;
 - 8.3 the proposed fees and other expenses (such as **bank** transfer fees) payable to you (such fees and other expenses are deemed to be inclusive of VAT unless VAT is separately itemised);
 - 8.4 any disbursement likely be incurred on the basis of the instructions received (such **disbursements** are deemed to be inclusive of VAT unless VAT is separately itemised);
 - 8.5 where the total sum payable as estimated under paragraph 8.3 is likely to be exceeded that the Body will advise the **Client** of that fact and provide an explanation and a revised estimate;
 - 8.6 in respect of paragraphs 8.3 and 8.4:
 - 8.6.1 unless otherwise stated fees will be deemed to be inclusive of the costs of post, telephone calls, facsimile communications and email;
 - 8.6.2 unless separately specified, the estimate of proposed fees payable to the body will be deemed to include fees for:-
 - representation of the lender;
 - service of notices on a landlord or management company.
 - 8.6.3 the **Client** is advised where it is not possible to provide an estimate of fees and **disbursements** because the relevant information is not available.
9. If it becomes apparent that the total sum payable as estimated under paragraph 8 is likely to be exceeded or that the relevant information has become available, as soon as practicable you:-

- 9.1 advise the **Client**; and
- 9.2 provide the **Client** with a written explanation on a **Durable Medium**.
10. Any fees, expenses, **disbursements** and VAT to be charged in respect of an abortive transaction are notified to the **Client** on a **Durable Medium** as soon as those matters can reasonably be calculated whether or not an invoice is delivered at this time.

Terms of Engagement

11. You provide **Clients** with **Terms of Engagement** with a request that the **Client** confirms their agreement to the terms.
12. The **Terms of Engagement** summarise the nature of instructions and with sufficient clarity so as to be readily understandable to the **Client**.
13. The **Terms of Engagement** include:-
 - 13.1 your name, address, telephone and other contact details;
 - 13.2 if not included in paragraph 13.1, the name of one of your **Managers**;
 - 13.3 the name of the individual having day-to-day conduct of the matter and where applicable the name of the individual responsible for its overall supervision;
 - 13.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);
 - 13.5 the name of the individual to whom any **complaint** should be made;
 - 13.6 an explanation of the procedure to be adopted where the **Client** is dissatisfied with the services or conduct of any of your **Managers** or employees. This information must also include the **Client's** right to complain to the **Legal Ombudsman** at the conclusion of the **complaint** process, the time limits for doing so and full details about how to contact the **Legal Ombudsman** (see **Complaints Code**).
 - 13.7 the following wording:-

“If you make a valid **claim** against us for a loss arising out of work for which we are legally responsible, and we are unable to meet our liability in full, you may be entitled to **claim** from the **Compensation Fund** administered by the Council for **Licensed Conveyancers** (from whom details can be obtained”).
 - 13.8 You keep a copy of, and any evidence that the **Client** has agreed, the estimate and **Terms of Engagement** on a **Durable Medium**.

Estimates and *Terms of Engagement* Guidance

Estimates

1. It is advisable to set out the likely fees to be incurred in an estimate rather than in a quotation since a quotation will be treated as a fixed price contract which cannot be varied notwithstanding any provision in the *Terms of Engagement* to the contrary.

Terms of Engagement

2. It is good practice for *Terms of Engagement* to include:
 - authority for you to retain or destroy the contents of a *Client's* file or transfer the data onto another *Durable Medium* (see Transaction Files Code & *Guidance*, paragraph 5 of the *Example Approach*)
 - The wording suggested at Chapter 8 of Combating Anti Money Laundering and Terrorist Financing Code and *Guidance – Example of Wording to be incorporated into the Terms of Engagement*.



Management & Supervision *Arrangements* Code & *Guidance*

Management & Supervision *Arrangements* Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- ***Clients* are provided with a high standard of legal services (Outcome 2.1);**
- ***Client* matters are dealt with using care, skill and diligence; (Outcome 2.2)**
- **Appropriate *arrangements*, resources, procedures, skills and commitment are in place to ensure *Clients* always receive a high standard of service. (Outcome 2.3)**

Appropriate management and supervision **arrangements** help you deliver these **Outcomes** and require you to act in a principled manner:

1. **Maintain high standards of work. (Overriding Principle 2)**
2. You ensure all individuals within the entity are competent to do their work. (**CoC** P2c)
3. You supervise and regularly check the quality of work in ***Client*** matters. (**CoC** P2d)

4. You **systematically** identify and mitigate risks to the business and to **Clients**. (CoC P2f)
5. You promote ethical practice and compliance with regulatory requirements. (CoC P2g)
6. You enable staff to raise concerns which are acted on appropriately. (CoC P2h)
7. You maintain proper governance, management, supervision, financial and risk management **arrangements** and **controls**. (CoC P2i)
8. You maintain proper records to evidence your **arrangements** and how they are applied. (CoC P2o)

You must also comply with the following **specific requirements**:

9. A **Manager** who is an **Authorised Person** is responsible for supervising the services provided by the entity's employees. (CoC P2m)
10. You make provision for alternative supervision **arrangements** in case of illness, accident or other unforeseen event. (CoC P2n)
11. You **systematically** identify, monitor and manage risks to the delivery of this Code's [the **Code of Conduct**] **Outcomes**. (CoC P5j)

Management and Supervision **Guidance**

Supervision **arrangements**

1. Factors in determining whether the work is being effectively supervised include:-
 - (a) the number of **Authorised Persons** available to supervise each office;
 - (b) the volume and nature of the work undertaken;
 - (c) the number, competence, training and duties of unqualified staff;
 - (d) **arrangements** for an **Authorised Person** to monitor incoming and outgoing communications.
2. The way in which a body's **arrangements** ensure compliance with the **Code of Conduct** (and thereby, all **regulatory arrangements**) is a matter for the individual body. However, each body must be able to show that **arrangements** are in place and are operating in order to satisfy the **CLC** it is compliant.
3. Matters to be taken into account in determining whether the management **arrangements** and systems adopted by the body are appropriate will include its size and management structure;

the number, experience and qualifications of staff; and the nature of work undertaken; and the mechanism for periodic review of their effectiveness.

Arrangements - examples of high-level good practice

Business Arrangements

4. Effective supervision and quality assurance procedures are in place across the organisation and include suitably competent and experienced persons regularly checking the quality of work carried out in **client** matters.
5. Training **arrangements** enable all employees to maintain a level of competence appropriate to their work and level of responsibility.
6. Recruitment, selection and employment **arrangements** ensure that the body does not employ an unfit and improper person who could compromise the interests of the public and **clients**.
7. Compliance policies promote ethical practise, encouraging the body and its staff to act in a way which is compatible with the regulatory requirements.
8. Staff are aware how, and to which named individual, they can raise concerns of non-compliance or wrong doing. They are encouraged and feel able to raise concerns, and are confident these will be acted upon appropriately and they will not be victimised for raising them.
9. There is a clear and effective governance structure and reporting lines.

Risk Management

10. Appropriate **arrangements** and operating procedures mean that any risks to the achievement of regulatory responsibilities – in particular the delivery of the positive **outcomes** identified in the **Code of Conduct** - the best interests of individual **clients**; assets and money which **clients** have entrusted to you; business continuity; and the body's financial stability; are **systematically** identified, monitored, managed and determined efforts made to mitigate the risks presented.

In the event of Absence, Incapacity or Death Guidance

Introduction

1. It is important that you are able to protect your business and its **clients** in an emergency such as incapacity or death. It is particularly relevant for Sole **Practitioners**. The **guidance** below is intended to highlight issues which may arise and to provide possible solutions. However, it is up to you to decide what options best suit your own circumstances and which will enable the business to continue to deliver positive **Outcomes** for **Clients** even in exceptional circumstances/an emergency.

Identifying Suitable Attorneys

2. You should appoint a suitable individual as Attorney to manage the business if you are not able to do so. The Attorney should be legally qualified and preferably an **Authorised Person**. The Attorney should be capable of dealing not only with the affairs of the **clients**, but also with your personal and business affairs. However, consideration should be given whether to appoint different individuals to manage personal affairs and those of the business.
3. An Attorney must be willing to take on the responsibility for managing the business. In an emergency they must be able to find contact names, addresses and files, obtain details of **client** ledgers and access the computer systems. You may wish to take account of the following:
 - any arrangement is more likely to be successful if, at the outset, it is reciprocal;
 - it should be kept under regular review;
 - whether your family and any employees should know of the arrangement;
 - whether there should be any specific Indemnity Insurance arrangements;
 - if the absence is planned, **clients** should be told who will be dealing with their matter.

Absence

4. Specific Authority - Arrangements may be made with a **bank** for named Attorneys to operate specific **bank** accounts.
5. Power of Attorney - May be of general or specific application.

Each of these forms of authority ceases to have effect when either a donor or their attorney becomes incapable or dies.

Incapacity

6. Lasting Power of Attorney (LPA):
 - the prescribed form should be used;
 - two Attorneys may be appointed jointly or jointly and severally;
 - consider including a clause entitling the Attorney to charge and be paid professional fees for managing the business (Charging Clause);
 - the LPA ceases to be valid on your death or on the death or incapacity of the Attorney.

Death

7. Will/Grant of Probate:

- the Will should provide for the business to be managed in the short term
- an **Authorised Person** should be appointed as Executor; alternatively, power should be given to the Executor to appoint an **Authorised Person** to manage the business
- a Charging Clause should be included
- specific instructions may be included in a “side” document to the Will which can be changed depending on circumstances.



Notification Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following Outcome:

- **You act in accordance with your regulatory responsibilities. (Outcome 5.1)**

Making sure both you and the **CLC** are aware of any notifiable changes helps you identify any potential threats to the delivery of all **Code of Conduct Outcomes** as well as helping you deliver the Outcome above. This requires you to act in a principled manner:

1. **Deal with regulators and ombudsmen in an open and co-operative way. (Overriding Principle 5)**
2. You notify the **CLC** of any material breach of this Code [**Code of Conduct**], whether by you, the entity or any other person. (**CoC P5o**)
3. You notify the **CLC** of a change as set out in the **CLC's** Notification Code. (**CoC P5p**)
4. You have systems and **controls** to enable you to identify any notifiable changes.

These responsibilities require you to notify us of any of the following changes:

5. To the extent it is reasonable to do so, you notify us no less than 14 days before a proposed change of business or registered office address, but in any event within 14 days of any change occurring.

6. You notify us within 14 days of any change in **manager** and/or management **arrangements**.
7. You notify us within 14 days of a change in structural **arrangements**.
8. In respect of the body you notify us within 7 days if:
 - A winding-up order or administration order is passed;
 - A resolution for voluntary winding-up is passed; or
 - An administration receiver is appointed.

CLC Licensed Conveyancers

9. You notify us **promptly** if you:-
 - have been a director of a **company** which has gone into liquidation on the grounds of insolvency;
 - in your own right or as a director of a **company** have had an administrator or receiver appointed
 - have been a **licensed conveyancer** in, or **Manager** of, an entity which has had its authorisation refused, revoked or made subject to **conditions**;
 - have been charged, cautioned or convicted of a criminal offence, or if there is a case pending;
 - have been the subject of any disciplinary proceedings by a professional or regulatory body;
 - have been the subject of an adverse order or finding of a civil court or employment tribunal;
 - have been disqualified as a director;
 - have been declared bankrupt or have entered an Individual Voluntary Arrangement;
 - have been disqualified from acting in any capacity for a legal services, financial or other provider;
 - are aware of any other information which could reasonably be expected to have a bearing on whether you are fit and proper.

Recognised Bodies

10. You notify us **promptly** after you have received information where any of the provisions identified in requirement 9 apply to a **Manager** of the body.
11. You notify us **promptly** of a change in ownership of the body.
12. You notify us **promptly** after you have received information that a person employed or paid by the **Recognised Body** to provided **reserved legal activities**:
 - has been charged, cautioned or convicted of a criminal offence, or if there is a case pending;

- has been the subject of any disciplinary proceedings by a professional or regulatory body;
- has been the subject of an adverse order or finding of a civil court or employment tribunal;
- has been disqualified as a director;
- has been declared bankrupt or has entered an Individual Voluntary arrangement;
- has been disqualified from acting in any capacity for a legal services, financial or other provider;
- is the subject of any other information which could reasonably be expected to have a bearing on whether that person is fit and proper.

Licensed Bodies (ABS)

13. To the extent it is reasonable to do so, you notify us no less than 14 days before a proposed change in the person occupying the role of ***HoLP*** or ***HoFA***, but in any event within 7 days of any change occurring.

14. You notify us ***promptly*** after you have received information about any ‘fit and proper’ issue concerning the owner(s), the ***HoLP***, ***HoFA***, other ***Managers*** or ***Authorised Persons***:

- has been a director of a ***company*** which has gone into liquidation on the grounds of insolvency;
- in their own right or as a director of a ***company*** has had an administrator or receiver appointed
- has been a ***licensed conveyancer*** in, or ***Manager*** of, an entity which has had its authorisation refused, revoked or made subject to ***conditions***;
- has been charged, cautioned or convicted of a criminal offence, or if there is a case pending;
- has been the subject of any disciplinary proceedings by a professional or regulatory body;
- has been the subject of an adverse order or finding of a civil court or employment tribunal;
- has been disqualified as a director;
- has been declared bankrupt or has entered an Individual Voluntary Arrangement;
- has been disqualified from acting in any capacity for a legal services, financial or other provider;
- is the subject of any other information which could reasonably be expected to have a bearing on whether that person is fit and proper.

15. You notify us ***promptly*** if you employ a person disqualified by a ***Licensing Authority***.

16. You notify us ***promptly*** if a non-***Authorised Person*** proposing to hold a ***material interest*** of 10% or more, or the holder of a ***material interest*** proposing to acquire an additional kind of interest,

fails to give notification of such intended change after having been made aware of their duty to notify.

Notification Guidance

1. Provision of adverse information under this Code does not necessarily mean we will withdraw our approval of the relevant individual. Where adverse information is provided it will be discussed with the body to determine the risk posed to the **Code of Conduct's Outcomes**; resource implications for the **CLC**; and the individual/body's willingness or capacity to address the issue.
2. Examples of what is meant by 'any other information that could reasonably be expected to have a bearing on their being fit and proper' under requirement 14 include:
 - by a reason of character, conduct or association and in particular has been in breach of statutory requirements regarding payment of tax or for a licence;
 - lacks capacity within the meaning of the Mental Capacity Act 2005 and powers under sections 15 to 20 or section 48 have been exercised.
3. An example of what is meant by 'structural **arrangements**' under requirement 7 is a body no longer registered as a **Limited Liability Partnership** or a **Company** under the relevant Acts.
4. Persons disqualified by Licensing Authorities are identified on the [Legal Services Board website](#).



Professional Indemnity Insurance Code & Guidance

Professional Indemnity Insurance Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Each *Client's* best interests are served; (Outcome 3.1)**
- **You act in accordance with your regulatory responsibilities. (Outcome 5.1)**

Providing **clients** with access to appropriate redress helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Act in the best interests of your *Clients*. (*Overriding Principle 3*)**
2. **Deal with regulators and ombudsmen in an open and co-operative way. (*Overriding Principle 5*)**
3. You only accept instructions and act in relation to matters which are within your professional competence. (**CoC P3a**)
4. You only provide ***Reserved Legal Activities*** whilst you have **CLC**-approved ***professional indemnity insurance*** in force. (**CoC P3i**)

5. You ensure there are adequate indemnity **arrangements** in respect of **claims** made against you for work carried out by you after you have ceased to practice. (CoC P3o)
6. If you seek to exclude or limit liability, you do so only to the extent that such exclusion or limitation is above the minimum level of cover afforded by **CLC**-approved **professional indemnity insurance**; you must obtain the written informed consent of the **Client** for such exclusion or limitation to be effective. (CoC P3p)

You must also comply with the following **specific requirements**:

7. When providing services which are not regulated by the **CLC**, you advise your **Client** of this and inform them the activity is not covered by **professional indemnity insurance** approved by the **CLC**, or by the **Compensation Fund** administered by the **CLC**, or the **Legal Ombudsman** does not have the jurisdiction to determine **complaints** made about the service you are providing. (CoC P3q)
8. You **promptly** notify insurers in writing of any facts or matters which may give rise to a claim under **CLC**-approved **professional indemnity insurance**. (CoC P5k)

Professional Indemnity Insurance

9. When providing **CLC-regulated services** you must have **professional indemnity insurance** in place at all times, either through the **CLC's Master Policy** or with another **Authorised Insurer** (see requirement 11), provided the **CLC** is satisfied that in all its conditions and extent it is at least equivalent to the cover provided under the **CLC's Master Policy**.
10. You must:
 - 10.1 Pay the applicable annual premium for **Master Policy** cover;
 - 10.2 Comply with the Insurance terms as apply to you;
 - 10.3 Comply with the Self Insured Excess policy (set out at 14) and such other policies as the **CLC** may issue;
 - 10.4 Produce a current **Evidence of Insurance** when requested by the **CLC**;
 - 10.5 Permit the **Authorised Insurers** or the **Brokers** to notify the **CLC** should any circumstances arise whereby the **Authorised Insurers** or the **Brokers** consider that the body has failed to comply with their responsibilities as a **CLC** body or when any **Evidence of Insurance** is avoided.

Professional Indemnity Insurance other than through the CLC's Master Policy

11. If on application:
- 11.1 you satisfy the **CLC** that any **Professional Indemnity Insurance** policy obtained other than through the **CLC's Master Policy** is in all its conditions and extent at least equivalent to the cover provided under the **CLC Master Policy** then you will be exempted from the obligation to comply with requirement 10.1 whilst the **Professional Indemnity Insurance** policy (and any agreement with the cover provider) remains in force and is complied with; or
- 11.2 to the extent it is not in its conditions and extent at least equivalent to the cover provided under the **CLC Master Policy**, you obtain a **Supplemental Policy** from an **Authorised Insurer** so that the **CLC** is satisfied that the combined effect of the original and **supplemental policy** is in all its conditions and extent at least equivalent to the cover provided under the **CLC Master Policy** you will be exempted from complying with requirement 10.1 whilst the **Professional Indemnity Insurance** policy (and any agreement with the cover provider) and **supplemental policy** remain in force and is complied with.

European Union (EU) Bodies – if you are a European Lawyer

12. If on application:
- 12.1 you satisfy the **CLC** that the **EU body** (of which you are a **Manager**) has **EU Professional Cover** equivalent to the **CLC Master Policy** in all its conditions and cover then the **EU body** will be exempted from obligation to comply with requirement 10.1 whilst the **EU Professional Cover** (and any agreement with the cover provider) remains in force and is complied with;
- 12.2 you satisfy the **CLC** that the **EU body** (of which you are a **Manager**) has **Partial EU Professional Cover** then the **EU body** and its **Managers** shall be exempted from the obligation to comply with regulation 10.1 whilst the **Partial EU Professional Cover** (and any agreement with the cover provider) and a **Supplemental Policy** remain in force and is complied with.

Claims

13. In the event of a **Master Policy claim** you produce any information the **CLC** deems appropriate within five **working days** of the **CLC's** information request.

Self Insured Excess

- 14.1 Should your self-insured Excess exceed:

(1) £3,500 or

(2) the sum of the following:

(i) 5% Fees (as defined in the **Master Policy**) where the Fees are

no more than £200,000; plus

(ii) 3% Fees on Fees between £200,001 and £500,000; plus

(iii) 2% Fees on Fees between £500,001 and £1,000,000;

you report this to the **CLC**. The **CLC** will need to be satisfied that the body will avoid additional exposure of the **CLC's Compensation Fund** to unpaid excesses.

14.2 If you are satisfied that the body you manage has the ability to meet additional liability over and above this you may make a specific application to the **CLC** to increase the self-insured Excess where Fees are greater than £1,000,000.

14.3 Your application outlines how the body intends to meet the obligation to avoid additional exposure of the **CLC's Compensation Fund** to unpaid excesses.

Professional Indemnity Insurance Guidance

1. A **Licence** will not be issued to a **Manager** unless the applicable **Evidence of Insurance** for your **Body** has been produced to the **CLC**.
2. As a guide to the provisions under requirement 15 a body should be able to demonstrate it can fund the self insured excess for no less than two **claims** per year.

Examples of Limits on Self Insured Excess:

- Fees £250,000 Maximum Excess = £200,000 X 5% + £50,000 X 3% = £11,500
- Fees £600,000 Maximum Excess = £200,000 X 5% + £300,000 X 3% + £100,000 X 2% = £21,000
- Fees £900,000 Maximum Excess = £200,000 X 5% + £300,000 X 3% + £400,000 X 2% = £27,000



Undertakings Code & Guidance

Undertakings Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The ***Code of Conduct*** requires you to deliver the following ***Outcome***:

- ***Client matters are dealt with using care, skill and diligence. (Outcome 2.2)***

Transparency and probity in ***undertakings*** helps you deliver these ***Outcomes*** and requires you to act in a principled manner:

1. **Maintain high standards of work. (Overriding Principle 2)**
2. You comply fully with any ***undertaking*** given by you. (***CoC P2e***)
3. You only accept instructions and act in relation to matters which are within your professional competence. (***CoC P3a***)
4. You keep the interests of the ***Client*** paramount (except as required by the law or the ***CLC's regulatory arrangements***). (***CoC P3b***)

You must also comply with the following ***specific requirements***:

5. You deliver services in accordance with timetables reasonably agreed with the ***Client***. (***CoC P2k***)
6. You consult ***Clients*** on key decisions in a timely way. (***CoC P3l***)

7. You **promptly** advise **Clients** of any significant changes to projected **costs**, timelines and strategies. (**CoC P3m**)
 8. All **Managers** are equally responsible for the performance of **undertakings** given in a body's name and remain responsible for their performance even after they have left the body or it has been dissolved.
 9. You do not breach an **undertaking**. Only the person entitled to the benefit of the **undertaking** or the Court may release you/the body from an **undertaking**.
 10. You do not avoid liability on an **undertaking** by asserting that to comply with it would be a breach of duty owed to the **Client**.
 11. Where you have given an **undertaking** to redeem a mortgage or charge you redeem it immediately following completion of the transaction occasioning the redemption.
 12. In an **undertaking** to pay money out of the proceeds of sale of a property it is not implied that the **undertaking** is intended to take effect only if you receive the proceeds of sale.
-

Undertakings Guidance

Information

1. Neither the **CLC** nor its disciplinary committees has power to direct the specific performance of an **undertaking** or to direct the payment of compensation to a third party but the breach of an **undertaking** may lead to disciplinary proceedings.
2. The **CLC** will treat a promise to give an **undertaking** as an **undertaking** provided the promise sufficiently identifies the terms of the **undertaking** and provided any prior conditions have been satisfied.
3. Should you incur loss arising directly from a **claim** based on an **undertaking** made in the course of practice you may be entitled to an indemnity under the **CLC Master Policy** or other **professional indemnity insurance**.

Example Approach

You are not obliged to adopt the approach below. The following are provided only as good practice indicators for those seeking **guidance** on how to deliver the positive **Client Outcomes** which the Principle of Maintain High Standards of Work seeks:

1. To ensure that an **undertaking** is given only by an **Authorised Person** or other member of staff with authority expressly given on a **Durable Medium** by the body.

2. To ensure that all staff are aware of the terms of **undertakings** incorporated by the use of the Law Society's formulae for exchanging contracts by telephone and its code for completion by post.
3. To note on the file and confirm in writing to the other party any agreed variation to **undertakings** in the Law Society's formulae for exchanging contracts by telephone or its code for completion by post.
4. To note separately the terms of **undertakings** on file.
5. To give an **undertaking** only if the **Authorised Person** or duly authorised member of staff can be absolutely certain that it will be fulfilled.
6. Where making or accepting an **undertaking** "to pay **costs**" specify the amount of costs since if no sum is agreed the **undertaking** may be interpreted as meaning "to pay reasonable **costs**".
7. To ensure the wording of an **undertaking** is unambiguous, since only in exceptional circumstances will extraneous evidence be admitted to clarify an ambiguity;
8. Where an **undertaking** is dependent on the happening of a future event to notify the recipient immediately if it becomes clear that the event will not occur.
9. To specify both the identity of the lender and the date of each charge it is intended to discharge in reply to any requisitions on title or otherwise.
10. To give an oral **undertaking** only as a last resort and ensure that it is confirmed in writing as soon as is practicable.
11. To avoid either giving or accepting an **undertaking** using terms such as "best endeavours" or "reasonable endeavours": be specific.

Specific Arrangements



Acting as Insurance Intermediaries Code & Guidance

Introduction

The **CLC** is a Designated Professional Body under Part XX of **FSMA** and as such it must make arrangements to regulate **CLC** Bodies in the provision of **Regulated Activities** in relation to which the **General Prohibition** does not apply as a result of section 327 **FSMA**.

Acting as Insurance Intermediaries Code

In this Code 'you' refers to bodies regulated by the **CLC**; all bodies regulated by the **CLC** which act as insurance intermediaries must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code. These requirements do not apply to a person authorised by the Financial Services Authority in accordance with s.31 **FSMA**.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Clients receive good quality and independent information, representation and advice (Outcome 1.1);**
- **Each Client's best interests are served (Outcome 3.1);**
- **Clients receive advice appropriate to their circumstances (Outcome 3.2);**
- **Clients have the information they need to make informed decisions (Outcome 3.3);**
- **Clients are aware of any referral arrangements and that they are consistent with your responsibilities both to them and to the CLC (Outcome 3.4);**
- **Clients are aware of any limitation or any condition resulting from your relationship with another party (Outcome 3.5);**

- **You act in accordance with regulatory responsibilities (Outcome 5.1).**

Demonstrating integrity and providing appropriate standards of work when acting as an Insurance Intermediary helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. **Maintain high standards of work. (Overriding Principle 2)**
3. **Act in the best interests of your Clients. (Overriding Principle 3)**
4. **Promote equality of access and service. (Overriding Principle 6)**
5. You act honestly, professionally and decently. (CoC P1b)
6. You do not give false or misleading information relating to the provision of **Reserved Legal Activities**. (CoC P1e)
7. You keep the interests of the **Client** paramount (except as required by the law or by the **CLC's regulatory arrangements**). (CoC P3b)
8. You only recommend a particular person, business or product when it is in the best interests of the **Client**. (CoC P3f)
9. You provide the **Client** with information which is accurate, useful and appropriate to the particular **client**. (CoC 3h)
10. You provide the **Client** with all relevant information relating to any fee arrangements or fee changes. (CoC P3j)
11. You advise **Clients** of the name and status of the person dealing with their matter and the name of the person responsible for overall supervision. (CoC P3k)
12. When providing services which are not regulated by the **CLC**, you advise your **Client** of this and inform them the activity is not covered by **CLC-approved Professional indemnity insurance**, or by the **Compensation Fund** administered by the **CLC**, or the **Legal Ombudsman** does not have the jurisdiction to determine **complaints** made about the service you are providing. (CoC P3q)
13. You co-operate with other regulators and ombudsmen. (CoC P5h)

You must also comply with the following **specific requirements**:

14. Subject to Requirement 16 and provided it complies with this Code you are only permitted to provide **Regulated Activities** as specified by the **CLC** by resolution and which are incidental to **Regulated Services** provided to a **Client**.

15. To effectively oversee **Regulated Activities** you appoint a **Manager** as the person who:-
 - 15.1 is responsible for ensuring the body has procedures and practices to enable it to comply with this Code;
 - 15.2 will supply to the **CLC** or its agents information as required by the **CLC**; and
 - 15.3 will notify the **CLC** immediately and in any event no later than seven days after each such appointment is made.
16. You advise the **CLC** if there is an order or direction of the Financial Services Authority under sections 328 or 329 **FSMA** in force in respect of the body. Where such order is in force the **CLC** may withdraw permission without notice.
17. The manner of the provision of any service in the course of **carrying on a Regulated Activity** is incidental to the provision by you of **Professional Services**.
18. The **Regulated Activities** you **carry on** are not of a description, or relate to an investment of a description, specified in an order made by HM Treasury under section 327(6) **FSMA**.
19. The **Regulated Activities** are the only **Regulated Activities** carried on by the body (other than **Regulated Activities** in relation to which it is an **FSMA Exempt Person**).
20. You do not **carry on**, nor hold the body out as **carrying on**, a **Regulated Service** other than one which is permitted by this Code or one in relation to which it is a **FSMA Exempt Person**.
21. You do not **carry on** any Insurance Mediation Activity unless the body is included in the **Insurance Intermediaries Register**.
22. The body and all of its **Managers** at all times comply with **FSMA**, secondary legislation made under **FSMA** and the **IMD**, so far as they apply to them.
23. The body and all of its **Managers** comply with the terms and provisions of the **CLC's** Acting as an Insurance Intermediary Code.

Acting as Insurance Intermediaries

Insurance Intermediaries Register

24. You only act as an insurance intermediary if you are registered on the Financial Services Authority's (FSA) **Insurance Intermediaries Register**. The **CLC** is responsible for supplying details of bodies to the FSA.
25. Unless trading as a FSMA Authorised Person, you nominate one of your **Managers** to be listed on the Register as the main contact, with all correspondence relating to Insurance Intermediary Activities is addressed to that individual.

26. You check that the body is listed on the **Insurance Intermediaries Register** before conducting any activity covered by paragraph 4 of the **Guidance**.
27. You inform us within 5 working days of any changes being made to your entry in the FSA's register.

Notifications provided to clients

28. You provide two types of notification on a **Durable Medium** (eg in writing, by fax or by email):
 - (i) at the outset of instructions (and in any event before the contract of insurance is concluded);
 - (ii) before a contract of insurance is concluded

Notes:

- a) Some of the provisions are unlikely to vary from one matter to another and can be provided in standard terms.
 - b) A clear statement of the basis a particular product has been chosen must be made.
 - c) The **CLC** understands there are relatively few providers of Title Indemnity Policies. It is unlikely therefore that any advice on products can be given on the basis of a fair analysis. It is much more likely they will be made from a limited number of insurance undertakings or a single insurance undertaking.
- (iii) information may be provided orally if the **Client** requires it or if immediate cover is required. To comply with Distance Marketing Regulations that information must be provided on a **Durable Medium** as soon as possible.

Passporting

29. If you wish to establish a branch or provide **Insurance Mediation Activities** in another EC State you complete the **FSMA** passporting process (**FSMA**, paragraph 21, part IV, schedule 3).
30. You do not provide **Insurance Mediation Activities** in another EC state unless you have given the FSA the necessary notice of the body's intention to do so.

Terms & Information Provision

Providing Regulated Activities (including acting as an Insurance Intermediary)

31. All information under paragraphs 32 and 33 must be provided in a way which is fair, clear and not misleading, no less prominent than any other information provided to the **Client** at the same time and in English or in any other language agreed by the you and the **Client**.

32. Before providing **Regulated Activities**, you provide the following information on a **Durable Medium** to the **client**:-

32.1 the name, address, telephone and other contact details;

32.2 if not included in 32.1, the names of the **managers**;

32.3 the name of the individual having day-to-day conduct of the matter and where applicable the name of the individual responsible for its overall supervision;

32.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);

32.5 the name of the individual to whom any **complaint** should be made;

32.6 an explanation of the procedure to be adopted where the **Client** is dissatisfied with the services received or conduct delivered; this must include the name and address of the **CLC** and the **Legal Ombudsman** (see further information provided in the **CLC's Complaints Code and Guidance**).

32.7 the following wording:-

"If you make a valid **claim** against us for a loss arising out of work for which we are legally responsible, and we are unable to meet our liability in full, you may be entitled to **claim** from the **Compensation Fund** administered by the Council For **Licensed Conveyancers** (from whom details can be obtained").

32.8 the following wording:-

"[this firm is/we are] not authorised by the Financial Services Authority. However, we are included in the register maintained by the Financial Services Authority so that we can **carry on Insurance Mediation Activities**, which is broadly advising on, selling and administration of insurance contracts. This part of our business, including arrangements for **complaints** or redress if

something goes wrong, is regulated by the Council for **Licensed Conveyancers**. The register can be accessed via the Financial Services Authority website at 'www.FSA.gov.uk/".

33. Before concluding any contract of insurance, or the renewal or the amendment of a contract of insurance, you provide the **Client** with the following information, if you have not already done so, on a **Durable Medium**:-
- 33.1 whether the body has any holding, direct or indirect, representing more than 10% of the voting rights or of the capital in an insurance undertaking;
- 33.2 whether an insurance undertaking or parent of any insurance undertaking has a holding, direct or indirect, representing more than 10% of the voting rights or of the capital in the body;
- 33.3 whether the body has given or will give advice:-
- 33.3.1 on the basis of a fair analysis of the market; or
- 33.3.2 from a limited number of insurance undertakings; or
- 33.3.3 from a single insurance undertaking;
- 33.4 if paragraph 33.3.2 or 33.3.3 applies you must disclose whether the body is contractually obliged to conduct Insurance Mediation Activity in this way;
- 33.5 if the contract of insurance has not been selected on the basis of a fair analysis of the market that the **Client** can ask for a copy of the list of insurance undertakings from which the body selects or with which it deals in relation to the contract provided;
- 33.6 based on the information provided by the **Client**, a statement, reflecting the complexity of the contract proposed:-
- 33.7.1 sets out the **Client's** demands and needs;
- 33.7.2 confirms whether or not advice on the contract has been given to the **Client**;
- 33.7.3 explains the reasons for giving advice on the contract where such advice is given to the **Client**.
34. You may provide the information at paragraphs 32 and/or 33 orally only if:
- 34.1 the **Client** requests it; or

34.2 the **Client** requires immediate cover

but in both cases you must provide the information on a **Durable Medium** immediately after the conclusion of the contract.

35. When informing the **Client** that advice is given on the basis of a fair analysis, in accordance with paragraph 33.3.1, you must:

35.1 give advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market, to enable it to make a recommendation, in accordance with professional criteria, as to which insurance contract would be adequate to meet the **Client's** needs; and

35.2 explain to the **Client** that it has done so.

Accounting to the **Client**

36. You account to the **Client** for any pecuniary award or other advantage received by you from a person other than your **Client** arising out of you **carrying on** a Regulated Activity (s.327(3) FSMA).

Other

37. Where appropriate you refer, and if appropriate, take legal advice on the effect of IMD, **FSMA**, secondary legislation, and the **Guidance** (set out below).

Acting as Insurance Intermediaries **Guidance**

Legislative Background

1. The Insurance Mediation Directive (2002/92/EC) requires that arrangers or sellers of insurance products be regulated. Generally providers must be regulated by the FSA (known as **FSMA Authorised Persons**). There is a limited exception for professionals, whose regulatory body is a Designated Professional Body under Part XX of **FSMA**. This exemption regime is designed to exclude professional firms which are not carrying on mainstream financial services activities from the requirement to be authorised by the FSA.
2. Any body wishing to provide **Regulated Activities** (to include insurance services) other than as permitted by the **CLC** or, as appointed agent for an insurer, may only do so if regulated by the FSA.
3. The **CLC** is itself regulated by the FSA and must comply with directions it is given.

4. With the agreement of the FSA, the Council has resolved

"In accordance with requirement 14 of the '**CLC** Designated Professional Bodies Code' each **CLC** Body is permitted to carry out all insurance activities incidental to **Regulated Services** provided by that body to any **Client** including (without limiting the generality of this Resolution) Abortive Costs Indemnity Insurance, Household and Estate Property Insurance, Term Policies for IHT, Missing Beneficiary insurance, Deposit Guarantee Insurance and Title Indemnity Policies relating in particular to Restrictive Covenants, Absence of Easements, Insolvency Acts, Registered Possessory Titles, Lost Title Deeds, Missing Particulars (Registered Titles), Good Leasehold, Absent Landlords, Missing Rent-charge Owners, Flat/Maisonette Indemnities, Flying Freeholds, Search Indemnities, Absence of Deeds of Postponement on Right to Buy Transactions, Defective Leases, Contingent Buildings Insurance, Forfeiture of Leases (Mortgagees only), Superior Leases, Lease Enlargements, Planning Permissions, Building Regulations and Endorsements, Chancel Liability and Contaminated Land."
5. The term "arrange" is wide ranging and includes helping a **Client** to complete a proposal form.
6. This Code is drafted so that the range of products covered by the **CLC's regulatory arrangements** may be extended by resolution of the **CLC** with the agreement of the FSA.

Incidental

7. The **Regulated Activities** you provide must be incidental in two senses:-
 - (i) In the provision of a particular **Regulated Service** to a particular **Client**,

you must **carry on** only **Regulated Services** which arise out of, or are complementary to, the provision by the body of that Regulated Service to that **Client** (s.332(4) **FSMA** and requirement 14); and
 - (ii) Any service provided in the course of **carrying on** a **Regulated Service** must be incidental to the **Professional Services** you provide (s.327(4) **FSMA** and requirement 17).
8. (a) The FSA considers that to satisfy the condition in s.327(4) **FSMA Regulated Activities** cannot be a major part of the body's practice.

(b) The FSA also considers the following further factors to be relevant:
 - (1) the scale of **Regulated Activity** in proportion to other **Professional Services** provided;
 - (2) whether and to what extent services that are **Regulated Activities** are held out as separate services; and

(3) the impression the body gives, for example, through its advertising or other promotions of its services, as to how **Regulated Activities** are provided;

(c) In the FSA's opinion, one consequence of this is that a body cannot provide services which are **Regulated Activities** if they amount to a separate business conducted in isolation from the provision of **Professional Services**. This does not, however, preclude it from operating its professional business in a way which involves separate teams or departments, one of which handles the **Regulated Activities**.

(d) For the purpose of s.327(4), **Professional Services** are services which do not constitute **carrying on a Regulated Service**, and the provision of which is supervised and regulated by a Designated Professional Body, such as the **CLC** (s.327(8) **FSMA** and Glossary of Terms)

Example: when acting for the buyer of a property you may arrange a missing landlord indemnity policy on behalf of that buyer. You may not arrange that same policy to a different **client** as a stand alone product.

Accounts to

9. The FSA considers that, in order for a **Client** to be accounted to for the purposes of s.327(3) **FSMA**, you must treat any commission or other pecuniary benefit received from third parties and which results from **Regulated Activities** carried on by the body, as held to the order of the **Client**. You will not be accounting to the **Client** simply by telling them that you receive commission. Unless the **client** agrees to you keeping it, the commission belongs to them and must be paid to them. There is no de minimis below which you may retain the sum. In the FSA's opinion, the condition would be satisfied if you pay over to the **Client** any third party payment received. Otherwise, it would be satisfied by informing the **Client** of the payment received and advising the **Client** that they have the right to require the body to pay them the sum concerned. This could then be used to offset fees due from the **Client** in respect of **Professional Services** provided or in recognition of other services provided. However, it does not permit retention of third party payments by seeking the **Client's** agreement through standard terms and conditions. Similarly, a mere notification to the **Client** that a particular sum has been received coupled with your request to retain it does not satisfy the condition.

Enforcement:

Restrictions

10. Where the FSA makes orders affecting individual bodies, the **CLC** may withdraw permission.

Disciplinary Steps

11. Where a body is in breach of the Code the **CLC**, may:-

- (i) impose a condition on a *licence*; or
- (ii) take disciplinary proceedings against the body and its *Manager* or *Head of Finance and Administration*;
- (iii) withdraw its permission.



Council for
**Licensed
Conveyancers**

**Acting for Lenders and
Prevention and Detection of Mortgage Fraud Code
& Guidance**

Acting for Lenders and Prevention & Detection of Mortgage Fraud Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies providing **conveyancing services** regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Clients receive an honest and lawful service; (Outcome 1.2)**
- **Clients money is kept separately and safely; (Outcome 1.3)**
- **Client matters are dealt with using care, skills and diligence; (Outcome 2.2)**
- **Appropriate arrangements, resources, procedures, skills and commitment are in place to ensure Clients always receive a high standard of service; (Outcome 2.3)**
- **Clients' affairs are treated confidentially (except as required or permitted by law or with the Client's consent). (Outcome 3.6)**

Prevention and detection of mortgage fraud and acting properly in the interests of lenders helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. **Act with Independence and Integrity. (Overriding Principle 1)**
2. **Maintain High Standards of Work. (Overriding Principle 2)**

3. **Act in the best interests of your Clients. (Overriding Principle 3)**
4. You **systematically** identify and mitigate risks to the business and to **Clients**. (CoC P2f)
5. You promote ethical practice and compliance with regulatory requirements. (CoC P2g)
6. You enable staff to raise concerns which are acted on appropriately. (CoC P2h)
7. You maintain proper governance, management, supervision, financial and risk management **arrangements** and **controls**. (CoC P2i)
8. You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (CoC P3b)
9. You disclose **client** information only as you have been instructed (or as required by the **CLC's regulatory arrangements** or by law), keeping effective records of any disclosures you make. (CoC P3e)

You must also comply with the following **specific requirements**:

Part A – Acting for Lenders

10. When acting for a Lender, you take all necessary steps to ensure that the **conveyancing services** provided by it do not fall below the reasonably competent standard which should be expected.
11. You take all relevant steps to comply with the general and particular mortgage instructions contained in the current edition of Parts 1 & 2 of the Lenders' Handbook for England & Wales issued by the Council of Mortgage Lenders ("the CML Handbook").
12. If you suspect a **client** of not being completely honest or transparent about any element of a proposed mortgage transaction, you must consider whether you should continue to act for the Lender and/or the **Client**.
13. You do not disclose confidential information to the Lender after you have ceased to act for a **Client**.

Identity of the Client

14. You establish and obtain proof of the identity of **Clients** in line with the requirements of the CML Handbook and the Money Laundering Regulations ("the Regulations"). You must advise the Lender if a Borrower **Client** is unable, reluctant or unwilling to provide this verification.
15. Any system or product you use must be sufficiently robust to provide the necessary degree of certainty and include data from a range of sources, across time and incorporate qualitative checks that assess the strength of the information supplied. Your evidence base and level of verification must be composite and comprehensive.

Identity of the Property

16. You are certain you have correctly identified the property which is to be mortgaged and that the documents of title with which you have been presented accurately relate to and reflect that property, particularly where its name or its boundaries or other significant features have been changed.

Transactions

17. In registered title property transactions, you obtain Official Copies of the title and a copy of the Official Plan produced by the Land Registry.
18. You do not complete a mortgage transaction without first obtaining the results of Land Registry, Land Charges or Company Searches, as appropriate.
19. You carry out a Bankruptcy Search (which must be current at completion) in the registered names of and any other names used by a Borrower or by which he is otherwise known.
 - 19.1 Where an entry is revealed against the name of the Borrower (or the mortgagor or guarantor) you must certify that the entry does not relate to the Borrower (or the mortgagor or guarantor) if you are able to do so from your own knowledge or enquiries; or if, after obtaining office copy entries or making other enquiries of the Official Receiver, you are unable to certify that the entry does not relate to the borrower (or the mortgagor or guarantor) you make a report to the Lender.
 - 19.2 You obtain clear bankruptcy searches against all parties to any deed of gift or transaction at an apparent undervalue (paragraph 5.15.4 CML Handbook).
20. You complete a mortgage for a registered title and the application for registration at the Land Registry lodged before the end of the priority period provided by the Land Registry Search. Any search application to create a fresh priority must be made in sufficient time before the expiry of the existing priority period to enable a substantive application to be lodged within the appropriate period if another "hostile" application is revealed.
21. You complete a mortgage over an unregistered title within the priority period provided by the Land Charges Searches. You register your application with the Land Registry within 2 months of the date of completion.
22. Where the Borrower is a **Company** you register the charge at Companies House within 21 days (a period which may only be extended by order of the Court).
23. When acting for a Seller or Buyer, Official Copies and Official Plan you must check no additional charges have been registered.

24. When acting for a Seller, you check the Title Entries on receipt from the Land Registry (and before issue to the Buyer's conveyancer) to ensure that any additional charges are noted and addressed at the outset. This will avoid causing problems in discharging **undertakings**.

Mortgage Redemption

25. To ensure compliance with the **CLC's Undertakings** Code and with Clause 17 of Part 1 of the CML Handbook, you:-
- 25.1 ask a **client** at the outset of any sale or remortgage transaction whether there are any mortgages secured against the property and, if so, obtain details (including relevant mortgage account numbers);
- 25.2 specifically ask those **clients** whether, in addition to the principal mortgage account, they have any other loans with different account numbers with the same Lender (which may be secured against the property) or any other mortgages with any other Lenders and, if so, obtain details (including relevant mortgage account numbers);
- 25.3 request an illustrative redemption statement from the Lender at the outset of the transaction giving details of mortgage account numbers, and verify the outstanding amount(s) shown on those statements with your **clients**;
- 25.4 when obtaining either an illustrative or a final redemption figure from a Lender, request a statement of the total amount required to redeem all loans and monies secured by the Lender's charge over the property. Failure to ask for details of all loans and monies secured by the Lender may mean that the redemption figure will only relate to those accounts where details have been provided;
- 25.5 ensure any discharge **undertaking** given specifies both the identity of the lender and the date of each charge it is intended to discharge in reply to any requisitions on title or otherwise.

Mortgage Instructions

26. You:-
- 26.1 check the Lender's mortgage offer and instructions carefully and ensure that they match the details of the transaction exactly or otherwise report any discrepancies to the Lender, having first obtained instructions from his Borrower **client** so to do or, if the **client** refuses to consent, to cease acting for the Lender;
- 26.2 question and clarify any unusual or uncertain instructions before proceeding;
- 26.3 cease to act for the Lender if his interests or the interests of anyone working within your body or the interests of the Borrower come into conflict with those of the Lender; and

26.4 comply with Part B - the Mortgage Fraud Code.

Part B - Mortgage Fraud

27. You immediately cease to act for a **client** in any circumstances where you are aware or suspect that the **client** is attempting to perpetrate fraud. If you decide to terminate the retainer, you must observe Principle 3 g) of the **Code of Conduct** unless to do so would constitute a "tipping off" offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.
28. You maintain your duty of confidentiality to your **client** after ceasing to act for that **client** except where:
- a. a court orders such matters to be disclosed,
 - b. a warrant permits a police officer or other authority to seize confidential documents, or
 - c. there is compelling evidence that the **client** was using its services to further a criminal or fraudulent purpose, in which case disclosure should be made to the police.
29. In acting in the best interests of the Lender you may be required to pass on or report information to the Lender. Where the Borrower **client** declines consent to its disclosure, a conflict of interest will arise between the duty of confidentiality to the Borrower **client** and the duty to act in the best interests of the Lender. You must therefore cease to act for the Lender (and consider carefully whether you can continue to act for the Buyer).

Identity of the Client and Client's Circumstances

30. You:-
- 30.1 establish the **client's** identity in line with the **CLC's** Anti-Money Laundering Code and the current Money Laundering Regulations, obtaining proof of that identity to establish that a **client** is who he says he is and that he lives at the address given;
- 30.2 advise the Lender if, in any case, a **client** is unable, reluctant or unwilling to provide this verification;
- 30.3 identify all the other owners of the property and other persons who might have an interest in or rights over the property (if any) and ensure that the **client's** current co-owner/partner is, where applicable, the co-owner/partner referred to on the title of the property;
- 30.4 obtain confirmation of instructions direct from the **client** (and from all other interested parties) wherever possible, particularly where he or they communicate through an intermediary and
- (i) obtain detailed instructions ;

(ii) satisfy itself that the **client** is not subject to duress or undue influence and

(iii) satisfy itself that the **client** is entering into the transaction knowingly;

30.5 be satisfied that the **client's** economic position, wealth and lifestyle correspond with the mortgage that he is proposing to enter into and there are no facts which suggest the potential for mortgage fraud (e.g. that he has not overstated his income in the mortgage application or that he does not have substantial arrears on an existing mortgage account); and

30.6 check all signatures to reduce any risk of forgery of the signatures of other interested parties (e.g. a husband who forges his wife's signature).

Linked Transactions

31. Having obtained the **client's** instructions to do so, you notify the Lender of any sub-sale or back-to-back element in any transaction and ensure you have the Lender's written consent before proceeding. If the **client** refuses to consent to that disclosure, you cease acting for the **client** and the Lender.

Identity of the other lawyers

32. You check the identity of the **Licensed Conveyancers** or Solicitors acting for the other party by reference to the **CLC** or the Records Department of the Law Society of England & Wales respectively.

Proceeds of Sale

33. You pay particular attention to instructions given for the distribution of the net proceeds of a sale or remortgage:

33.1 If the property or the mortgage is held in joint names, the net proceeds of sale must be sent to an account in the joint names of all **clients** or a cheque must be written to all parties jointly.

33.2 The net proceeds are sent to all the parties except as otherwise instructed by all the parties in writing.

Variations in Price, Incentives and other Material Considerations

34. When acting for a Buyer and a Lender, you, with the **client's** consent, notify a Lender immediately where:-

- 34.1 there is an alteration to the purchase price or the details are different from the details set out in the mortgage offer (other than as permitted by the Lender).
- 34.2 you become aware of any other information which you would reasonably expect the Lender to consider important in deciding whether, or on what terms, it would make the mortgage advance available to the Buyer.
35. You do not complete the mortgage until the Lender has confirmed that it is happy to proceed and, if applicable, the terms upon which it is willing so to do.
36. You establish and maintain proper systems, procedures, processes and internal controls for approval of Certificates of Title prior to submission to the Lender.
37. You remain mindful of your duty to act in the best interests of the Lender as your **client**.

General

38. You do not witness any signature unless the person signing does so in your presence. You ensure that any signed document which has been witnessed other than by a conveyancer has been properly signed in the presence of a witness.
39. You verify the signatures of **clients** (and any other interested parties) on all documents connected with a transaction.

Warning Signs

40. You question the probity of unusual instructions and are particularly circumspect if any one or more of the circumstances set out in the "Summary of Warning Signs" Guidelines apply to a transaction where you are acting

Acting for Lenders *Guidance*

Checking Identity by Documentary Means

1. The identity of a Borrower can be verified by checking their identity against appropriate original documents provided to you which appear to be authentic, are current and, where applicable, have been signed in the relevant place. A document or a series of documents meeting the expectations contained in Clause 3.1.6 of Part 1 of the CML Handbook is likely to satisfy the Lender's requirements.
2. Care must always be taken to ensure that the extent of the evidence seen will also meet responsibilities for **client** identity verification under the Regulations and the expectations contained in the **CLC's** Anti-Money Laundering and Combating Terrorist Financing Code.

3. Clause 3.2 of Part 1 of the CML Handbook prescribes requirements for safeguards and identity checks.

Checking Identity by Electronic Means

4. You must obtain "satisfactory evidence of identity", which must be reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) that the potential **client** is the person he claims to be. The **CLC** considers verification of identity by appropriate electronic means to be acceptable, though urges caution. Electronic evidence obtained should provide you with a strong level of certainty that any individual is the person they claim to be and that a person of that name lives at the address given using the **client's** full name, address and date of birth as its basis.
5. Any system or product used must be sufficiently robust to provide the necessary degree of certainty. Data accessed from a single source (e.g. the Electoral Roll) will not normally be sufficient on its own. Some databases will offer a higher degree of confidence than others.
6. Before using a commercial agency for electronic verification, you must be satisfied that:-
 - 6.1 the information supplied by the data provider is considered to be sufficiently extensive, reliable and accurate; and
 - 6.2 the agency has processes which allow its users to capture and store the information that they have used to verify an identity.
7. The process should be cumulative and you may consider it appropriate to seek additional evidence (e.g. a copy of a document bearing a signature and a date of birth) in all cases or, at least, where any **client** poses a higher risk of identity fraud, money laundering or terrorist financing, or where the result of any electronic verification check gives rise to concern or uncertainty over the **client's** identity.
8. You may wish to consider whether the provider meets each of the following criteria, namely that it:-
 - 8.1 is recognised to store personal data through registration with the Information Commissioner's Office;
 - 8.2 uses a range of positive information sources that can be called upon to link an applicant to both current and previous circumstances;
 - 8.3 accesses negative information sources such as databases relating to identity fraud and deceased persons;
 - 8.4 accesses a wide range of alert data sources; and

- 8.5 has transparent processes that enable you to know what checks were carried out, what the results of these checks were and what they mean in terms of how much certainty they give as to the identity of the subject of the identity enquiry.
9. Data from more robust sources where inclusion is based on proof of identity (such as government departments) ought to be included (under paragraph 8.2). Negative information checks (under paragraph 8.3) minimise the risk of impersonation fraud.
10. It is also important for:-
- 10.1 the process of electronic verification to meet a standard level of confirmation before it can be relied on. In circumstances which do not give rise to concern or uncertainty, the standard level would be expected to be:
- (i) one match on an individual's full name and current address *and*
 - (ii) a second match on an individual's full name and *either* his current address *or* his date of birth.
- If the result of a standard verification check gives rise to concern or uncertainty over the **client's** identity, the number of matches required to provide reasonable satisfaction as to his identity should increase.
- 10.2 You should ensure you understand the basis of the system you use in order to be satisfied that the sources of the underlying data reflect the **CLC's** requirements and cumulatively meet the standard level of confirmation set out above as commercial agencies use various methods of displaying results (e.g. by the number of documents checked or through scoring mechanisms, etc).

Transactional Considerations

- 11.1 For a registered title, the date from which the Land Registry search should be made is the date of issue of the Official Copies supplied or obtained at the outset of the transaction and the search should be made in the registered name of the Lender (and not its trading name) to avoid any conflict of priorities.
- 11.2 For unregistered land, searches must be made against all names and any variations on those names on the title documentation and, where an address has changed, a search should be made against any former address and/or counties.
- 11.3 For unregistered land, an Index Map Search must always be undertaken to ensure that the extent of the land to be conveyed is consistent with the title documentation and the Borrower's understanding.

12. In unregistered title property transactions, it is good practice both when acting for a Seller or a Buyer to make a Land Charges Search at the outset of the transaction to ascertain any entries details of which have not been supplied by the *clients* or are not revealed in the Abstract or Epitome of Title.

Mortgage Fraud *Guidance*

1. Mortgage fraud may be perpetrated by one or more participants in a mortgage loan transaction, including the Borrower, or by multiple parties (a mortgage fraud ring) working dishonestly together (and often in a professional capacity).
2. Mortgage fraud is a criminal offence which can often result in imprisonment on conviction. Some conveyancers have been caught up unwittingly in a mortgage fraud, not because of any wilfully fraudulent acts on their part but because they have failed to act in accordance with this Code, neglecting to check all details of the transaction and failing where appropriate to report to the Lender for whom they are also acting. They have not appreciated that the circumstances of the transaction might lead to or give rise to fraud.
3. Proceeds of mortgage fraud are criminal property. A conveyancer who assists in such a fraud will facilitate the acquisition, retention, use or control of criminal property contrary to s.328 of the Proceeds of Crime Act 2002. He may also aid and abet a fraud or be complicit in a conspiracy to defraud.
4. Mortgage fraud is likely to require a report to be made to the ***Serious Organised Crime Agency***.
5. Any attempt to deceive a Lender may expose you to civil action (e.g. breach of contract, breach of trust or negligence) and/or to disciplinary proceedings.

Linked Parties

6. You should always exercise caution if:-
 - 6.1 there appear to be links between a Buyer and Seller; or
 - 6.2 you are acting for both parties; or
 - 6.3 the Seller is a private ***company*** or the Seller has recently purchased from a private ***company*** and the names and addresses of the officers and shareholders of the ***company*** appear to be connected with the transaction, the Seller or Buyer.

Concerns of variations

7. It is in your interests to check whether:-

- 7.1 the contract papers have incomplete or missing dates, incorrect descriptions or any sections (particularly the price) which have been left blank;
 - 7.2 the price shown in the Contract and Transfer documentation differs from the amount actually being paid for the property;
 - 7.3 any fixtures and fittings included in the purchase price materially reduce the value of the property;
 - 7.4 the Seller is offering the Buyer any incentive(s) to buy the property unless these clearly fall within a Part 2 CML Handbook dispensation given by the Lender concerned;
 - 7.5 any allowances are made or any other sum is being set-off against the money payable by the Buyer to the Seller (e.g. for repairs to the property):
 - 7.6 the Buyer proposes to pay or has apparently paid a deposit direct to the Seller (except for a nominal reservation fee); or
 - 7.7 there is anything else that affects the price of the property or the amount actually being paid for the property, however small.
8. It is not advisable for you to determine whether any change is material. With your *client's* consent, you should make a report to the Lender. It is good practice to advise *clients* at an early stage that
- (i) it would be regarded as fraud to misrepresent the purchase price or the existence of any incentives and inducements; and
 - (ii) you have a duty to inform a Lender of the true or underlying price actually being paid for a property.
9. It is good practice to include a term in the ***Terms of Engagement*** permitting the disclosure to Lenders of material facts relating to the property and the Borrower *client*.

Acting in the best interests of the Lender *client*

10. In the event of the circumstances detailed in paragraph 7 your safest course of action may be to cease to act for both the Lender and the Borrower *client*.
11. Where you cease to act for the Lender in such circumstances, you should return the mortgage instructions to the Lender merely stating that they are returned because of a conflict of interests (without giving any further explanation).

Valuations

12. It is good practice to check any valuation supplied by the Lender to check it is not:
- 12.1 higher than the actual price being paid for the property or higher than might be expected for a property of that type in the location in which it is situated; or
- 12.2 considerably higher than the price paid for the property on any earlier sale or disposal within the last 12 months, taking into account any subsequent inflation or deflation in property prices since the date of that sale or disposal.
13. You are not a valuation expert and cannot be expected to advise on the accuracy of a valuation. Nevertheless, a valuation which is patently out of line with the apparent value of a property may be a ground for a suspicion of fraud, particularly where there is a possibility or risk of complicity between prospective Borrowers and Valuers.

Verifications of Signatures

14. This can be done by examination and comparison with signatures on any other available documentation.

Summary of Warning Signs

15. The list of circumstances outlined is not exhaustive but is provided as a guideline.

| | |
|----------------------|--|
| Remote Client | <p>Where a client is introduced by a third party (e.g. a mortgage broker or an estate agent) who is not well known to the Licensed Conveyancer or the Recognised or Licensed Body.</p> <p>Where a potential client wishing to instruct the body for the first time does not live locally to it and has not been introduced by someone known to it and there is no obvious reason why they should place their instructions with it.</p> <p>Where a client will be using the services of the body for the first time and persuades it to accept instructions from the other party, or the other party instructs the body.</p> |
|----------------------|--|

| | |
|--|--|
| <p>Secretive Client</p> | <p>Client declines to be met or come to the office and/or uses an intermediary to communicate with the body and/or asks the body to contact him at his business or another address rather than at his home address.</p> <p>Client shares an address with one or more other parties to the transaction.</p> <p>You suspect that a client is not being completely honest or transparent about any element of a proposed mortgage transaction.</p> |
| <p>Nominee Buyers</p> | <p>Instructions to purchase in or transfer a property into the name or names of nominees.</p> |
| <p>Fictitious conveyancer</p> | <p>A person claiming to be an Authorised Person is not registered with the relevant Approved Regulator</p> |
| <p>Unusual instructions</p> | <p>Instructions from a Seller to remit the net proceeds of a transaction to someone other than the Seller.</p> <p>Any instructions from a Buyer or Seller which do not correspond with the normal type of instructions you would expect to receive during the course of a standard residential or commercial conveyancing transaction.</p> |
| <p>Transactions which do not follow their normal course or a usual pattern of events</p> | <p>Any transaction which is unusual insofar as it does not follow the normal course or pattern of a standard residential or commercial property transaction.</p> |

| | |
|---|--|
| <p>Misrepresentation of the purchase price</p> | <p>The actual and true cash price to be paid is not the stated consideration in the contract and transfer and/or the price shown in the mortgage instructions and in the Certificate of Title submitted to the Lender.</p> |
| <p>Change to the purchase price</p> | <p>Adjustments to the purchase price, particularly in high percentage mortgage cases, or allowances off the purchase price, for example, for alleged works to be carried out.</p> |
| <p>A deposit or any part of a purchase price paid direct</p> | <p>A deposit or the difference between the mortgage advance and the price is paid direct or said to have been be paid direct, to the Seller.</p> |
| <p>Incomplete Contract Documentation</p> | <p>Contract documents are not fully completed by the Seller's representative, i.e. dates missing or the identity of the parties are not fully described or financial details are not fully stated.</p> |
| <p>Linked Parties Sale at an inflated price Roll-Over Fraud & Sub-sales</p> | <p>Sale at an inflated price to an individual by a company or other entity controlled or owned by him which may be a device designed to raise additional finance for the company or other entity and be linked to larger-scale frauds involving tax, improvement grants, etc.</p> <p>Sale by a Borrower to an associate] at an inflated price (known as roll-over fraud) to enable the associate to obtain a higher mortgage.</p> <p>No repayments are made under the mortgage and before the Lender is able to repossess the property, it is sold to another associate for a higher price, and so on.</p> |

| | |
|--|--|
| | <p>A Buyer at one price instructs his conveyancer that he will be selling on to a third party at a higher price where the Sub-Buyer is either one and the same person as the Buyer or an associated person where the Seller may or may not also be a party to the fraud.</p> <p>The Sub-Buyer third party obtains a mortgage based on the sub-sale price and secures an immediate profit. The balance between the original sale price and the higher sub-sale price is never paid or is said to be paid by the Buyer to the Sub-buyer or is allegedly set-off by the Buyer against money owed to him by the Sub-Buyer.</p> <p>These transactions often feature a simultaneous exchange of contracts followed by a quick completion, leaving the Lender left with a property worth the original sale-price as security for a much higher loan.</p> <p>A derivative of this fraud occurs where a Seller grants a lease to a Buyer at a ground rent and the Buyer then assigns the lease to a Sub-Buyer at a premium to provide the Sub-Buyer with a legal interest over which he can then obtain a mortgage.</p> |
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Licensed Body Code

Outcomes-focused

Only those bodies able and willing to deliver the *Code of Conduct's Outcomes* are licensed as **CLC** Licensed Bodies.

Delivering these *Outcomes* requires all Licensed Bodies and their stakeholders to act in a principled manner in accordance with the *6 Overriding Principles*:

1. **Act with independence and integrity;**
2. **Maintain high standards of work;**
3. **Act in the best interests of your *Clients*;**
4. **Comply with your duty to the court;**
5. **Deal with regulators and ombudsmen in an open and co-operative way;**
6. **Promote equality of access and service.**

This Code is in place to help ensure Licensed Bodies meet these responsibilities.

Licensed Body Code

In this Code 'you' refers to Licensed Bodies regulated by the **CLC**, except where 'you' is provided under the heading of a designated role in which case the 'you' refers to that role. Any stakeholders in the **Licensed Body** must not act or fail to act, nor permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Governance and operational arrangements

Principles

1. You ensure all persons with a **material interest**, **managers** and employees understand and comply with their regulatory responsibilities and do not compromise the body's duty to the Court or **Client**.
2. You enable the **Head of Legal Practice (HoLP)** and **Head of Finance and Administration (HoFA)** to discharge their regulatory responsibilities.
3. You enable **Authorised Persons** to comply with their own regulatory responsibilities.
4. You ensure persons with a **material interest** are unable to exert **improper influence** on the body.
5. You **systematically** prevent, identify and address **improper influence**, allowing independence to be maintained and the rule of law to be upheld.
6. You provide a mechanism by which staff can identify regulatory concerns to the **Head of Legal Practice**, and any finance-related concerns to the Head of Finance and Administration also.
7. You operate **complaints**-handling procedures which consider **complaints** about both lawyers and non-lawyers.

Specific Requirements

8. You have a designated **HoLP** and **HoFA** and have applied for/obtained **CLC** approval of these individuals.
9. Your **HoLP** and **HoFA** have experience and qualifications appropriate to the body's profile.
10. Your **HoLP** and **HoFA** are members of the senior management team or Board, or report to the senior management team or Board.
11. You provide the **HoLP** and **HoFA** with access to the **Licensed Body's managers** and staff and the **CLC** whenever necessary and their views are taken into account and the recommendations taken forward wherever possible.
12. You specifically authorise the **HoLP** and **HoFA** to dissent from collective responsibility when reporting to the **CLC**.
13. You ensure non-**Authorised Persons** who propose to hold a **material interest** of 10% or more, or a **material interest** holder proposes to acquire an additional kind of interest, notify both the body and the **CLC**.
14. You ensure the **HoLP** is notified of any 'fit and proper' issue concerning the owner(s), the **HoLP**, **HoFA**, other **Managers** or **Authorised Persons**.

Specific Requirements – Non-Authorised Persons with Material interest

15. You are a 'fit and proper' person and declare to the **HoLP** any factors affecting this.
16. You do not attempt to exert **improper influence** over the body or individuals within it.
17. If you intend to acquire an additional kind of **material interest** you inform both the **Licensed Body** and the **CLC**.

Business arrangements

Specific requirements

18. You have at least one **Authorised Person**, authorised to provide each reserved legal activity the body delivers.
19. You do not employ any person disqualified from being employed by a **Licensed Body** or any person not fit and proper.
20. You do not share **Client** information with other parts of the business without the **Client's** permission.

Head of Legal Practice

Principles

21. You understand the regulatory responsibilities of the body.
22. You act upon regulatory responsibility concerns raised by staff.
23. You keep up-to-date with legislative and regulatory requirements through targeted Continuous Professional Development.
24. You ensure **Authorised Persons** employed by the body are fit and proper.
25. You report to the **CLC** any governance concerns including **improper influence**.

Specific Requirements - of the Individual

26. You are an **Authorised Person** in relation to one or more of the **reserved legal activities**.
27. You are a 'fit and proper' person and declare to the **Licensed Body** and the **CLC** any factors affecting this.

Specific Requirements – of responsibility

28. You ensure the **Licensed Body** complies with **CLC regulatory arrangements** and any **licence authorisations, permissions** and **conditions, promptly** reporting any breach to the **CLC**.
29. You ensure **Authorised Persons** are able to comply with their regulatory responsibilities, **promptly** reporting to the **CLC** any breach of this.
30. You ensure all non-**Authorised Person** employees, **managers** or **material interest** holders do not cause or substantially contribute to the **Licensed Body** or any of its employees, managers or **Authorised Persons**, breaching its/their regulatory responsibilities, **promptly** reporting to the **CLC** any failures to comply.
31. You ensure persons proposing to acquire a **material interest** in the body, or who have already done so are aware of their duty to notify.
32. You ensure you are informed **promptly** of any circumstance identified under the **CLC** Notification Code.

Head of Finance & Administration

Principles

33. You protect **client money** and assets at all times.
34. You understand the regulatory responsibilities of the body.
35. You keep up- to-date with legislative and regulatory requirements through targeted Continuous Professional Development.

Specific Requirements – of the individual

36. You are a '**fit and proper**' person and declare to the **HoLP** any factors affecting this.

Specific Requirements – of responsibility

37. You ensure the body complies with the **CLC's** treatment of money requirements, **promptly** reporting any breach of these.
38. You **promptly** report to the **CLC** when the body is in financial distress or is at significant risk of becoming financially distressed.
39. You provide administrative **arrangements** to support the maintenance of high standards of work.
40. You ensure that proper records are maintained to evidence the body's management and supervision **arrangements** and how they are applied.



Litigation & Advocacy **Supplementary Code**

Note: this Code will only apply if the CLC's application to extend its regulatory scope is successful.

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies providing **litigation** and **advocacy** services regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

All **CLC Litigation** Lawyers and Advocates are required to comply at all times with the **Principles** and **Specific Requirements** set out under the **Code of Conduct's Overriding Principle 4 of Comply with your duty to the Court** when providing **litigation** and **advocacy** services. This Code provides you with responsibilities supplementary those identified in the **Code of Conduct**, which are aimed at helping you deliver the **Outcomes** identified below.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the follow **Outcomes**:

- **You act in the interests of justice; (Outcome 4.1)**
- **You act in good faith towards *Clients*. (Outcome 4.2)**

Providing **clients** with a high standard of **litigation** and **advocacy** helps you deliver these **Outcomes** and requires you to act in a principled manner:

1. You avoid unnecessary expense or waste of the court's time.
2. You do not offer or make payments to a witness. ¹

3. You do not say something which is merely scandalous or which seeks only to insult, vilify or annoy a witness or other person.
4. Wherever possible you do not name in open court any person if by doing so their character is, or is likely to be, impugned.
5. You do not devise facts to assist in advancing the *client's* case.
6. You advise the **Client** that your duties to the court override your responsibilities to them.
7. You do not pressurise a witness; in particular you do not do anything which gives rise to a significant risk that a witness will give evidence which is not truthful.
8. You deal sensitively with the evidence of child witnesses and other vulnerable persons, and hold it securely.
9. You may refuse to act as an advocate under a conditional fee agreement or where you are offered a fee which you can reasonably be expected to consider inappropriate.
10. If 9 is applicable, you inform the *client* in advance why you are ceasing to act and ask the *client* to agree to you passing their instructions onto another advocate.
11. When appearing as an advocate you do not assert any person is guilty of a crime, fraud or misconduct, unless you consider the assertion is reasonably supported and is material to your *client's* case.
12. If you become aware that you have inadvertently misled the court, you, with your *client's* agreement, immediately inform the court; if the *client* does not agree to this, you stop acting for them.
13. You do not call into question the character of a witness unless you have given them the opportunity to answer the allegation under cross-examination.

¹ Except reasonable expenses and reasonable compensation for loss of time attending court



Council for
**Licensed
Conveyancers**

Recognised Body Code

Outcomes-focused

Only those bodies able and willing to deliver the *Code of Conduct's Outcomes* are recognised as ***CLC Recognised Bodies***.

Delivering these *Outcomes* requires all **Recognised Bodies** and their stakeholders to act in a principled manner in accordance with the **6 Overriding Principles**:

1. **Act with independence and integrity;**
2. **Maintain high standards of work;**
3. **Act in the best interests of your *Clients*;**
4. **Comply with your duty to the court;**
5. **Deal with regulators and ombudsmen in an open and co-operative way;**
6. **Promote equality of access and service.**

This Code is in place to help ensure ***Recognised Bodies*** meet these responsibilities.

Recognised Body Code

In this Code 'you' refers to ***Recognised Bodies*** regulated by the **CLC**, except where 'you' is provided under the heading of a designated role in which case the 'you' refers to that role. Any stakeholder in the ***Recognised Body*** must not act or fail to act, nor permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Governance and operational arrangements

Principles

1. You ensure all ***managers*** and employees understand and comply with their regulatory responsibilities and do not compromise the body's duty to the Court or Client.

2. You enable the **Managers** to discharge their regulatory responsibilities.
3. You enable **Authorised Persons** to comply with their own regulatory responsibilities.
4. You **systematically** prevent, identify and address **improper influence**, allowing independence to be maintained and the rule of law to be upheld.
5. You provide a mechanism by which staff can identify regulatory concerns, and any finance-related concerns to any **Manager**.
6. You operate **complaints**-handling procedures which consider **complaints** about the **Recognised Body** and any of its **Managers** or employees.

Specific Requirements

7. You have at least one **Manager** and have applied for/obtained CLC approval of any such individual.
8. At least one **Manager** has experience and qualifications appropriate to the body's profile.
9. At least one **Manager** is a member of the senior management team.
10. You provide at least one **Manager** with access to the **Recognised Body's managers** and staff and the CLC whenever necessary and their views are taken into account and the recommendations taken forward wherever possible.
11. You specifically authorise at least one **Manager** to dissent from collective responsibility when reporting to the CLC.
12. You ensure the at least one **Manager** is notified of any 'fit and proper' issue concerning any owner, or Authorised Person.

Business arrangements

Specific requirements

13. You have at least one Authorised Person, authorised to provide each reserved legal activity the **Recognised Body** delivers.
14. You do not employ any person disqualified from being employed by a CLC Body or any person who is not fit and proper.

Manager

Principles

15. You understand the regulatory responsibilities of the **Recognised Body**.

16. You act upon regulatory responsibility concerns raised by staff.
17. You keep up- to-date with legislative and regulatory requirements through targeted Continuous Professional Development.
18. You ensure Authorised Persons employed by the body are fit and proper.
19. You report to the CLC any governance concerns including ***improper influence***.

Specific Requirements - of the Individual

20. You are an Authorised Person in relation to one or more reserved legal activity.
21. You are a 'fit and proper' person and declare to the ***Recognised Body*** and the CLC any factors affecting this.

Specific Requirements – of responsibility

22. You ensure the ***Recognised Body*** complies with CLC ***regulatory arrangements*** and any ***authorisations, permissions*** and ***conditions*** on its Certificate of Recognition, ***promptly*** reporting any breach to the CLC.
23. You ensure Authorised Persons are able to comply with their regulatory responsibilities, ***promptly*** reporting to the CLC any breach of this.
24. You ensure that no non-Authorised Person employee causes or substantially contributes to the ***Recognised Body*** or any of its employees, breaching any regulatory responsibility, ***promptly*** reporting to the CLC any failures to comply.
25. You ensure you are informed ***promptly*** of any circumstance identified under the CLC Notification Code.
26. You protect client money and assets at all times.
27. You provide administrative arrangements to support the maintenance of high standard of work
28. You ensure the ***Recognised Body*** complies with the CLC's treatment of money requirements, ***promptly*** reporting any breach of these.
29. You ensure that proper records are maintained to evidence the ***Recognised Body***'s management and supervision arrangements and how they are applied
30. You ***promptly*** report to the CLC when the body is in financial distress or is at significant risk of becoming financially distressed.



Transaction Files Code & Guidance

Transaction Files Code

In this Code 'you' refers to individuals and bodies regulated by the **CLC**; all individuals and bodies regulated by the **CLC** must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

The **Code of Conduct** requires you to deliver the following **Outcomes**:

- **Each Client's best interests are served; (Outcome 3.1)**
- **Clients' affairs are treated confidentially (except as required or permitted by law or with the Client's consent). (Outcome 3.6)**

Appropriate standards of document provision help you deliver these **Outcomes** and require you to act in a principled manner:

1. **Act in the best interests of your Clients. (Overriding Principle 3)**
2. You disclose **client** information only as the **Client** has instructed (or as required by the **CLC's regulatory arrangements** or by law), keeping effective records of any disclosure you make. (**CoC OP3e**)

You must also comply with the following **specific requirements**:

File

3. When a request for a transaction file, or part of it, is made on behalf of a **Client**, lender or third party you must determine the ownership of the various papers in the file and provide the

person making the request only with the documents they own or are entitled to, or entitled to only with the **Client's** permission.

4. Where the **Client's** permission is required you must not provide the papers to the person making the request until you have obtained the **Client's** consent or been served with a court order in appropriate terms.

Joint retainers – joint Clients

5. Originals are handed to one **Client** only with the consent of the other **Client**.
6. You provide each **Client** with a copy without charge.
7. You release copies to third parties only with the consent of all **Clients**.

Joint retainers –Client and lender

8. You may charge a lender for a copy of a document if you require the borrower **Client's** consent to provide the lender with a copy.

Retention of file contents

9. You retain the contents of files relating to all matters for a minimum of six years, except those relating to:
 - other conveyancing matters (other than the sale of property) for a minimum of fifteen years
 - wills for a minimum of six years after the testator has died, and
 - probate matters for a minimum of six years from the end of the executor's year.
10. Consideration should be given on a case by case basis as to the appropriate date of destructions for the contents of files relating to:
 - deeds of gift
 - gifts of land
 - transfers at an undervalue
 - right to buy where funds came from someone other than the purchasing tenant(s)
 - lifetime gifts.

Transaction Files *Guidance*

1. Transaction files generally contain a mixture of papers and documents some of which belong to the **Client** and some to the body. In addition there may be other papers and documents which belong to another **Client**, for example a lender.
2. Documents that belong to the **Client**:
 - a) Those documents you have prepared for the benefit of the **Client** and which have been paid for by the **Client** either directly or indirectly, including:-
 - most attendance notes;
 - drafts;
 - copies made for the **Client's** benefit of letters received by the **Licensed Conveyancer** or **body**;
 - copies of letters you've written to third parties contained in the **Client's** file and used for the **Client's** business, for example letters to banks, lenders, witnesses or potential witnesses.
This does not include copies of letters written to the **Client** which you may keep.
 - b) Those documents prepared by a third party during the course of a matter and sent to you (other than those sent to you at the body's expense). Examples are receipts and vouchers for **disbursements** made by or on behalf of the **Client** and letters received by the body from third parties.
 - c) In the case of joint **Clients** these documents belong to the **Clients** jointly.
 - d) In most cases it is not necessary to deliver up original documents. However:
 - some documents (such as Wills and Deeds) only have effect on production of the original; and
 - questions about the authenticity of a document may in some instances only be determined on production of the original.
3. Documents that belong to you:
 - a) Those documents prepared by the body for its own benefit or protection, the preparation and production of which is not charged to the **Client**. They include:
 - copies of Communications written to the **Client**;
 - copies of Communications received by the body;
 - office journals;
 - computerised records;
 - copies of Communications to third parties but only if they are contained in a filing system of all Communications written in the office;
 - tape recordings of conversations;

- entries in diaries;
- time sheets;
- books of account;
- inter office Communications;

b) Those documents sent to the body by the **Client**, the property of which was intended at the date of despatch to pass from the **Client** to you, including letters, authorities, and instructions written or given to you by the **Client**.

4. Where you acted for two or more clients and a request for the file or part of it is made by one of the clients (eg a lender), you should determine the ownership of the various papers in accordance with paragraphs 2 and 3 above. For example, in a conveyancing transaction there may be documents which:-

- Belong to the lender alone including the lender's instructions to the body, certificate of title and correspondence between you and the lender. The original may be released but a copy should be retained.
- Belong to the borrower **Client**, but which the lender is nevertheless entitled to see, as they relate to that part of the work where the lender and borrower can be said to have a common interest, such as deducing title. Examples are the contract, transfer and search certificates.
- Belong to the borrower **Client** that the lender is not entitled to see without the consent of the borrower **Client** (and for which a copying charge may be made).

Example Approach

You are not obliged to adopt the approach below. The following are provided only as good practice considerations:

1. To make a copy (without charge) for your own benefit of any documents released.
2. Where documents are requested with a view to a **claim** being made against you (in addition to your regulatory responsibility to notify insurers of the circumstances) you should :
 - not make any admission of liability;
 - deal with the matter in accordance with instructions issued by or on behalf of the insurers.
3. Where a file or information from a **Client** file is requested by a third party (such as the Police, HM Revenue and Customs or Trustee in Bankruptcy) to satisfy yourself (by the production of legal authority, preferably a court order) that the party making the request is legally entitled to the documents and information requested.

4. Where you intend to charge for copying documents (other than where any copying is made for your own benefit) you make a reasonable charge.
5. It is in your interests to ensure that the relevant **Terms of Engagement** authorise you:
 - to retain or destroy the contents of a **Client's** file or transfer the data onto another **Durable Medium**, since you may be liable for any loss incurred if the contents of a file are destroyed without the **Client's** consent; and
 - to provide copies (rather than originals) of documents requested unless the production of the document (such as a Will) is required for the document to have legal effect.

Destruction of file contents

6. After the relevant minimum retention period (identified at 9 & 10), and provided you have the **Client's** authority, you review the file to decide whether it may be safely destroyed. You might consider retaining separately and for a longer period the authority from the **Client**.
7. If the matter involved a mortgage, then it is likely you will want to take into account any **specific requirements** of the particular lender.

Other



Introduction - as both an *Approved Regulator* and *Licensing Authority* the *CLC* must, so far as is reasonably practicable, act in a way which is compatible with the *regulatory objectives*:

- a) protect and promote the public interest;
- b) support the constitutional principle of the rule of law;
- c) improve *access to justice*;
- d) protect and promote the interests of consumers;
- e) promote competition in the provision of legal services;
- f) encourage an independent, strong, diverse and effective legal profession;
- g) increase public understanding of the citizen's legal rights and duties;
- h) promote and maintain adherence to the *professional principles*.

The key elements of the *CLC's* promotion of these objectives are:

- An *Outcomes*-focused and evidence and *risk-based* approach to our work;
- Working with the regulated community to maintain and improve high standards of professional behaviour;
- Helping the regulated community to help themselves – helping to change behaviours through provision of advice, support and *guidance*;
- Applying our resources where they are needed most and resolving issues informally wherever possible/appropriate;
- Enabling those we regulate to innovate and compete;
- Anticipating potential regulatory problems and addressing or preventing them wherever possible.

This Regulatory Policy explains what we are seeking to achieve as a regulator of legal services

and how we seek to put the above into practice.

1. Regulatory Aims

1.1 The **CLC** has three key regulatory aims:

- those we regulate deliver high standards of service to consumers and to the wider public;
- there are high standards of conduct among those we regulate; and
- there is an effective and proportionate regulatory framework in operation.

1.2 To achieve these aims we must:

- promote a wide, shared understanding amongst the regulated community of the **Outcomes** we require them to deliver;
- operate **regulatory arrangements** which deliver the intended **Outcomes**;
- ensure each member of the regulated community has the right people, systems, skills and knowledge to meet their regulatory responsibilities;
- operate a regulatory approach which is accountable, consistent, proportionate targeted, and transparent.

2. The Principles of our Regulatory Philosophy

2.1 Accountable - we are accountable to a range of stakeholders, not least clients and the regulated community itself, and so we try our best to ensure our regulatory activities demonstrate accountability to all those with a vested interest. To this end, our **Code of Conduct** sets out the **Outcomes** our **regulatory arrangements** seek to deliver to clients.

2.2 Consistent - all regulatory decisions are based upon the 'balance of probabilities' of the evidence, except where a criminal act or fraud or dishonesty is alleged in which case the standard applied will be 'beyond

reasonable doubt' (with the exception of intervention). We review our compliance monitoring approach and the responses it generates to ensure they are consistently applied.

- 2.3 Proportionate - an issue which gives rise to, or is likely to give rise to, a risk to the delivery of the **Outcomes** will be discussed with the individual/body. Their capacity and/or willingness to address the issue will help inform our response. Our response will be proportionate to the seriousness, circumstance and impact – actual or potential – of the risk to an individual client, clients in general and the legal profession.
 - 2.3.1 We support those who alert us to their own regulatory failings. We provide support and **guidance** where needed. As long as clients are not at risk and the body/individual is addressing the failure(s) in a reasonable way we are less likely to take formal **enforcement** action. Regulatory action will be considered for those who commit relatively minor regulatory breaches on a regular basis and who fail to respond to more informal resolution approaches.
 - 2.3.2 Whenever possible/appropriate we work informally with regulated entities to address any risks, but where serious issues are apparent or suspected, we will take formal **enforcement** action to safeguard the interests of the public and clients.
- 2.4 Targeted - our **risk-based** approach identifies those bodies/activities that pose the greatest risk to the delivery of the **Outcomes**. This enables us to focus our attention and resources on those most likely to harm the interests of the public and legal services consumers.
 - 2.4.1 We believe in a right-touch, not light-touch, approach to regulation. We maintain contact with all members of the regulated community, but seek to focus our resources on those demonstrating higher risks. Those who comply with the **CLC's Overriding Principles**, who deliver the required **Outcomes** and engage positively with us will be left to get on with their business with minimum supervision.
- 2.5 Transparent - we make every effort to ensure that the regulated community and other stakeholders are kept informed about our regulatory philosophy; the aims and the requirements of the **regulatory arrangements**; and any threats to their effective operation.
 - 2.5.1 We are continuously increasing the emphasis placed upon education and awareness-raising to help the regulated community to help themselves.
 - 2.5.2 The respondent will have the opportunity to make representations to the determining committee prior to a determination being made. Where the need for **enforcement** action has been determined we will provide the relevant body and/or individual with clear reasons for the decision at the time the action is determined.
- 3. **Regulation in practice - how our regulatory philosophy is reflected in our work**
 - 3.1 Licence determination - we require all **applicants** to provide us with a range of information so we are able to determine any risk presented to the delivery of the **CLC Code of Conduct's Outcomes** should we

license the individual/body. The information provided will be verified to ensure the risk can be reliably calculated. This process will also include a formal interview for the new **applicant**.

3.1.2 The information enables us to determine whether a **licence** should be granted, granted with **conditions**, or declined. **Licence conditions** will be imposed where additional safeguards are needed to address a potential risk. Where the severity of the risk posed could not be countered through **conditions**, the **licence** will be declined.

3.1.3 We inspect all entities new to **CLC** regulation. An inspection may be carried out remotely or through a site visit, depending upon the nature of the entity and any risks identified in the initial analysis. All new entities are required to attend an Induction Day which provides an introduction to the **CLC's** regulatory requirements alongside examples of good practice.

3.2 Risk Assessment - our regulatory relationship with a member of the regulated community is informed by an assessment of the risks they or their activities pose to the **Code of Conduct's Outcomes**. To be confident of our resource allocations we must identify and measure the capacity for, or, actual harm, and of the likelihood of an occurrence of actual harm, to these. This includes consideration of factors such as:

- reliability of the evidence provided;
- the body's regulatory responsibility **arrangements**;
- seriousness of the act or omission and the likely impact on consumers, **CLC's** regulated community and public confidence;
- if the breach is/was deliberate or vexatious;
- seriousness of the information provided and the likely impact on a client, clients in general, the **CLC's** regulated community and public confidence;
- the body's activities and/or **client** type;
- Information about the entity's finances;
- foreign ownership (our scope for data verification may be limited in some instances);
- past compliance performance;
- risk-management systems, including anti-money laundering **arrangements**;
- management competence and inclination to address issues;
- qualifications and experience of the **Head of Legal Practice** and the **Head of Finance and Administration**;
- **conflicts of interests arrangements**;
- **improper influence arrangements**;
- **complaints**-handling **arrangements**;
- recognised external accreditation.

3.2.1 The **CLC** regulatory risk register contains a range of information including **CLC** inspection findings; **complaints**; Accounting Reports information; negligence **claims**; and information from other stakeholders, such as lenders, police or clients. Members of the regulated community are allocated an overall regulatory **risk profile** according to the information held. Those with a higher rating will have a more intensive regulatory relationship with the **CLC** than lower-risk entities.

3.3 Monitoring - we collect information to help us monitor how effectively our **regulatory arrangements** are operating. Much of this is obtained from regulated community returns. We analyse the information received and carry out a risk assessment of the data provided.

3.3.1 We aim to keep information requirements to a pertinent but meaningful minimum e.g. we do not ask those we regulate to supply us with unnecessary information, or the same information twice. We are continuously determining the proportionality of the frequency/size of our information submission requests. Returns are simpler and quicker to complete through online submissions; as well as more timely, so we are able to respond more quickly to identified risks.

3.3.2 When a potential risk is identified we will investigate. This may include an inspection, which may be carried out remotely or through a site visit. Our monthly monitoring reports check that an inspection has been justified and conducted impartially. We conduct an interview with the entity at the end of the inspection and provide a full written report identifying our findings and any improvements we recommend. Wherever possible, we provide support and **guidance** to address the risks identified.

3.4 Guidance, support and advice - we try our best to ensure that our **guidance**, support and advice provision is authoritative, appropriate and helpful as well as easy to access and understand. We provide advice and toolkits on specific issues, as well as general **guidance**. Wherever possible/appropriate we will approach an identified compliance issue with advice provision rather than regulatory or formal **enforcement** action.

3.4.1 We obtain information from a range of sources, including the regulated community and economic and market-specific information. Where a thematic risk is identified we will tailor our **guidance**, advice, events and publication provision to help explain - and where possible, mitigate - any inherent or emerging risks which may affect or threaten the regulated community as a whole.

3.4.2 Our ongoing commitment to education means we will provide more awareness-raising materials such as case studies, expected standards and best practice examples.

4. **Enforcement tools**

4.1 Informal resolution is desirable to the regulated community, its clients and the **CLC** and its appropriateness to an issue will always be considered. We will usually seek to take this route before considering more formal **enforcement**. Where this is not appropriate – due to the immediate, serious and/or widespread nature of the issue - or it has not achieved the desired outcome we will determine what further action is needed. This is likely to take the form of formal **enforcement** action, though we will be open to the individual/body providing fresh evidence not previously available, or to them proposing a compliance remedy.

4.2 We will apply the ‘balance of probabilities’ standard – ‘beyond reasonable doubt’ will be applied where a criminal act is alleged – and in determining our response we will take account of the impact on a

client, clients in general and on the **respondent**. The **respondent** will be afforded the opportunity to make representations.

- 4.3 We have a range of **enforcement** tools at our disposal should an informal response not be appropriate. We will only exercise our formal **enforcement** power if the act or omission of a regulated body or individual was a serious breach. The seriousness of an act or omission will be judged on the impact, actual or potential, of the risk to delivery to the **Code of Conduct's Outcomes**.
- 4.4 Each of the following **enforcement** tools may be used in isolation, simultaneously, or consecutively where the usage of one tool has not generated compliance (e.g. if **licence conditions** are not complied with, other **enforcement** action may be used):
- 4.4.1 Refer to an appropriate regulator - we are likely to refer the conduct of a **manager** or employee to the appropriate regulator where we have reason to believe that the individual's behaviour is in breach of their regulatory responsibilities.
- 4.4.2 Reprimand - we are likely to issue a reprimand when an act or omission needs particular attention drawn to it, with the intention that the behaviour of the individual/body is changed.
- 4.4.3 Licence Conditions - we are likely to require the entity to take a specific actions where an act, omission or an arrangement needs to be rectified. Where this requires expenditure we will take into account the operational costs of that body. We will make every effort to ensure the condition/direction is understood by the body.
- 4.4.4a Financial penalties - we are likely to direct the payment of a fine (by the body and/or an individual concerned with it i.e. an employee or owner) exceeding £50,000 only in serious circumstances. This will be used to penalise inappropriate behaviour demonstrated by a specific act or omission and to deter future non-compliance (by both the individual/body and others). The level of the penalty will take into account the size/resources of the body so it is proportionate whilst also at a level likely to give **clients** and the public confidence that issues which cause them detriment are dealt with appropriately. Should a number of breaches be separately investigated we may determine it appropriate for a separate penalty to be imposed in each case.
- 4.4.4b We will not create a perverse incentive by providing details of the exact criteria/procedure which will be applied in setting the level of the fine. It will be determined on a case by case basis but we will always seek to ensure it is fair and proportionate and does not exceed the maximum levels (specified in our **Enforcement** Policy).
- 4.4.4c We do not benefit financially from any penalties imposed. Fines received from **licensed conveyancers** or Recognised Bodies are paid into Her Majesty's Treasury; those received from Licensed Bodies go into the Government's Consolidated Fund.
- 4.4.5 Material interest conditions/objections/divestiture - where there are concerns that a material interest holder in **Licensed Body** may be demonstrating **improper influence** – i.e. an owner is

influencing, or attempting to influence the decisions of the **Licensed Body** or the conduct of **Authorised Persons** in a way which would constitute a breach of their regulatory duties - we will take action. Where there are mild concerns this is likely to take the form of **conditions**; where the concerns are more serious we are likely to object to the interest and this may ultimately result in divestiture.

- 4.4.6 **Withdrawal of approval** - we are likely to withdraw our approval of a **Licensed Body's Head of Legal Practice** or **Head of Finance and Administration** where the individual has become demonstrably inappropriate for the role e.g. an event has occurred which impacts upon their fit and proper status or they repeatedly fail to meet their regulatory responsibilities.
- 4.4.7 **Disqualification** - we are likely to disqualify an individual from a role within a **Licensed Body** or a **licensed conveyancer** from holding a **licence** only in exceptional circumstances and where the seriousness of the act or omission means that no other **enforcement** action is judged adequate to address it.
- 4.4.8a **Licence suspension or revocation** - the decision to suspend or revoke a **licence** will not be taken lightly. We will only use this measure where, due to the seriousness and/or persistence of the act or omission – or the body has changed its structure/provision arrangements so it is no longer licensable - no other **enforcement** action is judged adequate to address the identified issue.
- 4.4.8b We will need to be satisfied that clients' interests are protected and this may include a/all **Client's** case being transferred to another firm. (Suspension is likely to lead to the enforced closure of the CLC Body unless the reason for the suspension is cured very quickly, in which case intervention and its case management processes will take place).
- 4.4.8c **Licence** suspension does not automatically mean **licence** revocation. A **licence** may be suspended because a significant threat to **clients** has been identified. Where this is found not to be the case or where we (or the First Tier Tribunal) are satisfied that a risk is no longer presented the **licence** is unlikely to be revoked. Where this is the case, the body may be subject to a more intensive regulatory relationship in order that we are confident that the risks to **clients** is minimised.
- 4.4.9a **Intervention** - **intervention** is an extreme measure and will only be used where no other **enforcement** action is judged adequate to address the identified issue due to the seriousness and persistence of the act or omission or if the body's viability is threatened or it becomes insolvent. As with all **enforcement** actions, we will carefully assess the proportionality of the proposed response. We can revoke an intervention direction following the body's request (but only where all relevant information corroborates that to do so would not cause a risk to the **Code of Conduct's Outcomes**).
- 4.4.9b Where **intervention** has been necessary the body's **licence/certificate** is automatically suspended.

5. Equalities Considerations

5.1 It is our intention that the application of this policy is fair and equitable and does not disadvantage anyone because of their age, disability, gender reassignment, marital and civil partnership status, pregnancy and maternity, race, religion or faith, sex or sexual orientation. Members of the regulated community subject to **CLC** regulatory action are asked to advise the **CLC** of any **specific requirements** they have which need to be taken into consideration. These will be accommodated as far as is reasonably practicable and on a case-by-case basis.

5.2 The **CLC** will monitor its regulatory action to ensure there is no disproportionate impact on any sections of the regulated community.

6. Policy Consultation, Review & Evaluation

6.1 The **CLC** will carry out an investigation in accordance with its **complaints** policy into any **complaint** received from an individual or body about the way in which the **CLC** has exercised its functions in relation to that individual or body (except where a referral is or has been made to the **Adjudication Panel** or to the **Discipline and Appeals Committee** due to the options of review/appeal applicable).

6.2 This policy was agreed by the Council and came into effect [date TBA]. We shall consult with stakeholders to evaluate its effectiveness within 2 years of its initial application. Where the policy is failing to generate the relevant **outcomes** - identified in the **Code of Conduct** it will be amended as appropriate. In the meantime, we welcome any feedback on the policy's content, implementation and effectiveness.

6.3 This policy is available for reference and downloading from the **CLC** website. A copy of the policy will be available to all those involved in disciplinary enquiries and proceedings.



Enforcement Policy

Introduction

This policy explains how the **CLC** identifies and responds to non-compliance with its regulatory requirements - as identified in the **Code of Conduct** and other **regulatory arrangements**. It seeks to provide the regulated community and other stakeholders with **guidance** on examples of regulatory breaches, how the **CLC** identifies these non-compliance issues and the framework within which it will respond to these. Its aim is to encourage appropriate conduct and deter inappropriate behaviour so that **clients** receive the standard of legal services that they should reasonably expect to receive.

The **CLC's Code of Conduct** requires those we regulate to comply with its **Overriding Principles** to:

- act with independence and integrity;
- maintain high standards of work;
- act in the best interests of their **clients**;
- comply with your duty to the court;
- deal with regulators and ombudsmen in an open and co-operative way;
- promote equality of access and services;

in order that positive **Outcomes** are delivered, particularly for **Clients**.

The vast majority of the **CLC's** regulated community act in a way which is consistent with these principles. However, where this is not the case, we will take **enforcement** measures.

We aim to deliver effective, fair and consistent **risk-based** regulation. Our approach to **enforcement** will be targeted particularly on those areas we judge to most threaten the **regulatory objectives** through the risk they pose to the delivery of positive **outcomes**, particularly for **clients**.

Depending upon the nature of the matter our approach may be to seek informal resolution or may involve regulatory action. The **CLC** will, wherever possible, try to achieve an informal resolution, to provide a more timely and satisfactory outcome for **clients** and saving both the resources of the licensee and the **CLC**. We will engage in dialogue with the **respondent**,

encouraging good practice through **guidance** and support.

Where an informal approach has been unsuccessful or is not judged appropriate because of the actual (or perceived risk of) detriment to **clients**, the **CLC** will initiate the disciplinary powers available.

All **enforcement** processes will be exercised in a way which is transparent, accountable, consistent, proportionate and targeted in keeping with the Regulator's Compliance Code and the **Legal Services Act 2007**.

1. What is meant by **Enforcement**?

- 1.1 We must ensure the regulated community meets the needs of **clients** by complying with both the law and our regulatory requirements. Where they fail in these responsibilities we will hold them to account. Actions taken to encourage compliant behaviour or to punish non-compliance are known as **enforcement**. **Enforcement** action will be based upon reliable evidence, clear standards and the ability to appeal **enforcement** decisions. It is our aim that our **enforcement** approach is helpful, open, accountable and transparent. Our **enforcement** activities will be proportionate, consistent and targeted at cases where action is needed. This does not mean that less serious breaches will go unchecked, it means they will receive a proportionate response so that less serious breaches do not receive the same penalties as more serious or repeated breaches.
- 1.2 The **enforcement** tool applied in a matter will be proportionate to the risks identified to the **regulatory objectives** in the form of a threat to the delivery of the positive **outcomes** identified in our **Code of Conduct**, due to non-compliance with our **regulatory arrangements**.
- 1.3 Regulation and **enforcement** will be proportionate and flexible enough to encourage economic progress within the regulated community. We will not seek to cause unnecessary expense to an individual; any penalty imposed will be fair.
- 1.4 We will check to see that any agreed course of action is implemented. Where it is not, we will take formal **enforcement** action.

2. Scope of the **CLC's Enforcement Powers**

- 2.1 We may take **enforcement** action against:

- **CLC** Bodies;
- **licensed conveyancers**; and
- Owners, **Managers** and employees of **CLC** Bodies.

2.2 In this Policy we use the term “**respondent**” to refer to any of those listed at 2.1 and “the regulated community” to refer to all of those listed at 2.1.

2.3 Information sources - information on possible breaches of regulatory responsibilities is obtained from a number of sources, including:

- A body proactively admitting non-compliance by act or omission – all bodies we regulate must advise us if they are failing to comply with the **CLC’s regulatory arrangements**. We will support those who alert us to their failings. We are unlikely to take formal disciplinary action as long as **clients** are not at risk and the entity is addressing the failures identified in a reasonable way;
- Information from stakeholders, including **complaints** from **clients** or information from lenders, police and findings of other regulatory or professional bodies etc;
- Overall regulatory **risk profile** according to the **CLC’s** risk register. The register holds a range of regulatory information including **CLC** inspection findings, **complaints**, Accounting Reports information and negligence **claims**.

2.4 Regulatory breaches – The following are examples of allegations of breaches which may lead to **enforcement** proceedings (this list is not exhaustive and is not ranked):

- Persons no longer ‘**fit and proper**’;
- Failures in governance **arrangements**;
- Fraud and dishonesty;
- **Improper influence**;
- Failure to comply with the **CLC’s regulatory arrangements**;
- Ineffective **complaints**-handling procedures;
- Failure to provide the **CLC** with information, or provision of false, incomplete or misleading information;
- Failure to pay any **CLC** annual fee or contribution.

2.5 Risk - We take a **risk-based** approach to regulation. That means that in determining what (if any) action to take when non-compliance is brought to our attention we will determine the impact that risk is likely to have on the **Overriding Principles** and the **Outcomes** they seek. We will take into account some or all of the following:

- the seriousness of the act or omission and the likely or actual impact on an individual **client, clients** in general and the regulated community;
- the intended outcome for **clients** in taking action compared with the impact of not taking action;
- the effect the particular breach is likely to have on:
 - the reputation of the rest of the profession; and

- public confidence in those services and on the **CLC's Regulatory Arrangements**;
 - the extent to which the act or omission is a one-off occurrence or is part of a series of similar matters or appears to be deliberate or vexatious;
 - the period of time over which the act or omission has occurred;
 - management competence and willingness to comply;
 - the existence of good systems for managing risks;
 - evidence of recognised external accreditation;
 - whether the resource requirements needed are proportionate to achieving the desired results; and
 - any other matters that it appears appropriate to take into account.
- 2.6 Decision-making – enforcement decisions taken by the **CLC** will be informed by all available, relevant and reliable evidence, and will be based upon criteria published on our website. Decisions will be taken on the evidence applying the 'balance of probabilities' standard, except where a criminal act (including fraud or dishonesty) is alleged in which case the standard applied will be 'beyond reasonable doubt'. Account will be taken of the impact on **clients**, the impact on the **respondent** and the reliability of the available evidence. The **respondent** will be afforded the opportunity to reply; we will be open to the individual/body providing fresh evidence not previously available, or to them proposing a compliance remedy. **Enforcement** decisions made will be regularly and **systematically** scrutinised to ensure that criteria are being consistently applied.
- 2.7 Review/appeal of decisions - the **respondent** may ask for any decision to be reviewed by the **Adjudication Panel**. The **respondent** will also be entitled to appeal. Depending on the nature of the decision made, and who makes it, the appeal may be heard by the **Discipline and Appeals Committee**, the High Court, the First Tier Tribunal or the Upper Chamber (see Table at 3.3.1). In the case of informal, regulatory or disciplinary action taken by **CLC** staff the matter will be referred to their line **manager** or another Director (with no prior involvement in the matter) who will review the decision. All requests for review or appeal must be made within 28 days of the determination.
- 2.8 Decision-makers – all staff with delegated powers and all members of the **Adjudication Panel** and the **Discipline & Appeals Committee** receive training to ensure that decisions are made consistently and to assist in the determination of appropriate sanctions. The Committees are made up of lay members and members of the regulated community.
- 2.9 Matters which may be excluded – Other than in exceptional circumstances, we do not generally investigate these issues:
- Conduct which does not relate to the provision of legal services regulated by the **CLC**;
 - Disputes between an employer and employee;

- Partnership disputes, unless the interests of **clients** are adversely affected or there is a finding of a court or tribunal;
- Non-payment of fees incurred in the course of providing services regulated by the **CLC**, unless there is a judgment against the regulated person for non-payment relating to their legal practice;
- Allegations from lending institutions of a failure to hand over deeds or papers to which the lender is entitled, unless the lender has already made a successful application to the court;
- An isolated report of misconduct from a regulated person about a **licensed conveyancer** or **CLC** body, unless there is an allegation of serious misconduct, or it is made on the instructions of a **client**, or is made to protect the interests of an identifiable **client** who has an interest in the outcome;
- Allegations of misconduct made more than six months after the alleged misconduct could reasonably have come to light;
- Where there is a clear alternative legal remedy available which has not yet been pursued. Allegations of discrimination or dishonesty are not excluded.

3. **Enforcement Tools**

3.1 **Enforcement** can take many forms. The framework for responding to issues of non-compliance varies, depending on the identified risk, from the informal to the application of the **CLC**'s statutory powers.

3.2 Informal/Regulatory Action Approach – delegated powers of **CLC** staff:

| Enforcement tool | Authority | Review of Decision |
|---|--|--|
| An Undertaking on terms agreed with the CLC to take or cease taking a particular action | CLC staff: Legal Practice Inspector, CLC Authorised Officer or other CLC employee of equivalent or senior position | <ul style="list-style-type: none"> • Director of Operations • Director of Policy & Standards, or other CLC employee of equivalent or senior position (provided any review is not determined by an employee who made the determination which is the subject of the review) |
| Inspection or re-inspection | | |
| Reminder of responsibilities | | |
| Provision of information and advice | | |

3.3 Approach using statutory powers in AJA and LSA

3.3.1 The **CLC** may take a wide range of formal **enforcement** proceedings and (depending on the nature of those proceedings) this may result in one or more of the following for the individual or body (this list is not exhaustive):

| Enforcement tool | Statutory Authority | Authority | First Tier Review | Review of decision |
|------------------------------------|-------------------------|-------------------------------|---------------------|------------------------|
| Licence terminated | AJA s.18(3) | Lacks mental capacity | | No statutory provision |
| Licence/certificate Revoked | AJA s.26(2)(a) | DAC | | High Court |
| | AJA s.28 fraud or Error | DAC | | No statutory provision |
| | LSA s101 | CLC Adjudication Panel | Review Panel | First Tier Tribunal |

| | | | | |
|--------------|----------------|--|--|---------------------|
| Intervention | Sch 5 AJA | CLC after consultation with Adjudication Panel | | High Court |
| | Para 10-12 AJA | | | High Court |
| | Sch 14 LSA | | | First Tier Tribunal |

| | | | | |
|--|-----------------------------------|--|---------------------|------------------------|
| Disqualified from holding a <i>licence</i> /role | s.26(2)(b) AJA | DAC | | High Court |
| | s.99 LSA | CLC Adjudication Panel | Review Panel | First Tier Tribunal |
| Divestiture of owner | LSA s.102, Sch. 13 | CLC Adjudication Panel | Review Panel | First Tier Tribunal |
| Licence/Certificate suspended | AJA s.18 | immediate on bankruptcy or intervention | | No statutory provision |
| | AJA s.24(5) | IC/Adjudication Panel | DAC | High Court |
| | AJA s.26(2)(c) | DAC | | |
| | LSA s101 | Adjudication Panel | Review Panel | First Tier Tribunal |
| Withdrawal of approval of HoLP or HoFA | Para 11-12 sch 11 LSA | Adjudication Panel | Review Panel | First Tier Tribunal |
| Licence/Certificate made subject to conditions | AJA s.15(1) s.16(2) s.17(1) | CLC Staff: CLC Authorised Officer | | DAC |
| | AJA s.26(2)(d) | DAC | | High Court |

| | | | | |
|---|--|---|---------------------|---------------------|
| | LSA Sch. 11 (6) | Adjudication Panel | Review Panel | First Tier Tribunal |
| Payment of a penalty | AJA s.24A(1) and Adjudication Panel Rules 2011 | Adjudication Panel | DAC | High Court |
| | AJA s.26(2)(e) and DAC Rules 2009 | DAC | | |
| | LSA s. 95 | CLC Authorised Officer/ Adjudication Panel | First Tier Tribunal | Upper Chamber |
| Reprimand | AJA s.26(2)(f) | DAC | | High Court |
| Payment of the costs of preliminary investigation (to include the costs of any inspection) incurred by the CLC | AJA s.24A(2) | Adjudication Panel | DAC | High Court |
| | AJA s.26(2A) | DAC | | |

Abbreviations

AJA – Administration of Justice Act 1985

DAC – Discipline and Appeals Committee

HoLP – Head of Legal Practice

HoFA - Head of Finance & Administration

LSA – Legal Services Act 2007

IC – Investigating Committee

4. **Enforcement Process**

- 4.1 Informal approach – in the event of the **CLC** becoming aware that a member of its regulated community may have failed to comply with our standards, we shall carry out an informal inquiry to enable us to decide whether there is a case which requires further investigation. If we are satisfied there is not an issue no action will be taken. If there is judged to be an issue but it is less serious, we will take informal action and offer advice, support and **guidance** to help address the issue.
- 4.2 Regulatory action - If we are satisfied further investigation is required, the support offered has not been accepted, or the individual/body commits relatively minor breaches on a regular basis and fails to respond to our informal resolution approaches, we shall consider whether it is likely that the case can be resolved by regulatory action. We may direct the **licensed conveyancer** or body to provide information to assure us that that their regulatory requirements are being complied with. This may be in a written report or may require the **respondent** to attend the **CLC's** offices to explain how the issues identified will be resolved and the steps needed to ensure they do not recur.
- 4.3 Dependent on the circumstances of the individual case, we may take the view that the **Outcomes** can best be delivered by agreeing with the regulated person the terms of an **undertaking** to provide information, to take specific action or to cease taking a specific action. Failure to comply with the **undertaking** will in itself be a breach of the **CLC's regulatory arrangements** which will lead to an investigation, and possibly disciplinary proceedings.
- 4.4 Disciplinary action - disciplinary proceedings may be initiated where steps taken under paragraphs 4.1-4.3 have failed to achieve the intended outcome, or it is not appropriate because of the actual or likely impact on a **client**, or **clients**, or because of the serious nature of the issue. Decisions will be informed by all available, relevant and reliable evidence. Decisions will be based on the application of published guidelines or criteria set out in the Enforcement Policy. The **respondent** will be afforded the opportunity to make oral and/or written representations to the Committee.
- 4.5 The **CLC** may:
- require a regulated entity to provide specific information;
 - authorise an inspection of a body;
 - refer the matter to the CLC Authorised Officer.
- 4.6 Having carried out a preliminary assessment the CLC Authorised Officer may:

- (a) certify that where the **complaint** referred to them is appropriate for summary determination, and in either case giving reasons in writing:
 - i) direct that the **respondent** pay a penalty not exceeding £1,000 in respect of each allegation made; or
 - ii) dismiss the **complaint**; or
- (b) refer the case to the **Adjudication Panel**, alternatively to the **Discipline and Appeals Committee** for hearing and determination.

4.7 The **Adjudication Panel** will decide which of the following options is appropriate to the case:

- a) to dismiss the allegation;
- b) to hear and determine the allegation;
- c) for the allegation to be heard by the **Discipline and Appeals Committee** because it is satisfied that the nature of the allegation, if proved, is likely to justify either the imposition of a penalty in excess of £50,000 or some other sanction which the **Adjudication Panel** does not have power to impose.

4.8 If the **Adjudication Panel** decides to determine the case itself it will do so in accordance with its Procedure Rules [\[link\]](#) and will make a determination consistent with its **Guidance** [\[link\]](#). If it is satisfied the allegations have been proved the **Adjudication Panel** may direct:

- the payment of a fine of up to £50,000; and
- costs (which may include costs incurred in the preliminary investigation of the allegation).

4.9 A **respondent** may appeal against a determination of the **Adjudication Panel** to the **Discipline and Appeals Committee**; or where a matter has been referred to it and an allegation has been proved to its satisfaction, the **Discipline and Appeals Committee** may make one or more of the following orders against:

In the case of an individual Licensed Conveyancer or a Recognised Body,

4.9.1

- a **licensed conveyancer**:
 - Revoke the **licence** of a **licensed conveyancer**;
 - Disqualify a **licensed conveyancer** from holding a **licence** (either permanently or for a specified period);
 - Suspend a **licence**;
 - Direct the issue of a **licence** subject to **conditions** it may specify;

- Direct the payment of a fine which is fair and proportionate, and does not exceed £1 million;
- Reprimand the *licensed conveyancer*;
- a **Recognised Body** or sole *practitioner* practice regulated by the **CLC**
 - Revoke the recognition of the entity;
 - Direct the payment of a fine which is fair and proportionate, and does not exceed £1 million;
 - Reprimand the entity;
 - Direct the issue of a *certificate of recognition* subject to *conditions* it may specify;
- a **Manager** or employee who is not a *licensed conveyancer*
 - Direct the payment of fine which is fair and proportionate, not exceeding £1 million;
 - Require the **CLC** to take such steps as it may specify in relation to the **Manager** or employee;
 - Require the **CLC** to refer to an appropriate regulator any matter relating to the conduct of the **Manager** or employee;

4.9.2 The **Discipline and Appeals Committee** may direct the payment of costs by any party to proceedings including the **CLC**. Such costs may include the costs incurred in a preliminary investigation.

4.9.3 A *respondent* may appeal to the High Court against a decision of the **Discipline and Appeals Committee** which may make such order as it thinks fit.

In the case of Licensed ABS Body, or an employee or manager within, or owner, of the Licensed ABS Body:

4.9.4 A **CLC Authorised Officer** may in respect of:

- a **Licensed Body** owner:
 - Place *conditions* on the owner's *material interest*;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £1,000;

- a **Licensed Body**:
 - Reprimand the body;
 - Direct the issue of a **licence** subject to **conditions** it may specify;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £1,000;

- a **Head of Legal Practice (HoLP)** or **Head of Finance & Administration (HoFA)**:
 - Require the **CLC** to take such steps as it may specify in relation to the **HoLP** or **HoFA**;
 - Withdraw approval of the individual for the role;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £1,000;

- a **manager** or employee:
 - Require the **CLC** to take such steps as it may specify in relation to the **manager** or employee;
 - Require the **CLC** to refer to an appropriate regulator any matter relating to the conduct of the **manager** or employee;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £1,000;
 - Disqualify the individual from a role in a **Licensed Body** .

4.9.5 The **CLC** Adjudication Panel (with a quorum of 3) may in respect of:

- a **Licensed Body** owner:
 - Place **conditions** on the owner's **material interest**;
 - Object to the owner's **material interest**, and initiate the application to the High Court to divest the owner of their **material interest**;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £50 million;

- a **Licensed Body**:

- Reprimand the body;
 - Direct the issue of a **licence** subject to **conditions** it may specify;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £150 million;
 - Suspend the **licence** of the body;
 - Revoke the **licence** of the body;
 - Intervene;
- a **Head of Legal Practice (HoLP)** or **Head of Finance & Administration (HoFA)**:
 - Require the **CLC** to take such steps as it may specify in relation to the **HoLP** or **HoFA**;
 - Direct the payment of a fine which is fair and proportionate, not exceeding £150 million;
 - Withdraw approval of the individual for the role;
 - Disqualify the individual from a role within a **Licensed Body**;
- a **manager** or employee:
 - Direct the payment of a fine which is fair and proportionate fine, not exceeding £150 million;
 - Require the **CLC** to take such steps as it may specify in relation to the **manager** or employee;
 - Require the **CLC** to refer to an appropriate regulator any matter relating to the conduct of the **manager** or employee;
 - Disqualify the individual from a role in the **Licensed Body**.

4.9.6 Any determination made by the CLC Authorised Officer may be reviewed by the Adjudication Panel and then appealed to the First Tier Tribunal. Any determination made by the Adjudication Panel may be reviewed by the Review Panel and then appealed to the First Tier Tribunal. The CLC or the **respondent** may appeal against a determination of the First Tier Tribunal to the Upper Chamber on a point of law.

5. Publication

5.1 Publication of investigation **outcomes** – the **CLC** will publish the statistics mapping the outcome of investigations so that the levels of compliance in the regulated community can be understood.

5.2 Publication of determinations - publishing the **enforcement** action we have taken acts as an incentive for the regulated community to apply the **professional principles** outlined in

the **Code of Conduct**. It also provides the public with confidence that the regulatory activities of the **CLC** are responsive and proportionate.

5.3 We will publish details of the final determinations of both the **Adjudication Panel** (or the **Review Panel**) and the **Discipline and Appeals Committee** where there has been found a case to answer and an appeal has not been made within the 28 days or has not been successful. The **respondent** will be named where a penalty exceeds £5000 or an individual has been disqualified or our approval of them withdrawn, or a **licence** has been suspended or revoked. We will not publish determinations concluding no case to answer, unless the individual/body has asked for it to be published. In exceptional circumstances we may publish details of the progress of an investigation which has given rise to significant public concern.

5.4 The **CLC** is registered as a data controller under the Data Protection Act 1998 and must comply with the rules of good information handling.

6. Equalities Considerations

6.1 It is our intention that the application of this policy is fair and equitable and does not disadvantage anyone because of their age, disability, gender reassignment, marital and civil partnership status, pregnancy and maternity, race, religion or faith, sex or sexual orientation. Members of the regulated community subject to **CLC enforcement** action are asked to advise the **CLC** of any **specific requirements** they have which need to be taken into consideration. These will be accommodated as far as is reasonably practicable and on a case-by-case basis.

6.2 The **CLC** will monitor its **enforcement** action to ensure there is no disproportionate impact on any sections of the regulated community.

7. Policy Consultation, Review & Evaluation

7.1 The **CLC** will carry out an investigation in accordance with its **complaints** policy into any **complaint** received from an individual or body about the way in which the **CLC** has exercised its functions in relation to that individual or body (except where a referral is or has been made to the **Adjudication Panel**, the **Review Panel** or to the **Discipline and Appeals Committee** due to the options of review/appeal applicable).

7.2 This policy was agreed by the Council and came into effect [date TBA]. We shall consult with stakeholders to evaluate its effectiveness within 2 years of its initial application. Where the policy is failing to generate the relevant **outcomes** - identified in the **Code of Conduct** it will be amended as appropriate. In the meantime, we welcome any feedback on the policy's content, implementation and effectiveness.

7.3 This policy is available for reference and downloading from the **CLC** website. A copy of the policy will be available to all those involved in disciplinary enquiries and proceedings.



Council for
**Licensed
Conveyancers**

Compensation Fund
Operating Framework

Contributions

1. As a condition of being authorised by the **CLC**, a body must make a contribution to the **CLC Compensation Fund** at such time and of such an amount as determined by the **CLC**. The **CLC** may require a body to make a further contribution towards the Fund at any time.
2. In its absolute discretion the **CLC** may agree that a contribution to the Fund is paid by instalments which become immediately payable on the date specified by the **CLC**. If any instalment is not paid by the due date the balance of contributions the body owes will be recoverable as a debt owed to the **CLC**.

Purpose of the Fund

3. The **CLC** shall place the money constituting the Fund in a **separate designated account** entitled “Council for **Licensed Conveyancers’ Compensation Fund**”.
4. As trustee the **CLC** may:-
 - (a) invest the money constituting the Fund in such a manner as it thinks fit;
 - (b) borrow for the purposes of the Fund, and may charge any investments of the Fund by way of security for such a loan;
 - (c) take out insurance with **Authorised Insurers** for such purposes and on such terms as it deems appropriate to the Fund.
5. The Fund will be credited with:-
 - (a) all contributions paid to the **CLC**;
 - (b) all interest, dividends and other income and accretions of capital arising;
 - (c) the proceeds of any realisation of the investments of the Fund;

- (d) all money borrowed for the purposes of the Fund;
 - (e) all money recovered by the **CLC** either directly or following the assignment to the **CLC** of the rights of any **Claimant**;
 - (f) all recoveries under any insurance policy effected by the **CLC**;
 - (g) any other money which may belong to or accrue to the Fund or be received by the **CLC** in respect of the Fund.
6. All of the Fund's money and investments are applicable for:-
- (a) payment of costs of establishing, maintaining, administering, protecting and applying the Fund;
 - (b) payment of any **CLC** insurance premiums or any premium relating to run off cover following the closure of a body;
 - (c) the purpose of settling any **claim** in respect of **CLC** insurance or any other **claim** relating to run off cover following the closure of a body;
 - (d) repayment of any money borrowed by the **CLC** for the purposes of the Fund, for payment of interest on any money so borrowed, and for reimbursing the **CLC** for any costs incurred in that respect;
 - (e) making grants or other payments the **CLC** determines should be paid out of the Fund;
 - (f) the refund of contributions to a body which ceases to be regulated by the **CLC** (the **CLC** may at its discretion refund a proportion of a contribution made in respect of any unexpired period).
7. Where it has passed a resolution under paragraph 6 schedule 5 to the **1985 Act** the **CLC** may credit to the Fund any sum vested in it as a result of the passing of such a resolution.
8. Where it has passed a resolution under paragraph 6A schedule 5 to the **1985 Act** the **CLC** may credit to the Fund any sum vested in it under paragraph 6A(3) of schedule 5 to the **1985 Act**.
9. If the **Rightful Recipient** contacts the **CLC** after a credit has been made to the Fund under a resolution the **CLC** will treat the **Rightful Recipient** as a **Claimant** and invite them to make a **claim** under this Code out of the Fund.

Making a Compensation Claim

10. The **CLC** may in its absolute discretion make a grant or other payment out of the Fund for the purpose of relieving or mitigating loss which the CLC is satisfied any person has suffered or is likely to suffer in consequence of:
 - a) negligence or fraud or other dishonesty on the part of a **licensed conveyancer**, or their employees or **associates** in connection with their practices (or purported practices) as **licensed conveyancers**; or
 - b) failure on the part of a **licensed conveyancer** to account for money received by them in connection with their practices (or purported practices) as **licensed conveyancers**;
 - c) the negligence, fraud or other dishonesty on the part of a body or
of any employee, **associate** (within the meaning of section 39(1) of the **1985 Act**) of it in connection with its practice (or purported practice) as a **CLC** body;
 - d) the failure on the part of a body to account for money received by it in connection with its practice (or purported practice) as a **CLC** body.
11. Where making a **claim** for a grant the **Claimant** must complete, sign and deliver to the **CLC** a notice of **claim** in the form required by the **CLC**. Such notice shall provide for:-
 - (a) the assignment to the **CLC** of all rights of action the **Claimant** has against the **Respondent Body** or any other person liable for the loss;
 - (b) retention by the Fund of all money recovered by the **CLC** whether or not in excess of any grant made by the **CLC** to the **Claimant** after deduction of the Costs incurred by the **CLC** in making such recoveries;
 - (c) the **Claimant** to covenant to do all such further things and produce such documents as may be required by the **CLC** for the purpose of pursuing any **claim** against the **Respondent Body** or any other person liable for the loss;
12. The **Claimant** must deliver the **claim** to the **CLC** within 6 months (or such longer period as the **CLC** may allow in a particular case) after the loss or likelihood of loss first came or should reasonably have come to their attention.
13. The **Claimant** must deliver any subsequent **claim** to the **CLC** within 56 days of the making of the grant (or the date of receipt of notification by the **CLC** that no further grant is to be made beyond that made by way of interim grant or grants).
14. On receipt of a **claim** the **CLC** may require the **Claimant** to:-
 - (a) support their **claim** with a statutory declaration;

- (b) produce any relevant documents; and
 - (c) assist with any enquiries the **CLC** thinks fit to pursue.
15. Where a grant has been made and they wish to seek an additional grant in respect of interest or costs, the **Claimant** must submit a notice of **claim**. A **claim** for both interest and Costs may be made in a single application.
16. The **CLC** may in its absolute discretion waive any requirement under requirements 9, 14 and 15.

Determining Claims

17. Without limiting its absolute discretion the **CLC** may take into account when deciding whether a **claim** for a grant should be paid in full, reduced or rejected:-
- (a) whether the **Claimant** has complied with 12-13, and if appropriate, 14;
 - (b) whether sufficient information has been provided in a reasonable timescale in support of the **claim**;
 - (c) whether the **Claimant**: -
 - (i) has any responsibility for the loss, or
 - (ii) directly or indirectly hoped to profit or did profit, whether wholly or otherwise, from the circumstances giving rise to the loss;
 - (d) whether the **Claimant** is protected in respect of their loss by any other scheme or any contract of insurance or indemnity or guarantee;
 - (e) whether the **Claimant** has recovered damages or compensation in respect of the loss which had been suffered including any interest recovered as a result of any available civil remedy or in criminal proceedings or is likely to make such recovery in the future;
 - (f) the assets available to the Fund;
 - (g) any representations made to the **CLC** by the **Respondent Body**, their personal representative, trustee in bankruptcy or the liquidator of the body;
 - (h) whether any statutory limitation period has expired;
 - (i) whether the **Claimant** has taken all reasonable steps to mitigate loss;
 - (j) whether the **claim** has been exaggerated by the **Claimant**;
 - (k) whether the **CLC** has reason to suspect fraud or other dishonesty on the part of the **Claimant** in respect of the loss or in respect of the **claim**.

18. The **CLC** may make interim or final payments by way of a grant or grants at any time before, during or after an investigation of a **claim** against a **Respondent Body**. It will only do so when it is satisfied that the payment falls within the circumstances for which a grant may be made under this Code.
19. The **CLC** will consider such a **claim** in its absolute discretion may make an additional grant or grants out of the Fund under this provision as follows:
 - (a) in lieu of interest on the amount of a grant for such a period and at such rate as determined at the **CLC's** discretion;
 - (b) a sum in respect of the amount of reasonable costs incurred by making a **claim** wholly and exclusively in connection with the preparation, submission and proof of a **claim**.
20. The **CLC** may before deciding whether or not to make a grant require a **Claimant** to pursue any civil remedy which may be available in respect of the loss.
21. Where the **CLC** refuses to make a grant of either the whole or part of the amount claimed the **CLC** shall inform the **Claimant** in writing of the reason for its decision within 28 days of that decision.

Recovery of monies paid out of the Fund

22. The **CLC** shall not make a grant unless it has caused a letter giving notification of the **claim** or additional **claim** to be sent to the **Respondent Body** at the last known correspondence address or to any solicitor or other representative instructed by the **Respondent Body** or appointed on its behalf or in its stead and in any case not less than 8 days have elapsed since the date of such letter.
23. The **CLC** may take proceedings against the **Respondent Body** to recover the amount of any grant or other payment made in consequence of the act or omission of that **Respondent Body** in accordance with this Code:
 - (a) provided no other civil proceedings for recovery in respect of the same cause of action have already been issued;
 - (b) even if it is not possible to obtain an assignment of the cause of action from or on behalf of the **Claimant**.
24. The **CLC** may in its absolute discretion take proceedings against a **Manager** or former **Manager** of a **Respondent Body** to recover the amount of any grant or other payment made in accordance with this Code.
25. Any sum payable as a result of proceedings taken against a body, **Manager** or former **Manager** is recoverable as a debt owed to the **CLC**.



Continuing Professional Development Framework

CLC General CPD Provisions

Set out below is the framework the **CLC** complies with in ***Continuing Professional Development (CPD)*** provisions. These are provided to inform the regulated community of the parameters the **CLC** operates within to ensure providers of legal services continue year on year to develop their professional knowledge and competency.

1. The **CLC** may issue a ***licence*** subject to ***conditions*** where the ***applicant*** fails to comply with requirements 8 to 11 of the ***Continuing Professional Development*** Code.
2. The minimum requirements of continuing education and training in recognised courses are:
 - for a licensed conveyancer ***manager*** in each year in which a ***licence*** is held:
 - 12 hours if they hold only a ***conveyancing licence***
 - 16 hours if they hold a ***probate, litigation and/or advocacy licence*** in addition to a ***conveyancing licence*** ;
 - for a licensed conveyancer, other than a ***manager***, in each year in which a ***licence*** is held:
 - 6 hours if they hold only a ***conveyancing licence***
 - 8 hours if they hold a ***probate, litigation and/or advocacy licence*** in addition to a ***conveyancing licence*** ;
3. On application the **CLC** may, where satisfied that the licensed conveyancer concerned has undertaken sufficient ***continuing professional development*** in the current year, vary the operation of the ***CPD*** Code in such ways as it thinks fit.
4. The CLC has power to approve courses of study provided by educational institutions and other bodies.

5. The **CLC** may provide its own courses of study for the purposes of the **CPD** framework and Code and may prescribe and charge a fee where a person is directed to attend or applies to attend or undertake such a course.
6. The **CLC** may direct an individual to attend (and pay for) a specific course as an alternative to disciplinary action if it is satisfied they have failed to a material extent to comply with the **CLC's Code of Conduct**, even if they have at that time satisfied the provisions of paragraph 2 for the current year.
7. **Continuing Professional Development** requirements will be allocated to each **licence** in order that the **CLC** is confident that training relevant to the licence is acquired.
8. The **CLC** will undertake monitoring of the quality of **CPD** provision through a randomised annual audit of a statistically significant number of course suppliers.
9. Licence holders are required to annually submit a self-certification **CPD** form. These will be monitored with a view to ensuring compliance. This monitoring will help inform our risk assessment of the individual/body. The **CLC** will operate an escalating system of sanctions; persistent flouting of the **CPD** requirements may result in conditions being imposed upon the **licence** or even *licence* revocation.



CLC Professional Indemnity Insurance **Operating Framework**

1. The **CLC**'s requirement for all **CLC** regulated bodies to have **professional indemnity insurance** cover in place at all times - whether through the **CLC**'s **Master Policy** or through another policy it has approved - provides protection to both **CLC** bodies and their **Clients**.
2. The **CLC** is authorised to take out and maintain with **Authorised Insurers** a **Master Policy** and to approve schemes of **professional indemnity insurance** offered by other **Authorised Insurers**. It requires **Authorised Insurers** to issue of **Evidence of Insurance** to the bodies who have **professional indemnity insurance** cover in place with them.
3. The **CLC** is entitled in respect of each **CLC** regulated body to:
 - a) exchange information concerning **claims** with the **Authorised Insurers**, their representatives or the **Brokers**;
 - b) require **Authorised Insurers**, their representatives or the **Brokers** to deliver to the **CLC** details of the turnover declared;
 - c) receive any notification from the **Authorised Insurers** or the **Brokers** in accordance with requirement 10.5 of the Professional Indemnity Code.



CLC Regulatory Arrangements - Glossary of Terms

| | |
|----------------------------|---|
| 1985 Act (AJA) | the Administration of Justice Act 1985 which created the CLC and provided it with its powers to regulate licensed conveyancers |
| 1990 Act (CLSA) | the Courts & Legal Services Act 1990 which amended parts of the 1985 Act and entitles the CLC to apply to regulate probate, litigation and advocacy services in addition to conveyancing services |
| 2007 Act (LSA) | the Legal Services Act 2007 which created the Legal Services Board, the Office for Legal Complaints (Legal Ombudsman), authorised Approved Regulators to regulate Authorised Persons and enabled the development of new forms of legal practice known as Alternative Business Structures and the licensing of these bodies by Licensing Authorities |
| Access to Justice | the recognition of, and response to, potential and actual, consumer needs. This may take the form of provision of a greater range of services and methods of accessing these services, lower prices, extended opening hours, accessibility, online provision, or other factors |
| Accounting Records | includes all documents or records on a Durable Medium necessary for the operation of any system of book-keeping |
| Accounting Period | the period for which the accounts of the CLC Body are ordinarily made up, provided however that it must begin at the end of the previous Accounting Period and cover twelve months (except with the prior written consent of the CLC) |
| Accountant's Report | a report signed by the Reporting Accountant in such form as determined by the CLC relating to Client Money held or |

| | |
|--|--|
| | received by each body in respect of each Accounting Period |
| Adjudication Panel | <p>established</p> <ul style="list-style-type: none"> • in relation to make determinations relating to Licensed Bodies and relating to owners, Managers and employees of Licensed Bodies; • to determine applications for review in relation to regulatory and enforcement decisions made by a CLC Authorised Officer save for those appeals which are reserved to the Discipline and Appeals Committee; • to determine allegations of misconduct referred to it. |
| Advocacy | referred to at schedule 2 of the 2007 Act as rights of audience and includes the right to appear before and address a court, including the right to call and examine witnesses |
| Advocacy Licence | a licence issued by the CLC to provide advocacy services |
| Aged Balance | <p>(a) a sum outstanding to the credit of an individual ledger account;</p> <p>(b) where there has been completion of a legal transaction or it has become abortive; and</p> <p>(c) there has been no movement on the account for a period in excess of 12 months except for monies held in accordance with the terms of an undertaking (in which case the 12 month period will begin from the date on which such monies are released)</p> |
| Alternative Business Structure (ABS) | a body which provides legal services to the public and in which a non-lawyer is a manager and/or owner as provided at s.72 of the 2007 Act; for licensing purposes these bodies are referred to as Licensed (ABS) Bodies. |
| Alternative Business Structures (Procedure) Rules | |
| Anti Money Laundering Legislation and Combating the | <p>legislation directed to the prevention of Money Laundering and Combating the Financing of Terrorism , and in particular, the:</p> <ul style="list-style-type: none"> • Proceeds of Crime Act 2002 (as amended); |

| | |
|---|--|
| Financing of Terrorism Legislation | <ul style="list-style-type: none"> • Terrorism Act 2000 (as amended); and • Money Laundering Regulations 2007 - SI 2007/2157 (the ML Regulations) |
| Applicant | <p>as determined by the particular context:</p> <ul style="list-style-type: none"> • any person who intends to apply, or is currently applying, for registration as a CLC student or for a CLC Licence; • a body which intends to apply, or is currently applying, for registration as a CLC Recognised Body; • a body which intends to apply, or is currently applying, for a Licensed Body (ABS) licence |
| Approved Person | <p>under the Accounts Code this means a:</p> <ul style="list-style-type: none"> • an Authorised Person; or • provided the CLC Body is in compliance with 9.1.4 of the Accounts Code, any other appropriately skilled, trained and competent person of integrity who has been authorized on Durable Medium by the CLC Body. |
| Approved Regulator | <p>as defined at s.20 of the 2007 Act: the CLC, the Law Society, the General Council of the Bar, the Master of Faculties, the Institute of Legal Executives, the Chartered Institute of Patent Attorneys, the Institute of Trade Mark Attorneys, the Association of Law Costs Draftsmen, the Institute of Chartered Accountants in Scotland, the Association of Chartered Certified Accountants and any such other bodies as are authorised to regulate providers of Reserved Legal Activities</p> |
| Arrangements | <p>methods of organisation including systems, procedures, controls, functions, roles, and processes</p> |
| Articles | <p>prescribes a company's regulations: setting out the relationships between shareholders and directors of the company as required by s.18 of the Companies Act 2006</p> |
| Associate | <p>under the Licensed (ABS) Body Framework 'associate' in relation to a Non-Authorised Person with a material interest with: –</p> <ul style="list-style-type: none"> • a shareholding in a body; or • an entitlement to exercise or control the exercise of voting power in a body, <p>means:</p> <ol style="list-style-type: none"> a) their spouse or civil partner; b) their child or step-child (if under 18 years of age); |

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| | <ul style="list-style-type: none"> c) the trustee of a settlement* under which they have a life interest in possession; d) an undertaking of which they are a Director; e) an employee; f) a partner (except where the shareholding or entitlement is a partnership in which the non-Authorised Person is a partner, another partner); g) if 'the person' means an undertaking – a director, a subsidiary undertaking (or a director or employee of it); h) a person they have agreement or arrangement with respects to the acquisition, holding or disposal of shares or other interests; i) a person they have agreement or arrangement with under which they undertake to act together in exercising their voting power (in relation to a body which does not have general meetings at which matters are decided by the exercise of voting rights this refers to the right under the body's constitution to direct overall policy/alter its constitution); <p>with 3% or more material interest.</p> <p>By 'settlement'* we mean any disposition or arrangement under which property is held on trust (or a comparable obligation).</p> |
| Authorisations (licence) | specify the reserved legal activities which a body is authorised by the CLC to provide |
| Authorised Insurers | <p>has the meaning given by s. 21(5) of the 1985 Act or s. 64(5) of the 2007 Act:-</p> <ul style="list-style-type: none"> a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c.8) to effect or carry out contracts of insurance of a relevant class; b) a European Economic Area (EEA) firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or c) a person who does not fall within paragraph (a) or (b) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member State other than the United |

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| | Kingdom |
| (CLC) Authorised Officer | the Licensing and Casework Manager employed by the CLC, or another officer of the CLC of equivalent or senior status |
| Authorised Person(s) /Parties | a person authorised by an Approved Regulator to carry on reserved legal activities e.g: <ul style="list-style-type: none"> ○ a licensed conveyancer; ○ a solicitor; ○ a Fellow of the Institute of Legal Executives |
| (FSMA) Authorised Person | arrangers or sellers of insurance products regulated by the Financial Services Authority |
| Bank | an institution, body, financial intermediary, or financial institution which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits |
| Beneficial Owner | the individual or company which has all the benefits and entitlements of a legal owner, even if not named or registered as the legal owner |
| Brokers | under the Professional Indemnity Insurance Code and Operating Frameworks this refers to the agent who sources the contract of insurance for the CLC's Master Policy |
| Building Society | a branch situated in England and Wales of a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986 |
| Candidate | <ul style="list-style-type: none"> • under the Student Training Framework this refers to a student registered with the CLC who sits or intends to sit a CLC Qualifying Examination. • under the Licensed Body Code and Licensing Framework this refers to persons nominated by the licensable ABS body to assume the role of the Head of Legal Practice or Head of Finance and Administration. |
| Carrying on (a Reserved Legal Activity) | under the Code of Conduct this means that Authorised Persons must personally carry out or supervise the Reserved Legal Activity provided |
| Certificate of Recognition | a certificate issued by the CLC to a body corporate recognising it as a Recognised Body - under s.32 of the 1985 Act - suitable to undertake the provision of Regulated Services authorised by |

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| | the CLC |
| Claim | under the Professional Indemnity Insurance Code and Operating Framework and Compensation Fund, unless otherwise stated, this means a request of payment due under the terms of a professional indemnity insurance policy (including the CLC's Master Policy) or the CLC's Compensation Fund |
| Claimant | under the Compensation Fund Operating Framework this means any person making a claim for payment of a grant from the CLC's Compensation Fund and includes <ul style="list-style-type: none"> • the personal representative where the person entitled to make a claim Claimant has died, or • the trustee in bankruptcy where the person entitled to make a claim has been made bankrupt |
| (the) CLC | the Council for Licensed Conveyancers established under s.12 of the 1985 Act |
| Client | any person or persons for whom a Licensed Conveyancer or Body acts in the provision of Regulated Services, this may also include a person or persons who/which may seek the provisions of Regulated Services |
| Client Account | a current or deposit account (but not a share account) at a branch (or the head office) located in England or Wales of a Building Society or Bank in each case in the name of the CLC regulated body and in the title of which account the word 'Client' appears |
| Client Money/Monies | any money held or received for a Client by a CLC regulated person or body incidental to the provision of legal services regulated by the CLC |
| Code of Conduct/CoC | the parent document of our regulatory arrangements, outlining the Overriding Principles which the regulated community must comply with and the Outcomes which they must deliver |
| Communications | unless otherwise specified, communications sent by or on behalf of a CLC regulated individual or body by post, a telecommunication system or by other means whilst in an electronic form |

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| Complaint | an oral or written expression of dissatisfaction which alleges that the complainant has suffered (or may suffer) financial loss, distress, inconvenience or detriment |
| Company | has the meaning given by s.735(1) of the Companies Act 1985 |
| Compensation Fund | as set out at s.21(2) of the 1985 Act, the fund out of which grants and other payments are made by the CLC for the purposes of relieving or mitigating losses incurred by persons in consequence of the negligence, fraud or other dishonesty, or failure to account, on the part of a CLC Body |
| Composite licence | authorisations on a licensed conveyancer's licence which give authority to the regulated individual to carry on additional reserved legal activities |
| Condition (licence) | where a risk is identified to the regulatory outcomes a condition is imposed on a licence to eliminate that risk or reduce it to an acceptable level |
| Conflict(s) of Interest | situation in which an individual or body has an interest, or a party they are representing has such an interest, sufficient to appear to influence the objective exercise of their regulatory responsibilities, in particular the separate duties to act in the best interests of two or more clients in relation to the same or related matters |
| Continuing Professional Development | the means by which members of the regulated community maintain, improve and broaden their knowledge and skills, keeping themselves up to date with the latest development in the profession and its markets and so enabling them to meet their full potential and provide Clients with high levels of service |

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| Control (of an entity) | the strategic management, risk management, accounting and financial controls (including supervisory and audit functions) and from which services which consist of or include the <i>carrying on of reserved legal activities</i> are provided |
| Controls | strategic management, risk management, accounting and financial arrangements (including supervisory and audit |

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| | functions) which eliminate or reduce to acceptable levels risks to positive Outcomes |
| Conveyancing Licence | a licence issued by the CLC to provide conveyancing services |
| Conveyancing (Services) | as defined at s.11(3) of the 1985 Act , includes the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land |
| Costs | in relation to costs to Clients this includes fees, charges, expenses and remuneration charged to the Client by the CLC regulated person or body and any Value Added Tax element includes fees as defined by s.39(1) of the 1985 Act - “fees” includes charges, disbursements , expenses and remuneration |
| Customer Due Diligence (CDD) | includes all of: o “Customer Due Diligence measures” (as defined by regulation 5 ML Regulations); o “Ongoing Monitoring” (as defined by Regulation 8(2) ML Regulations); o “Enhanced Customer Due Diligence measures” (as described in regulation 14 ML Regulations); o “Enhanced Ongoing Monitoring” (as referred to in regulation 14 ML Regulations) |
| Disbursements | any payment made, or for which a liability to pay has been incurred, by a CLC regulated individual or body to a third party on behalf of a Client; disbursements are deemed to include: stamp duty land tax; Land Registry fees; Local Authority and any other applicable search fees |
| Discipline and Appeals Committee (DAC) | committee established under s.25 of the 1985 Act to hear and determine appeals and cases referred to it by the Adjudication Panel |
| Divestiture | the procedure set out at Part 5 schedule 13 of the 2007 Act by which the CLC may apply to the High Court for an order for sale |

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| | of all or some of the shares held by the holder of a material interest in a CLC Licensed Body who is not an authorised person |
| Durable Medium | the method by which information is stored in a way accessible for future reference (for no less than the period prescribed by the CLC) and which allows the unchanged reproduction of the information stored |
| Employee | (depending on the context) an individual employed by a CLC body, by an entity regulated by another legal regulator or by a local authority or other employer |
| Enforcement | action taken by the CLC in response to a CLC regulated individual or body acting in breach of its regulatory responsibilities |
| Equalities Legislation | the Equality Act 2010 and any other relevant legislation such as the Human Rights Act 1998 |
| European Lawyer | a European Lawyer as defined in the European Communities (Lawyer's Practice) Regulations 2000 (SI 2000 No 1119) who is not an Authorised Person |
| EU Home Professional Rules | The professional rules which authorise the European Lawyer and the EU body of which the European Lawyer is a Manager to practise in a state within the European Union (but not England and Wales) |
| EU Body | an entity providing reserved legal activities in respect of which Control is maintained from a permanent fixed address within the European Union (but outside England and Wales) |
| EU Professional Cover | professional indemnity cover provided to the EU Body in accordance with its EU Home Professional Rules which the CLC is satisfied is in all respects equivalent in its conditions and extent to that which would be provided under the CLC Master Policy |
| EU Professional Cover – Partial | professional indemnity cover provided to the EU Body in accordance with its EU Home Professional Rules which the CLC is satisfied is only partially equivalent in its conditions and extent to that which would be provided under the CLC Master |

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| | Policy (and is likely to require a Supplemental Policy to accompany it) |
| Evidence of Insurance | evidence that the insured individual or body has appropriate PII cover |
| Example Approach/Policy/Procedure | guidance documents sometimes provide a possible route to the positive outcomes sought, but importantly are not the only route; if a member of the regulated community is able to generate the same or better outcomes another way they are encouraged to do so |
| Exempt Person – FSMA | as defined in s.417(1) FSMA, in relation to a Regulated Activity, a person who is exempt from the General Prohibition in respect of that activity |
| Exempt Person – LSA | as defined in Schedule 3 and paragraph 13 and 18 of Schedule 5 of the LSA, a person who is exempt from being an Authorised Person in relation to a reserved legal activity |
| Fit & Proper Person | the CLC requires that all: <ul style="list-style-type: none"> • applicants; • authorised persons; • owners or managers of an Alternative Business Structure; are able to demonstrate that they are suitable for the role for which they are applying, this includes a fit and proper test to determine their probity and financial history. |
| Financial Services and Markets Act 2000 (FSMA) | the statute which provides the framework within which the regulator for the financial services industry, the Financial Services Authority, operates |
| General Prohibition | the prohibition imposed by s.19 of the FSMA which states that no person may carry on a Regulated Activity in the United Kingdom, or purport to do so, unless he is (a) an Authorised Person; or (b) an Exempt Person |
| Guidance | many of our regulatory Codes are underpinned by guidance which identify considerations to be borne in mind when seeking to deliver the identified outcomes; the guidance |

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| | provided is not mandatory |
| Head of Finance & Administration (HoFA) | the manager in a Licensed Body (ABS) designated responsible for the body complying with their accounts responsibilities as set out in our regulatory arrangements; the individual does not have to be an Authorised Person |
| Head of Legal Practice (HoLP) | the manager in a Licensed Body (ABS) designated responsible for the body complying with its responsibilities as set out in our regulatory arrangements; the individual must be an Authorised Person |
| Improper influence | when a person – usually the owner - attempts to influence the decisions of the Licensed (ABS) Body or the conduct of Authorised Persons in a way which would constitute a breach of licensing requirements and of regulatory duties |
| Insolvency (event) | <ul style="list-style-type: none"> (a) resolution for a voluntary winding up of the body is passed without a solvency declaration (under s.89 of the Insolvency Act 1986); (b) the body enters administration under the meaning of Schedule B1, para 1(2)(6) of that Act; (c) an administrative receiver within s.251 of that Act is appointed; (d) a meeting of creditors – which has the effect of converting a members’ voluntary winding up into a creditor’s voluntary winding up – is held in relation to the body under s.95 of that Act; (e) an order winding up the body is made. |
| Insurance Intermediaries Register | the record maintained by the Financial Services Authority under s.347 FSMA |
| Insurance Mediation Activities | the activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim |
| Insurance Mediation Directive (IMD) | Directive No 2002/92/EU |
| Intended licence | <p>under the Student Training Framework this means the licence that an applicant is intending to train to acquire:</p> <ul style="list-style-type: none"> a. a conveyancing licence; and/or |

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| | <ul style="list-style-type: none"> b. a probate licence; and/or c. a litigation licence; and/or d. an advocacy licence |
| Intervention | a legal process whereby an agent is appointed to organise the formal closure of the business |
| Legal Activity/Activities | <p>as defined at s.12 of the 2007 Act summarised as follows:</p> <ul style="list-style-type: none"> (a) a reserved legal activity, and (b) any other activity which consists of one or both of the following— <ul style="list-style-type: none"> (i) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes; (ii) the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes |
| Legal Ombudsman | the independent complaints-handling body to which clients must be signposted; the Ombudsman will deal with service-related complaints, referring conduct-related complaints it receives regarding our regulated community to the CLC |
| Legal Services Board/LSB | the oversight body which supervises Approved Regulators' and Licensing Authorities' regulation of legal activities |
| Licence | a licence to practise as a Licensed Conveyancer issued by the CLC under Part II of the 1985 Act (and includes where the context permits a conveyancing licence, a probate licence, a litigation licence and an advocacy licence) |
| Licence Authorisations, Conditions, Permissions and Terms | please see authorisation, conditions, permissions and terms |
| Licensable Body | a body which could apply, or has applied, to the CLC to become a Licensed (ABS) Body |
| Licensed Body/Bodies | An Alternative Business Structure licensed by the CLC |
| Licensed Conveyancer | a person who holds a Licence issued by the CLC to provide conveyancing and other legal services regulated by the CLC |
| Licensing Authority | as defined at s.73 of the 2007 Act, an approved regulator which is designated as a licensing authority under Part 1 of Schedule 10 and whose licensing rules are approved to license and regulate Alternative Business Structures |
| Limited Liability Partnership/LLP | a body corporate formed by being incorporated under the Limited Liability Partnerships Act 2000, recognised by the CLC under s.32 of the 1985 Act to provide Reserved legal activities |

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| Litigation | referred at Schedule 2 of the 2007 Act, as the “conduct of litigation” and includes: (a) the issuing of proceedings before any court in England and Wales, (b) the commencement, prosecution and defence of such proceedings, and (c) the performance of any ancillary functions in relation to such proceedings (such as entering appearances to actions). |
| Litigation Licence | a licence issued by the CLC to provide litigation services |
| LLP member | a member of a Limited Liability Partnership |
| Local Authority | a body listed in s.23 of the Local Government Act 2003 |
| LSB | Legal Services Board |
| Manager | means a person who is: (a) if the body is a company and its affairs are managed by members, a member; (b) if the body is a company and (a) does not apply, a director of the body; (c) if the body is a partnership, a partner; (d) if the body is a Limited Liability Partnership, an LLP member; (e) if the body is an unincorporated body (other than a partnership), a member of its governing body; and (f) a licensed conveyancer if sub-paragraphs (a)-(e) do not apply and the affairs of the body are not managed by another licensed conveyancer. |
| Master Policy | the CLC’s professional indemnity insurance policy authorised by the CLC under s.21 of the 1985 Act |
| Material Interest | a person holds a material interest in a Licensed (ABS) Body if the person*: <ul style="list-style-type: none"> • holds at least 10% or more shares in the body (or in a parent undertaking); • is someone able to exercise significant influence over the management of the body (or a parent undertaking) due to their entitlement to exercise, or control the exercise of voting rights; • is entitled to exercise or control the exercise, of voting powers in the body (or a parent undertaking), which, if it consists of voting rights, constitutes at least 10% or more of the voting rights; • as a partner having at least 10% interest in the capital or profits of the partnership; and includes any ultimately beneficial owner of more than |

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| | <p>10%.</p> <p>*'The person' means:</p> <p>(a) the person; (b) any of the person's associates; or (c) the person and any of the person's associates taken together.</p> |
| Memorandum of Association | <p>the meaning given by s.8 of the Companies Act 2006 i.e. a memorandum stating that the subscribers -</p> <p>a) wish to form a company under the 2006 Act; and b) agree to become members of the company and in the case of a company that it is to take at least one share each</p> |
| Memorandum of Understanding | <p>under the Licensed Body Framework, this defines the relationship between, and the objectives of, the Licensing Authorities (LAs) and other regulators in the regulation of Alternative Business Structures</p> |
| ML Regulations | <p>Money Laundering Regulations 2007 (SI 2007/2157)</p> |
| Money Laundering Reporting Officer (MLRO) | <p>the title often given to a Nominated Officer, but may include wider responsibilities than those usually given to a Nominated Officer</p> |
| Nominated Officer | <p>a person in a CLC body to receive internal reports (disclosures) of known or suspected money laundering and with responsibility to assess whether a Suspicious Activity Report should be made</p> |
| Office Account | <p>an account in the name of a CLC regulated individual or body for holding Office Money</p> |
| Office Money | <p>money which belongs to a CLC regulated individual or body and any other money which is not Client Money and includes:</p> <p>(a) money held or received in connection with running the body e.g. PAYE, or VAT on the firm's fees; (b) interest on Client Accounts (other than on Separate Designated Accounts); (c) payments received in respect of fees for which a bill has been delivered and the bill is recorded in the office columns of the appropriate client ledger account; (d) payments received in respect of disbursements already paid or for which a liability to pay has been incurred and the payment or liability is recorded in the office columns of the appropriate client ledger account; (e) money received from a Client as a debt owed which is recorded in the office columns of the appropriate client ledger account</p> |

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| Outcomes | delivery of a positive result for clients; it is the end result of the application of a principle or specific requirement the CLC's regulatory arrangements are focused upon these Outcomes which all whom we regulate must deliver |
| Overriding Principles | <p>the principles that all individuals and bodies regulated by the CLC must comply with at all times in their delivery of legal services:</p> <ol style="list-style-type: none"> 1. Act with independence and integrity; 2. Maintain high standards of work; 3. Act in the best interests of your Clients; 4. Comply with your duty to the court; 5. Deal with regulators and ombudsmen in an open and co-operative way; 6. Promote equality of access and service. |
| Parent Undertaking | <p>as defined in s.1162 of the Companies Act 2006,</p> <p>(2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—</p> <p>(a) it holds a majority of the voting rights in the undertaking, or</p> <p>(b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or</p> <p>(c) it has the right to exercise a dominant influence over the undertaking—</p> <p>(i) by virtue of provisions contained in the undertaking's articles, or</p> <p>(ii) by virtue of a control contract, or</p> <p>(d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.</p> <p>(3) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking—</p> <p>(a) if any of its subsidiary undertakings is a member of that undertaking, or</p> <p>(b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.</p> <p>(4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—</p> <p>(a) it has the power to exercise, or actually exercises, dominant influence or control over it, or</p> <p>(b) it and the subsidiary undertaking are managed on a unified basis.</p> <p>(5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of</p> |

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| | <p>its subsidiary undertakings are, or are to be treated as, parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.</p> <p>(6) Schedule 7 [of the Companies Act 2006] contains provisions explaining expressions used in this section and otherwise supplementing this section.</p> <p>(7) In this section and that Schedule references to shares, in relation to an undertaking, are to allotted shares.</p> |
| Permissions (licence) | specify the non-reserved legal activities a body is permitted to provide |
| Practical Training | <p>you are engaged in the provision of Legal Activities associated with your Intended Licence(s) which must:</p> <ul style="list-style-type: none"> • be for the equivalent of 1,200 chargeable hours which must be documented; • at all times be subject to the supervision of a Qualified Person; and • in the opinion of the CLC, be current, relevant and of an adequate standard. |
| Principles | an essential quality; a characteristic, behaviour or ethic, which must be demonstrated so that positive outcomes are generated for clients |
| Private Loan | a loan other than one provided by an institution which provides loans in the normal course of its activities |
| Probate (Services) | as defined at s.119 of the 1990 Act, services limited to the drawing or preparation of any papers on which to found or oppose a grant of probate or grant of letters of administration and the administration of the estate of a deceased person |
| Probate Licence | a licence issued by the CLC to provide probate services |
| Professional Indemnity Insurance (PII) | the insurance cover all bodies are required to have in place indemnify them for civil liability incurred arising out of regulated services provided |
| Professional Principles | <p>the professional principles are set out in Part 1 of the Legal Services Act 2007:</p> <ul style="list-style-type: none"> (a) that authorised persons should act with independence and integrity; (b) that authorised persons should maintain proper standards of work; (c) that authorised persons should act in the best interests of their clients; (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and |

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| | (e) that the affairs of clients should be kept confidential. |
| Professional Services | under the Acting as Insurance Intermediaries Code, services which do not constitute carrying on a regulated activity, and the provision of which is supervised and regulated by the CLC |
| Promptly | within 2 working days |
| Qualified Person | under the Student Training Framework this means an individual who has for a cumulative period of five years in the seven years prior to the start of the period of supervision in question been authorised by an approved regulator to carry on the reserved legal activity the subject of your Intended Licence and has carried on that reserved legal activity as his or her principal form of practice during that five year period |
| Qualifying Examinations | the methods of assessment and examination in accordance with the CLC's syllabus from time to time in force |
| Recognised Body | a body corporate or incorporate recognised by the CLC under s.32 of the 1985 Act to provide regulated services to the public |
| Recognised Course | a course, lecture, seminar or other programme or activity approved or run by the CLC |
| Registered Student | a person who has registered as a student with the CLC in accordance with its Student Training Framework |
| Regulated Activities | under the Acting as Insurance Intermediaries Code, any of the activities specified under Part II (Specified Activities) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) as amended which is carried on by way of business in relation to an investment of a kind specified in Part III (Specified Investments) of the same Order |
| Regulated Services | all of the legal activities – both Reserved Legal Activities and non-reserved - which the CLC authorises/permits the Licensed Conveyancer or body within the terms of the licence to provide and which are therefore be regulated by the CLC |
| Regulatory Arrangements | the sum of Codes, Guidance, Frameworks and Policies which set out the responsibilities of the regulated community and our approach to regulation |
| Regulatory Objectives | the regulatory objectives are set out in Part 1 of the Legal Services Act 2007: (a) protecting and promoting the public interest; (b) supporting the constitutional principle of the rule of law; (c) improving access to justice; (d) protecting and promoting the interests of consumers; |

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| | <p>(e) promoting competition in the provision of services*; (f) encouraging an independent, strong, diverse and effective legal profession; (g) increasing public understanding of the citizen's legal rights and duties; (h) promoting and maintaining adherence to the professional principles.</p> <p>* services provided by Authorised Persons.</p> |
| Reporting Accountant | an accountant qualified in accordance with requirements 16.5-16.7 of the Accounts Code, instructed by the CLC regulated individual or body to prepare and sign an Accountant's Report |
| Reserved Legal Activities (RLA) | As defined by s.12 and Schedule 2 of the 2007 Act. Currently, there are six reserved legal activities: the exercise of a right of audience (advocacy), the conduct of litigation, reserved instrument activities, probate activities, notarial activities and the administration of oaths. |
| Respondent - Enf | under the Enforcement Policy this means a CLC regulated individual or body in respect of which a misconduct allegation has been made, or a potential compliance breach identified |
| Respondent Body – CF | under the Compensation Fund Operating Framework this means a CLC regulated individual or body in respect of which a compensation claim is made |
| Review Panel | as provided in the Alternative Business Structures (Procedure) Rules to review determinations made by the Adjudication Panel where the Adjudication Panel has made a determination in respect of a matter which has not previously been determined by Authorised Officer (ie Adjudication Panel has made a first instance determination) |
| Rightful Recipient | the person beneficially entitled to receive monies held by the CLC regulated individual or body or any sum vested in the CLC under paragraph 6 or 6A(3) of schedule 5 to the 1985 Act |
| Risk-based/risk profile | our regulatory approach is based on the assessment of the risk to delivery of positive outcomes which an applicant or CLC regulated individual or body presents; this will inform the risk profile we hold on them which in turn informs our regulatory relationship with them risk is measured in terms of a combination of the probability of a perceived threat or opportunity occurring and the extent of its impact in determining what (if any) action we will take |
| Separate Designated | an interest bearing account (but not a share account) at the branch (or the head office) located in England or Wales of a |

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| Account | Building Society or Bank in each case in the name of the CLC regulated individual or body, and in the title of which account the word ' Client ' and a reference to the identity of the Client or the matter concerned must appear |
| Serious Organised Crime Agency (SOCA) | the law enforcement agency which has harm reduction responsibilities and which targets criminal activities such as fraud, money laundering and identity theft |
| Sole Practitioner | the sole manager of a CLC Recognised Body |
| Special Bodies | the definition provided in s.106 of the 2007 Act : <ul style="list-style-type: none"> • An independent trade union; • A not-for-profit body; • A community interest company; • A low-risk body; and • A body of such other description as may be prescribed by an order made by the Lord Chancellor |
| Specific Requirement | a strict direction for conduct which must be complied with |
| Supplemental Policy | a contract of professional indemnity insurance , made between the Authorised Insurers and a body or an EU Body , which provides cover as modified in accordance with the Professional Indemnity Insurance Code and Operating Framework, or as otherwise determined by the CLC |
| Systematically | arrangements are in place to ensure processes are carried out in an orderly fashion |
| Terms (licence) | specifies by way of endorsements, the authorisations , permissions and conditions of a CLC licence |
| Terms of Engagement | a statement on a Durable Medium of all terms upon which instructions are accepted |
| Training Record | a written record of recognised courses attended or undertaken for the purposes of the Continuing Professional Development Code in such form as the CLC may from time to time prescribe |
| Undertaking | an unequivocal declaration of intention addressed to someone who reasonably places reliance upon it |

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| | It need not be in writing nor contain the word “undertake” to be enforceable |
| Without Delay | in normal circumstances, either on the same day or on the next Working Day |
| Working Day | any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday |
| other expressions shall, except where otherwise stated, have the meanings given to them by the 1985 Act , the 1990 Act and the 2007 Act | |
| unless the contrary intention appears, words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular | |