



## Transaction Files 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 Transaction Files 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. 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~~:

- ~~• 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)~~

~~You must ensure that appropriate standards of document provision help you deliver these Outcomes and require you to act in a principled way:~~

~~1. Act in the best interests of your Clients. (Overriding Principle 3)~~

~~2.1. 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**

3.2. 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.

4.3. 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**

5.4. Originals are handed to one **Client** only with the consent of the other **Client**.

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6.5. You provide each **Client** with a copy without charge.

7.6. You release copies to third parties only with the consent of all **Clients**.

#### Joint retainers –*Client* and lender

8.7. 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

9.8. 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.

10.9. 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.

Should you require ~~guidance information~~ on how to meet your responsibilities under this Code, please see the [CLC's Transactions File Guidance](#).

~~CLC's Transactions File Guidance~~