



Dealing with *Non-Authorised Persons* (third parties) Code

This Code must be read with the Code of Conduct. The Code of Conduct is the parent document of the CLC Handbook and Frameworks; it sits above all other Codes in our regulatory arrangements. The Code of Conduct prescribes six Ethical Principles of behaviour which are essential to delivering the specific Outcomes which sit beneath each of the Ethical Principles. All CLC regulated individuals and bodies are expected to comply with the Code of Conduct in the delivery of authorised reserved legal activities and permitted non-reserved legal activities.

The CLC also publishes several other topic specific Codes addressing important areas of practice, including this Dealing with *Non-Authorised Persons* (third parties) Code. Topic specific Codes underpin the Code of Conduct and support regulated individuals and bodies in delivering the Ethical Principles and Outcomes of behaviour defined in the Code of Conduct. Topic specific Codes apply to all regulated activities carried out by the individuals or bodies specified in that 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 context of this Code the *Non-Authorised Person* refers to the party on the other side of a transaction. You must ensure that you always comply with the Code of Conduct and topic specific Codes and must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code, the Code of Conduct, or the Ethical Principles.

Should circumstances arise in which there is an apparent conflict between a topic specific Code, the Code of Conduct, or any other regulatory requirement, you must ensure that you comply with the Code of Conduct. If in doubt, contact the CLC for advice.

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** third parties helps you deliver these **Outcomes** and act in a principled way:

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

You do not take unfair advantage of any person, whether or not a **Client** of the business. ~~(CoC P1f)~~

You promote ethical practice and compliance with regulatory requirements. ~~(CoC P2g)~~

You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (CoC P3b)

You must ~~ensure that~~ also comply with the following **specific requirements**:

3.1. You do not have dealings with any **Non-Authorised Person carrying on reserved legal activities** including conveyancing (unless there is clear evidence that person is an **exempt person** (see schedule 3, **Legal Services Act 2007-Act**).

4.2. 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 **of the Legal Services Act 2007-Act**.

Dealing with **Non-Authorised Persons**

5.3. 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 a non-Authorised 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

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

7.5. 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.

8.6. 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.

Should you require ~~guidance information~~ on how to meet your responsibilities under this Code, please see the **CLC's Dealing with Non-Authorised Persons (third parties) Guidance Dealing**

with Non-~~Authorised Persons~~ (third parties) Code & ~~Guidance~~.

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