



Undertakings Guidance

Information

1. Neither the **CLC** nor its disciplinary committees have 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 your CLC-approved **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 Code of Conduct 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.