



CLC Handbook 1.2 – published May 2013 Explanation of amendments

i) Code of Conduct, page 12 – public awareness of regulatory scope

When **offering and** 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 or the CLC-administered Compensation Fund.

Case for amendment: Overriding Principle 3q has been amended to make clear that when a firm provides a service which is not regulated by the CLC, they inform *potential* clients of this and are clear that the service is therefore not covered by the CLC-approved professional indemnity insurance or the CLC Compensation Fund; clients must be aware *before* they are in receipt of the service – e.g. clear online and other media adverts - that the service being offered is not regulated by us.

ii) Acting as Insurance Intermediaries Code and Guidance (pages 109 -118) and Glossary of Terms (pages 176-193) - demise of the Financial Services Authority

Case for amendment: last month the Financial Conduct Authority (FCA) became the regulator of businesses across financial services and markets. CLC Handbook references to the Financial Services Authority (FSA) have been amended to reflect this change of body.

iii. Professional Indemnity Insurance Code & Guidance, page 96 – availability of insurance information

We would remind you of your responsibility under the [Provision Of Services Regulations 2009](#) to make the following 'available': contact details for the Professional Indemnity Insurance provider, and the geographic coverage of that PII. It is at your discretion as to how make this available e.g. given in writing to the client at the outset, hard copy at the firm's offices, on website, or in documents provided to the client during a transaction etc.

Case for amendment: guidance now includes a reminder that it is the responsibility, as per the [Provision Of Services Regulations 2009](#), of all firms to make available the contact details for their PII provider and information on that cover's geographic coverage.

Frameworks amendment

- iv. CLC Frameworks, Licensed Body (ABS) Licensing Framework, page 38 – First Tier Tribunal Costs Policy

Subject to its Procedure Rules, the First Tier Tribunal is likely to award costs only where it considers a party has acted unreasonably.

Case for amendment: item 15.8 has been updated to reflect the FTT's awarding costs policy.

CLC Handbook version 1.1 – published February 2013

Explanation of amendments

i) **Introduction, page 3 - Regulatory arrangements apply to all activities covered by the CLC licence**

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 ***in the delivery of all its authorised reserved legal activities and permitted non-reserved legal activities, as specified in the CLC licence.*** 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.

Case for amendment: reiterates that regulatory responsibilities cover all activities specified in the CLC licence, be they reserved (i.e. probate, conveyancing) or non-reserved (i.e. activities closely associated with probate and conveyancing).

ii) **Introduction, page 5 - Specific Codes have equal standing with Universal Codes**

All 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. ***All individuals/bodies regulated by the CLC must comply with these Codes.*** The Codes identified as Specific – located in the rear of this Handbook – are relevant only to those bodies specified, ***or those providing the identified services.***

Case for amendment: to make the standing of the Specific Codes all the more explicit. There are other minor amendments on page 5 to reflect that the Regulatory and Enforcement Policies have been combined.

iii) **Code of Conduct, page 12 (and Professional Indemnity Insurance Code, page 94) - Run-off cover for 6 years minimum**

You ensure there are adequate indemnity arrangements in respect of claims made against you for work carried out by you ***before*** you ceased to practice ***by purchasing professional indemnity insurance for a minimum period of 6 years from the expiry of the period.***

Case for amendment: it is clearer that professional indemnity insurance cover should be in place to protect clients who make a claim following the closure of a firm. The information sheet/procedure historically provided to closing firms makes clear that those who fail to obtain such cover will have to settle any claims personally.

A firm which is closing is signposted to the brokers of the Master Policy which will provide a quotation for six years run-off cover. The six year timeframe is consistent with that of other regulators. The amendment does not bring in a new requirement,

it seeks only to make licensees aware of the existing six year requirement prior to purchase.

iv) **Code of Conduct, page 15 (and Complaints Code, page 49 & 52) - Handling of complaints should be free of charge**

The complaints procedure is clear, well-publicised and free.

For the avoidance of doubt, item 4 of the Code (CoC P6e), requires that all stages of the complaints procedure are free; should the Legal Ombudsman not uphold a complaint escalated to it, the body cannot charge the client for any costs it incurs in investigating that complaint and its handling of it.

Case for amendment: seeks to make it explicit that the requirement that firms do not charge a client for the handling of, or investigation into, a complaint also applies to a firm's investigation of Legal Ombudsman complaints.

v) **Code of Conduct, page 16 (and Equality Code, page 68) reference item – expanded 'Vulnerable' definition**

A client may be vulnerable because of a range of characteristics, *including (but not limited to): basic skills: literacy and numeracy; complexity and confusion: difficulty of accessing and understanding large amounts of information; disability or other impairment; mental health issues; distress or sudden change in circumstances e.g. bereavement, divorce, illness or loss of employment; low income; age; caring responsibilities; limited knowledge of, or limited skills in, use of English; balance of power: lack of competition and or choice; or inexperience or lack of knowledge of a particular subject.* Vulnerability can only be assessed on a case-by-case basis.

Case for amendment: the expanded definition seeks to provide the reader with a steer as to the range of different ways in which a client could be vulnerable (as provided in the British Standard on Inclusive Service Provision).

vi) **Accounts Code, page 30 - £100 fine for a late Accountant's Report**

The CLC may impose a £100 penalty for late submission of an Accountant's Report.

Case for amendment: the Fees Framework was already clear that such a fine is an option; we consider it more transparent if the Accounts Code also references it.

vii) **Anti-Money Laundering and Combating Terrorist Financing Code, page 39 – clarification of Manager responsibilities**

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 *this Code*;

Case for amendment: seeks to provide clarity as to what the manager will have responsibility for. A minor change has also been made to item 11 so that it reads, 'Records *are* stored in a Durable Medium'.

viii) **Complaints Guidance, pages 51-53 – changes to Legal Ombudsman Scheme Rules**

Case for amendment: since February 1st of this year the Legal Ombudsman has:

- extended its complaints acceptance timeframes to 6 years from the date of the act/omission or 3 years from when the complainant should have known about the issue;
- charged firms a case fee for each case (rather than for 1 in 3).

Items 4 & 6 of the Legal Ombudsman information and item 6 of the Example Procedure reflect these changes to the Ombudsman's Scheme Rules.

ix) **Equality Code, page 75 - Statutory right to apply for flexible working**

Working parents *and carers (and those applying to care for a child)* have the statutory right to request flexible working.

Case for amendment: the scope of the statutory right needs to be broadened to reflect the legislative position.

x) **Equality Code, page 76 - Diversity profiling is a requirement, not a good practice reference**

All CLC-regulated firms are required to participate in the biennial diversity profiling of the regulated community. The details of which will be prescribed by the CLC at the time of profiling. The firm must publish a summary of the firm's profile. The summary provides potential staff and clients with information on the representative nature of the business and will 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.

Case for amendment: diversity profiling is to become a requirement upon regulated firms, therefore the reference to it as good practice is no longer relevant. Following discussions with the LSB this exercise will be undertaken every two years. The CLC diversity profiling exercise should recommence in early 2013. [TBA]

xi) **Management & Supervision Code, pages 82-88 – additional Management/Supervision Guidance**

The new guidance seeks to provide firms with good practice examples and considerations on risk management, business continuity, outsourcing and practice closure. These subject matters are considered particularly relevant in these economically challenging times which can present increased risks to both the business and its clients.

As with all Guidance, these seek only to provide assistance for those in need of a steer as to the types of approach which could be applied - and which we will take into account through our monitoring – and are not mandatory requirements.

xii) Notification Code, page 91 - Authorised Person, not licensed conveyancer

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 an **Authorised Person** in, or Manager of, an entity which has had its authorisation refused, revoked or made subject to conditions;

Case for amendment: Alternative Business Structures can contain a range of Authorised Persons, not just licensed conveyancers. The notification has been broadened accordingly.

xiii) Transactions File Code, pages 99-104 - additional Transactions Files Guidance

We consider additional guidance to be particularly relevant in these times of increasingly diverse range of business models within the legal services sector.

Given the addition of guidance provisions regarding both conveyancing and probate activities, one of which, or both, all CLC entities undertake, the Transactions Files Code has been moved into the Universal section (from the Specific).

As with all Guidance, these seek only to provide assistance for those in need of a steer as to the types of approach which could be applied - and which we will take into account through our monitoring – and are not mandatory requirements.

xiv) Mortgage Fraud Code, pages 129-136 – additional mortgage fraud guidance

Shortly after the CLC Handbook went live in October 2011 we issued a Mortgage Fraud Update. It is now considered timely to include its provisions within the static Guidance.

xv) Recognised Body Code, page 144 (and Frameworks document, page 46) - Recognised Bodies must have a Licensed Conveyancer Manager

At least one Manager is a Licensed Conveyancer.

Case for amendment: makes clearer the requirement that Recognised Bodies must have a minimum of one manager who is a Licensed Conveyancer (as opposed to an Authorised Person).

xvi) **Regulation & Enforcement Policy, page 146-165 – Regulatory and Enforcement Policies combined and clarification of stages**

Case for amendment: provides a one-stop overview of the CLC’s approach to regulation, and the role enforcement plays within this. Also, new additions to the headings at pg. 159/160,

Informal approach – ***staff investigation and advice***
Regulatory action – ***staff delegated powers***
Disciplinary action – ***Committee hearing***

to increase clarity of what is meant by each stage.

xvii) **Regulation and Enforcement Policy, page 160 – Non-compliance investigation; replacement of ‘complaint’ with ‘compliance issue’ and ‘allegation’**

Having carried out a preliminary assessment the CLC Authorised Officer may:

- (a) certify that where the ***compliance issue*** 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 ***allegation***; or
- (a) refer the case to the Adjudication Panel, alternatively to the Discipline and Appeals Committee for hearing and determination.

Case for proposed amendment: reflects our regulatory span and removes the potential for the reader to apply the narrower Legal Ombudsman ‘complaint’ definition.

xviii) **Glossary, page 184 - Senior manager status a preference for Head of Legal Practice/Head of Finance & Administration, not an absolute; replacement of ‘manager’ with ‘officer’**

HoFA - the ***officer*** 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; ***it is preferable, though not mandatory, for the individual to be a manager***

HoLP - the ***officer*** 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; ***it is preferable, though not mandatory, for the individual to be a manager***

Case for amendment: if considered appropriate to the structure of an Alternative Business Structure, the HoLP and HoFA may be a junior manager who reports to the senior management team, rather than a member of it.

xix) Glossary, page 187 - 'Outsourcing' definition

Outsourcing - business functions contracted out to third party non-Authorised Persons which support the delivery of reserved legal activities

Case for amendment: reflects the addition of the Outsourcing guidance attached to the Management & Supervision Code.



**CLC Frameworks version 1.1 – published February 2013
Explanation of amendments**

Frameworks

- i) **ABS Licensing Framework, page 10 - Unable to accept applications from Special Bodies**

We cannot accept applications from Special Bodies.

Case for amendment: reflects our licensing position with regard to these not-for-profit bodies.

ii) **ABS Licensing Framework, page 16 - CLC to specify date for end of Recognised Body Transitional arrangements**

These arrangements apply to bodies licensed by the CLC as a Recognised Body on the date it is authorised as a Licensing Authority but which, because they are owned or managed by persons who are not Authorised Persons, need to become a Licensed Body ***the date specified by the CLC.***

Case for amendment: reflects that the statute has not been laid to specify the date by which the transitional arrangements would be ended.

iii) **ABS Licensing Framework, page 27 – items removed from ABS Register**

- The ultimate beneficial owner
- Managers of the licensed body
- The names of those with a material interest in the Licensed Body
- The names of Authorised Persons who are employees of the Licensed Body

Case for amendment: this information is not essential to the public interest, meaning the upkeep of the public register with regard to these individuals is not a proportionate allocation of CLC resources.

iv) **Licensed Conveyancer Licensing Framework, page 41; and Recognised Body Recognition Framework, page 47 - Signposting to licence determination factors**

1c) if the applicant has not held a conveyancing licence before, they must satisfy the CLC they are a fit and proper person to practise as a licensed conveyancer (***see item 8.22 of the Licensed Body (ABS) Licensing Framework for an overview of the type of factors taken into account when applying the fit and proper test***)

6) If the CLC is satisfied as to the matters identified under items 4 and 5 and of the capability and willingness of the entity to comply with the CLC Code of Conduct and other CLC Codes, then the CLC will:

- (a) issue a Certificate endorsed as provided at item 10; or
- (b) issue a Certificate endorsed as provided at item 10, subject to such additional conditions as it considers appropriate.

See items 8.1-8.22 of the Licensed Body (ABS) Licensing Framework for an overview of the type of factors taken into account when determining a licence application.

Case for amendment: those interested in applying to become a licensed conveyancer or a Recognised Body are signposting to a detailed overview of the types of factors taken into consideration in determining their licence applications.

