



**Outcomes-Focused Regulation -
Revised CLC Rules & Guidance Notes**
CLC Consultation Paper
September 2010

Response Deadline: Friday 17 December 2010

Executive Summary

1. The CLC believes that its regulatory framework should achieve the following:
 - consumers receive legal services appropriately tailored to their needs;
 - the regulated community is given proper opportunities for innovation; and
 - the CLC provides efficient and effective regulation.

The draft Code of Conduct published in July 2010 was a significant first step towards delivery of these objectives. Attached is the remainder of the CLC regulatory framework which has been revised so it is in keeping with the Code's focus on the delivery of positive outcomes for legal services consumers. The outcomes will be delivered by the principled and professional behaviour of the regulated community. All elements of the framework are derived from the Professional Principles set out at section 1 Legal Services Act 2007.
2. It is intended that the framework in its entirety will come into force in October 2011 assuming that the CLC becomes a Licensing Authority. It will apply to all entities regulated by the CLC, whether as an Approved Regulator regulating licensed conveyancer practices or as a Licensing Authority regulating Alternative Business Structures.
3. The CLC is simultaneously consulting on its Regulatory and Enforcement Policies, and its Litigation & Advocacy framework. These are new policy documents rather than revised versions of existing regulatory arrangements and it is therefore considered appropriate that they be consulted on separately. However, they will obviously form an integral part of the CLC Regulatory Framework Handbook operational from October 2011 and should be read in conjunction with this paper, as should the Code of Conduct consultation paper.
4. During the Consultation Period we will engage with the profession and with consumers, and seek the views of other Approved Regulators and stakeholders.

Responding to this Consultation

5. The questions posed in this Consultation Paper are set out on page 7. You are welcome to respond to some or all of the questions or to comment on the proposals as a whole.
6. When you respond please give your name and address, and whether you are a licensed conveyancer. If you are not a licensed conveyancer, please state, if relevant, your status or professional qualification. Unless we are notified otherwise, the CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential please let us know when you respond. All responses should be sent by email to consultations@clc-uk.org or by post to

The CLC
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Or by to DX 121925 CHELMSFORD 6

Submission Deadline: Friday 17th December 2010

Introduction

Statutory Framework

7. The CLC was established by the Administration of Justice Act 1985 (AJA) to regulate licensed conveyancers in the provision of conveyancing services. It has no representative function. The CLC currently regulates about 1,000 licensed conveyancers and just over 200 practices.
8. As an approved regulator the CLC “must, so far as is reasonably practicable, act in a way.., which is compatible with the regulatory objectives”¹ as follows:
 - 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;
 - e) Promoting competition in the provision of services by ‘authorised persons’²;
 - 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 principles³.

The “professional principles” are—

- 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 and in the interests of justice,
 - e) that the affairs of clients should be kept confidential.⁴
9. The CLC is also required to “have regard to...the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed”⁵.

¹ S.28(2) Legal Services Act 2007

² defined at s.18 LSA

³ s.1(1) LSA

⁴ s.1(3) LSA

⁵ s.28(3) LSA

Outcomes-Focused Regulation

10. Approved Regulators and Licensing Authorities are required to operate a regulatory approach which is principles-based and outcomes-focused. This means that legal services providers must be encouraged to focus upon the positive outcomes they can generate for consumers of those services. Outcomes will be delivered by acting in accordance with high-level principles – requiring the individual or body to act in a principled, professional manner - rather than complying with prescriptive rules.
11. The shift of focus should mean that:
 - clients receive a service tailored to their needs;
 - legal service providers can develop new and different ways of delivering services to their customers; and
 - the CLC establishes an environment which enhances client protection, promotes competition and provides informed choice for consumers.

CLC Codes & Guidance

12. There are universal Codes e.g. Code of Conduct, Accounts, Compensation Fund and Promote Equality of access and service etc., which apply to all members of the regulated community. Others, such as the Acting as Insurance Intermediaries or Supplementary Litigation & Advocacy Codes, are specific to those providing such services, or the Recognised Body Certification Framework which are specific to those bodies.
13. The overriding aim of the Codes and Guidance is to ensure the protection of clients and the promotion of their best interests. Therefore, the draft Code is focused upon outcomes with accompanying principles and specific requirements to deliver the outcomes. The parameters used are as follows:
 - *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;
 - *Outcomes* – the end result of the applications of the principle or rule.

Principles

14. All elements of the revised regulatory framework have been linked to the new draft Code of Conduct and the outcomes it seeks. At all times, the principles identified in the Code must be complied with:
 1. Act with independence and integrity;
 2. Maintain proper standards of work;
 3. Act in the best interests of 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;

and these are referenced in each area of the framework.

Guidance

15. Wherever possible we have adopted principles; specific requirements remain where affording flexibility of approach would represent a significant risk to the delivery of positive Client outcomes. In adopting a principles-based regime affording the legal service provider more flexibility of approach we are aware that some bodies, especially new ones, may require guidance as to how the outcomes can be delivered. We will ensure appropriate guidance and support is available for those who require it. Please let us know if you have identified an area in which more guidance would be beneficial.
16. We have amalgamated toolkits and guidance in a specific subject area so the framework is easier to follow. The framework remains in distinct sections - e.g. Accounts, Continuing Professional Development etc. so its general structure is familiar to the existing regulated community - but these have been remodelled to afford more transparency. For example, we currently have a number of documents labelled Guidance Notes which in fact include mandatory rules. These have been restructured into Codes which make clear when a requirement is compulsory or optional i.e. a recommendation or guidance only.

Professional Indemnity Insurance Code

17. Currently all members of the CLC regulated community must take out cover under the CLC Master Policy. However, the Legal Services Board requires Licensing Authorities to allow Licensed Bodies (Alternative Business Structures) to obtain professional indemnity insurance from an Authorised Insurer. It also recommends that wherever possible, the regulatory arrangements for non-ABS should be consistent with those for ABS. To meet this requirement the CLC will offer an opt-out from the Master Policy for those who wish to seek cover from an alternative source (so that in all respects the cover provided is at least equivalent to that of the Master Policy).
18. Although this approach is a requirement rather than a policy decision, it is still appropriate that it is covered in this consultation paper so that we can form a view as to the likely impact of such a change on consumers, the wider public and the regulated community. This will be one of the issues we shall be specifically raising as we meet with stakeholders during the Consultation process.

Probate

19. The distinct Probate element of the framework has been removed. Due to the timing of the introduction of probate regulation this had in essence been an add-on to the body of the framework and often duplicated requirements of other areas of the framework; it is appropriate in the context of this review that this has now been absorbed into the framework as references are no longer conveyancing-specific, but apply to reserved activities regulated by the CLC.

Glossary of Terms

20. The framework is accompanied by a new Glossary of Terms, available to all who need it for reference. This has replaced the glossary provided in each distinct element of the regulatory framework, to reduce unnecessary duplication, provide

more consistency across the framework as a whole, and to enable the requirements of each element to be more readily understood.

Complaints

21. The Legal Services Board has identified core complaints outcomes it expects all regulatory frameworks to deliver and these are reflected in the attached Complaints Code. Most of the requirements should already be familiar to the CLC's regulated community because they are already included in the CLC's Complaints Guidance Note. Given the importance afforded to effective complaints-handling procedures the Code provides more guidance than the current Complaints element of the framework.

Equality

22. Currently the provision of goods and services provision must not discriminate on a basis of disability, gender or race. The Equality Act will extend the current anti-discrimination requirement to cover age, religion, sexual orientation and transgender. Principle 6 of the Code of Conduct imposes specific equality and diversity responsibilities on the regulated community. This is a new element of the regulatory framework and so we have provided comprehensive guidance. It will be down to the individual or body as to how they apply the principles and respond to the needs of their own particular clients and employees.
23. It is not considered proportionate that development of a written Equality Policy is a mandatory requirement, though it is an expectation that bodies other than sole practitioners should have one in place. We have provided an Equality Policy template as a starting point for those bodies, but as with all Guidance and Suggested Procedures these provide a starting point and should be tailored to the individual body; Suggested Procedures incorporate the minimum standards the CLC expects bodies to operate to deliver the identified outcomes. They do not necessarily have to replace any existing arrangements a body may have in place, provided those arrangements meet the minimum standards.

Conclusion

24. The regulatory framework has been revised with the intention it is more principles-based, outcomes-focused, client-centred, proportionate, and more transparently and consistently structured. We welcome your views. It would help us if any comments you make are as specific as possible and identify clearly the part of the Framework to which they relate. Please provide comments by Friday 17th December 2010.

Questions

In each case you are asked to provide reasons for the answer you have given. You may wish to give specific examples.

1. Do you agree with the general structure of regulatory framework and its links to the Code of Conduct? If not, how can it be improved?
2. Are the framework's requirements clear? If not, what is needed?
3. We would also find it helpful if you could comment specifically on the following:
 - a. the Complaints Code
 - b. the Equality Guidelines; should we require all bodies, including sole practitioners, to have a written Equality Policy?
 - c. the Glossary of Terms
the Data Processing Code & Guidance
4. What do you consider is the likely impact of providing an opt out to the Master Policy:
 - a. On clients
 - b. On the wider public
 - c. On the regulated community
5. What impact do you consider an opt out from the Master Policy is likely to have on competition both within the regulated community and more widely with practices regulated by other Approved Regulators or Licensing Authorities?
6. Are there areas in which additional guidance is required? If so, please specify.
7. Do you have any other comments/feedback about the matters raised in this Consultation Paper?



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Aged Balances Code & Guidance

Aged Balances Code

Outcomes-Focused

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

- **Clients trust and value the service you provide and feel adequately protected;**
- **Clients are confident that you act with reasonable care, skill and diligence**

Appropriate handling of client monies helps you deliver these Outcomes and in a principled manner:

1. **You act with Independence & Integrity. (Principle 1)**
2. **Maintain Proper Standards of Work. (Principle 2)**
3. **Act in the Best Interests of Clients. (Principle 3)**
4. You act honestly, professionally and decently.
5. You keep Client money safe.

Aged Balances Guidance

Purpose of Guidance

The purpose of this Guidance is to help the regulated community resolve the problem of Aged Balances, meaning that 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 own 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, in helping you manage Aged Balances.

Guidance

Part 1 ~ How to Avoid Aged Balances Suggested 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 file; and
 - (ii) to the client ledger.

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 promptly or no later than one month after payment has been tendered and then at frequent intervals
 - (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 and then to an 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 licensed conveyancer 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 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, the Rightful Recipient should be referred to the CLC with a view to making a claim for reimbursement on the Compensation Fund.



Compensation Fund Code & Operating Framework

Compensation Fund Code

Outcomes-Focused

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

- **Clients feel their interests are actively promoted and protected;**
- **Clients are confident you operate in accordance with regulatory requirements.**

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

1. **Act in the best interests of Clients. (Principle 3)**
2. **Deal with regulators in an open and co-operative way. (Principle 5)**
3. You are open and honest in your dealings with us.

The CLC Body must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the Outcomes:

4. You make the Compensation Fund contribution determined by the CLC.
5. You promptly notify the CLC in writing of any facts or matters which may give rise to a claim under its Compensation Fund.

A Compensation Fund claimant must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary

committee, that you are acting in a way which is consistent with these Principles and delivery of the Outcomes:

6. You deliver a Compensation Fund claim to the CLC within 6 months of the loss/likelihood of loss first comes, or should reasonably have come to your attention.
7. You deliver any subsequent claim to the CLC within 56 days of a grant being made (or receipt of a notification of the CLC that no further grant is to be made beyond that made by way of interim grant or grants).

Compensation Fund Framework

Contributions

8. As a condition of being authorised by the CLC, every CLC 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 CLC Body to make a further contribution towards the Fund at any time.
9. At its 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 owed by the CLC Body will be recoverable as a debt owed to the CLC.

Purpose of the Fund

10. The CLC shall place the money constituting the Fund in a separate designated account entitled "Council for Licensed Conveyancers' Compensation Fund".
11. 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.
12. 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.

13. 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 CLC Body;
 - (c) the purpose of settling any claim in respect of CLC insurance or any claim relating to run off cover following the closure of a CLC 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) payment to the CLC of all costs, charges and expenses incurred by it in the exercise of powers to avoid or minimise a claim on the Fund;
 - (g) payment to the CLC of any costs incurred by it for the purpose of inspecting and monitoring the practices and accounts of licensed conveyancers and CLC Bodies;
 - (h) the refund of contributions to a CLC 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).
14. 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.
15. 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.
16. 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 him to make a claim under this Code out of the Fund.

Making a Compensation Claim

17. The CLC may in its absolute discretion make a grant or other payment out of the Fund for the purpose of relieving or mitigating losses suffered by persons 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.¹
 - (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.
18. 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;
19. 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.
20. 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).
21. 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.
22. 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.
23. The CLC may in its absolute discretion waive any requirement under requirements 15 and 17.

Determining Claims

24. 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 requirements 15-17 as appropriate;

- (b) whether sufficient information has been provided promptly 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 a CLC 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.
25. 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.
26. The CLC will consider such a claim and at its 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.
27. 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.
28. 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

29. 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.
30. 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.
31. 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 where it is satisfied that that Manager has contributed intentionally, recklessly or negligently to the loss suffered by the Claimant.
32. Any sum payable as a result of proceedings taken against a CLC Body, Manager or former Manager is recoverable as a debt owed to the CLC.



Conflicts of Interest Code & Guidance

Outcomes-Focused

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

- **Clients are confident that you act in their best interests, and that you have the appropriate resources, skills, procedures and intentions in place for this;**
- **Clients are confident that their informed consent will be obtained before the entity agrees to act for another person in a matter;**
- **Clients are aware of any limitation or conditions resulting from your relationship with a third party which may affect or limit the steps you can take on their behalf.**

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. (Principle 1)**
2. **Act in the best interests of your Clients. (Principle 3)**
3. You keep the interests of the Client paramount.
4. 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.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

5. Where the CLC Body 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.
6. The CLC Body advises each Client what is in that Clients' interests.
7. Before 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.
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 cease to act for each Client if a conflict of interest arises at any time. If a conflict was or should have been foreseen, you must not charge either Client a fee for the work undertaken other than for disbursements properly incurred.

Guidance - Useful Information

1. There are statutory exceptions to the requirements to keep information about a Client confidential: the anti-money laundering regulations provide one example.
2. Except when a conflict of interest arises, 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.
3. A body must consider carefully whether a conflict of interest arises or is likely to arise when it 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
4. Except when a conflict of interest arises, a body with only one Authorised Person 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.
5.
 - 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.
 - c) A conflict is likely to have arisen if the advice given to one Client is different from that which the individual conveyancer would have given if acting solely for that one Client.



Continuing Professional Development Code and Guidance

Continuing Professional Development Code

Outcomes-Focused

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

- **Clients trust and value the service you provide;**
- **Clients trust you to provide them with a competent standard of legal services;**
- **Clients are confident that you act in their best interests, and that you have the appropriate resources, skills, procedures and intentions in place for this.**

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 Proper Standards of Work. (Principle 2)**
2. **Act in the Best Interests of Your Clients. (Principle 3)**
3. You keep your skills and knowledge up-to-date.
4. You ensure all individuals within the entity are competent to do their work.
5. You promote ethical practice and compliance with regulatory requirements.
6. You act only within your professional competence.
7. You provide equal opportunities for all partners, employees or applicants in employment and training.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the disciplinary relevant committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

8. As a Licensed Conveyancer you must in each year in which you hold a licence complete such Continuing Professional Development in such courses, lectures, seminars or other programmes or other activities approved or run by the CLC for the purposes of the Code as the CLC may require.
9. You are able to demonstrate that the course's subject matter is intended to contribute to your professional development and to help you deliver positive Outcomes to your Clients.
10. Each licence 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. On a request of the CLC you provide us or any person appointed by us with this record.
12. The CLC may direct you to attend (and pay for) a specific course as an alternative to disciplinary action if it is satisfied you have failed to a material extent to comply with the CLC's Code of Conduct even if you have at that time satisfied the provisions of requirement 8 for the current year.

Guidance – 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 refuse to renew your licence or may issue the licence subject to conditions where you fail to comply with requirements 8 to 11.
2. In an individual case the CLC may, where satisfied that the person concerned has undergone sufficient continuing professional development in the current year, vary the operation of the CPD Rules in such ways as it thinks fit.
3. The CLC has power to approve courses of study provided by educational institutions and other bodies.
4. The CLC may provide its own courses of study for the purposes of the CPD Rules and may prescribe and charge you a fee if you are directed to attend or you apply to attend or undertake such a course.



Council for
**Licensed
Conveyancers**
**Data Processing Code
& Guidance**

Data Processing Code

Outcomes-Focused

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

- **Clients are confident that you comply with the law;**
- **Clients are confident that you act with reasonable care, skill and diligence;**
- **Clients are confident that their information is processed in accordance with data processing law and good practice;**
- **Clients trust you to treat their affairs confidentially except as required or permitted by law or with the client's consent.**

Safe and appropriate handling of personal and sensitive data helps you deliver these Outcomes and requires you to act in a principled manner:

1. **You act with independence and integrity (Principle 1).**
2. **You maintain proper standards of work (Principle 2).**
3. **You act in the best interests of your Clients (Principle 3).**
4. You maintain proper governance, management, supervision, financial, and risk management arrangements and controls.
5. You maintain proper records to evidence your governance, management, supervision, financial, and risk management arrangements and controls and how they are applied.

6. You systematically identify and mitigate risks to the business and to its Clients.
7. You systematically identify, monitor and manage risks to the delivery of this Code's outcomes.
8. 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 disclosure you make.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with the Principles and delivers the applicable Outcomes:

8. You comply with the Data Protection Act (1998), including:
 - Register with the Information Commissioner's Office as a Data Controller;
 - Process data in keeping with the 8 principles of data processing (except where exemptions apply);
 - Respond to subject access requests where appropriate.
9. You hold all personal information safely.

Useful Information – Data Protection Act 1998

This section aims to help you deliver the Outcomes identified within this Code by providing you with an overview of the Data Protection Act 1998. You should refer to the Act itself to ensure your body is meeting the Act's requirements.

Definitions

1. 'Personal data' is data which relates to a living individual who can be identified by the data and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of that individual.
2. 'Sensitive personal data' is data consisting of information as to a person's:
 - a) racial or ethnic origin;
 - b) political opinions;
 - c) religious beliefs or other beliefs of a similar nature;
 - d) membership of a Trade Union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992);
 - e) physical or mental health or condition;
 - f) sexual life;
 - g) commission or alleged commission of any offence;
 - h) proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings.
3. 'Data Controller' – a person who (either alone or jointly in common with other persons) determines the purposes for which and the manner in which any

personal data are, or are to be processed. They must be registered with the Information Commissioner's Office.

Data Processing Principles

4. a) The Act sets out the 8 principles of personal data processing which all data controllers must comply with:

- Personal data shall be processed fairly and lawfully.
- Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data shall be accurate and where necessary, kept up-to-date.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or purposes.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country or territory outside the European Economic area unless that country or territory ensures an adequate level of protection for the rights and freedom of data subjects in relation to the processing of personal data.

b) though the Act (S. 29) generally exempts personal data processed for any of the purposes:

- i) the prevention or detection of crime;
 - ii) the apprehension or prosecution of offenders; or
 - iii) the assessment or collection of any tax or duty or of any imposition of a similar nature;
- from the first data protection principle.

c) and exempts (S. 35) personal data disclosures which are required by law or made in connection with legal proceedings:

- i) disclosures must be made where required by or under any enactment, by any rule of law or by the order of a court;
- ii) disclosures must be made where necessary for the purpose of, or in connection with, any legal proceedings (inc. prospective legal proceedings); for the purpose of obtaining legal advice; or is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

d) the circumstances in which sensitive personal data can be disclosed are much more restricted than for other personal data. You therefore need to consider very carefully before disclosing any sensitive personal data.

Subject access requests

5. The Data Protection Act covers information held on computer and manual records. A subject access request is an individual's written request for a copy of the information you hold on them. They are entitled to be given a description of the information, what you use it for, who you might pass it onto, and any information you have about the source of the information. NB. Not all information requests will be subject access requests; they may be a normal course of business enquiry.
6. Should you receive a subject access request you need to be sure of the requester's identity. You should also take exemptions into consideration (please see 4, below) and consider what information needs to be given. If the information includes abbreviations or technical terms the individual will not understand you must make sure these are explained. You should supply the information copy in a permanent form, unless it would involve undue effort or the individual agrees to it being provided in another format e.g. viewing the information on screen. You have 40 calendar days to respond. NB. You can charge up to £10 for the resources and time allocated to responding to the request.
7. Should you not be able to comply with the request without disclosing information relating to another individual who can be identified from that information, you do not have to comply with the request. The exceptions to this are when the other individual has consented or all of the particular circumstances make it reasonable to comply without the individual's consent. In assessing the circumstances regard should be given to, in particular:
 - Any duty of confidentiality owed to the other individual;
 - Any steps you have taken to seek the other individual's consent;
 - Whether the individual is capable of giving consent; and
 - Any express refusal of consent by the other individual.

Disclosure Exemptions

7. Generally, the DPA does not allow disclosure to a third party data controller unless the individual is informed of the disclosure and has consented to it. Exemptions include those who have crime prevention or law enforcement function - e.g. the Police the Department for Work and Pensions Benefit Fraud Section – which request information to prevent or detect crimes or to catch or prosecute a suspect.
8. You can only release information for the stated purposes and only if not releasing it would be likely to prejudice any attempt by the police to prevent crime or to catch a suspect.

Guidance & Good Practice

Principle 3 requires you to act in the best interests of clients, this includes how you process client data. It is in your own interests to comply with legislation and protect your reputation. 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.

Disclosure Exemptions Guidance

1. If you have genuine concerns about releasing the personal information - due to other legal obligations - you can ask the Police to come back with a Court Order.
2. The information request should be made in writing and signed off by someone of sufficient authority.
3. The body could select a person or group within the organisation to decide if the information should be released.
4. You should keep a record of each decision made, who made it, and the reasons for that particular decision.

File retention Guidance

4. You should refer to Conveyancing Files Code and Suggested Approach.

Outsourcing information processing Guidance

5. If you contract/arrange for someone to process information on your behalf you remain responsible for it. You must ensure they only use and disclose personal data in line with your instructions. If non-EEA you need to be sure that your contract and its terms are enforceable in the country in which the processor is located. You may want to use the model contract clauses approved by the European Commission and the Information Commissioner, available on the European Union website. **[Insert hyperlink]**
6. You should audit the organisation regularly to ensure they are 'up to scratch' and require them to report any security breaches or other problems, as well as requests for information under foreign legislation.

Other

7. Tell individuals how and for what purpose their information is to be used before it is processed (called a fair processing notice).
8. If a third party requests information, you should have appropriate safeguards in place to ensure they are who they say they are and that the account holder has given their authority for them to be provided with the information.

Data Security Good Practice

9. It is likely that you hold an extensive stock of personal and financial client data including (but not limited to): names, addresses, date of birth, contact details, National Insurance Numbers, Passport Numbers, bank account details, family circumstances etc. In addition you may have a range of other information which could cause the client embarrassment, distress, inconvenience, and/or or financial detriment if this data was lost. Consumer data is a valuable commodity for criminals. The table below identifies some examples of good practice which you may wish to consider to minimise your likelihood of data loss.

Governance	• Allocates overall responsibility of data security to a
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	<p>senior manager;</p> <ul style="list-style-type: none"> • Data security identified as a key risk requiring dedicated policies and procedures; • Reporting mechanisms for staff and third parties to report data security concerns and data loss; • The culture of the organisation means reports can be made without fear of blame or recrimination; • Compliance and internal audits conduct specific data security reviews; • Detailed plans for reacting to a data loss including when and how to communicate with affected customers. • Writing to affected customers promptly after a data loss, telling them what has been lost and how it was lost.
Training and awareness	<ul style="list-style-type: none"> • Training and awareness campaigns are not confined to the legal and regulatory customer data protection requirements, but also focus on the financial crime risks arising from poor data security. • Staff have a clear understanding about why data security is relevant to their work and what they must do to comply with relevant policies and procedures.
Staff recruitment and vetting	<ul style="list-style-type: none"> • A risk-based approach to vetting staff, which takes into account data security and other fraud risk. • A good understanding of the level of vetting conducted by employment agencies during the recruitment of temporary and contract staff.
Access rights	<ul style="list-style-type: none"> • Each role in the firm has a specific IT access profile, which sets out exactly what level of IT access is required for an individual to do their job. • A clearly-defined staff departure notification process so IT accesses are disabled or deleted in a timely and accurate basis.
Passwords and user accounts	<ul style="list-style-type: none"> • All systems containing customer data operate individual user accounts requiring passwords; • Passwords are at least 7 characters in length and are a combination of letters, numbers and keyboard symbols; • Passwords are changed regularly.
Access to customer data	<ul style="list-style-type: none"> • Staff's access to customer data is risk-based; • Staff's access to customer data is proactively monitored to ensure it is being accessed and/or updated for a genuine business reason.
Data back-up	<ul style="list-style-type: none"> • Offsite and in transit backed-up data is encrypted; • Encryption levels are regularly reviewed to ensure they are appropriate to the current risk environment; • Carry out due diligence on third parties proposing to handle, or handling backed-up data;
Key-logging devices	<ul style="list-style-type: none"> • Awareness campaigns so staff are aware of the risks

	<p>of key-logging devices;</p> <ul style="list-style-type: none"> • Anti-spyware and firewalls etc. are kept up to date.
Portable media	<ul style="list-style-type: none"> • Only staff with a genuine business need can download customer data to USB devices, laptops and CDs etc. • Staff authorised to hold customer data on portable data can only do so if it is encrypted.
Physical security	<ul style="list-style-type: none"> • Visitors are logged and are adequately supervised whilst on-site; • Strategic, risk-based use of intruder deterrents such as keypad entry doors, alarms systems, grilles or barred windows, and closed circuit television.
Disposal of customer data	<ul style="list-style-type: none"> • Procedures minimise the production of paper-based customer data; • Customer data is disposed of securely e.g. shredders or confidential waste bins.



Dealing with Unqualified Third Parties Code and Guidance

Unqualified Third Persons definition: persons who are not authorised by statute to provide reserved legal activities (this includes conveyancing services)

Dealing with Unqualified Third Parties Code

Outcomes-Focused

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

- **Clients trust and value the service you provide;**
- **Clients trust you to provide them with a competent standard of legal services;**
- **Clients are confident that you act in their best interests, and that you have the appropriate resources, skills, procedures and intentions in place for this;**
- **Clients are aware of any limitation or conditions resulting from your relationship with a third party which may affect or limit the steps you can take on their behalf.**

Demonstrating probity in your dealings with third parties helps you deliver these Outcomes and act in a principled manner:

1. **Maintain Proper Standards of Work. (Principle 2)**
2. **Act in the Best Interests of Your Clients. (Principle 3)**
3. You keep the interests of the Client paramount.
4. 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.

5. You do not take unfair advantage of third parties
6. You promote ethical practice and compliance with regulatory requirements.

You must also comply with the following specific requirements unless you are able to satisfy the CLC, or relevant disciplinary committee, that you are acting in a way which is consistent with the Principles and delivery of the applicable Outcomes:

7. You do not have dealings with any unqualified third 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).
8. You report to the CLC (without submitting your transaction file) where an unqualified person is carrying on reserved legal activities including conveyancing which appears to be or to have been a breach of s.14-16 Legal Services Act 2007.

Dealing with Unqualified Third Persons

9. You :-
 - (a) extend your duty of care to persons who are not clients but who, to your knowledge, rely and act on the legal advice you provide (as provided by Hedley Byrne v Heller [1964] AC 465);
 - (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 an Unqualified Third Person 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 Unqualified Third Person 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 CHAPs 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.

Guidance

Information

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 an unqualified person carries out reserved instrument activities, the unqualified conveyancer'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 unqualified person to provide a draft contract or transfer or to progress the transaction.
3. An undertaking offered by an unqualified 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.

Guidance

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 Legal Services Act 2007).
5. If unable to obtain that confirmation you should write immediately:-
 - (a) to the unqualified conveyancer:-
 - (i) asking for an explanation why the prohibition under s.14-16 Legal Services Act 2007 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 unqualified conveyancer unless clear evidence is forthcoming.

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.

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

Outcomes-Focused

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

- **Clients are able to make informed decisions about the services and options available to them;**
- **Clients trust and value the service you provide and feel adequately protected; and**
- **Clients are confident that they receive independent representation and advice.**

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

1. **Act with independence and integrity. (Principle 1)**
2. **Maintain proper standards of work. (Principle 2)**
3. You keep the interests of the Client paramount.
4. You do not allow your independence to be compromised.
5. You act honestly, professionally and decently.
6. 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.
7. You do not allow fee arrangements to prejudice your independence or professional judgement.
8. You provide the Client with all relevant information relating to any fee arrangements.

9. You promote ethical practice and compliance with regulatory requirements.
[1-9 taken from CoC]

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

- 10. When accepting instructions, you inform the Client in writing:-
 - 10.1 of the existence of any arrangement for the introduction of the Client to the body by another person; and
 - 10.2 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.
- 11. When introducing a Client to another person you inform the Client in writing:-
 - 11.1 of the existence of any arrangement for the introduction of the Client by the body to 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.



Estimates & Terms of Engagement Code & Guidance

Estimates & Terms of Engagement Code

Outcomes-Focused

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

- **Clients are able to make informed decisions about the services and options available to them;**
- **Clients are confident that you act with reasonable care, skill and diligence;**
- **Clients are aware of who is dealing with their matter and who is responsible for overall supervision;**
- **Clients are able to make informed decisions about the services they need, how the matter will be handled and the options available to them.**

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. (Principle 1)**
2. **Maintain proper standards of work. (Principle 2)**
3. **Act in the best interests of your Clients. (Principle 3)**
4. **Promote equality of access and service. (Principle 6)**
5. You act honestly, professionally and decently.
6. You do not give false or misleading information relating to the provision of Regulated Services.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the Outcomes:

Estimates

7. Any estimate of costs is capable of being stored on a Durable Medium and states:-
 - 7.1 the name of the Client, and the nature of the transaction;
 - 7.2 the basis on which fees for abortive work will be payable;
 - 7.3 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);
 - 7.4 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);
 - 7.5 where the total sum payable as estimated under paragraph 7.3 is likely to be exceeded that the Body will advise the Client of that fact and provide an explanation and a revised estimate;
 - 7.6 in respect of paragraphs 7.3 and 7.4:
 - 7.6.1 unless otherwise stated fees will be deemed to be inclusive of the costs of post, telephone calls, facsimile communications and email;
 - 7.6.2 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.
 - 7.6.3 a disbursement means any payment made or for which a liability to pay has been incurred by a 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.
 - 7.6.4 the Client is advised where it is not possible to provide an estimate of fees and disbursements because the relevant information is not available.

8. If it becomes apparent that the total sum payable as estimated under paragraph 7 is likely to be exceeded or that the relevant information has become available, as soon as practicable you:-
 - 8.1 advise the Client; and
 - 8.2 provide the Client with a written explanation on a Durable Medium.

9. 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

10. You provide Clients with Terms of Engagement with a request that the Client confirms their agreement to the terms.
11. The Terms of Engagement are drafted in sufficient detail and with sufficient clarity so as to be readily understandable to the Client.
12. The Terms of Engagement include:-
 - 12.1 your name, address, telephone and other contact details;
 - 12.2 if not included in paragraph 8.2, the names of all your Managers;
 - 12.3 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;
 - 12.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);
 - 12.5 the name of the individual to whom any complaint should be made;
 - 12.6 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).
 - 12.7 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. A copy of, and any evidence that the Client has agreed, the estimate and

Terms of Engagement is kept on a Durable Medium.

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 Conveyancing Files Code & Guidance, paragraph 5 of the Suggested Approach)
 - The wording suggested at 7 of Combating Anti Money Laundering and Terrorist Code and Guidance – *Suggested Wording to be incorporated into the Terms of Engagement.*



In the event of Absence, Incapacity or Death - Code & Guidance

In the event of Absence, Incapacity or Death Code

Outcomes-Focused

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

- **Clients trust you to provide them with a competent standard of legal services;**
- **Clients are aware of who is dealing with their matter and who is responsible for overall supervision**

Minimising the inconvenience to the consumer in exceptional circumstances/ an emergency situation helps you deliver these Outcomes and requires you to act in a principled manner:

1. **Maintain Proper Standards of Work (Overriding Principle 2)**
2. You systematically identify and mitigate risks to the business and to Clients;
3. You maintain proper governance, management, supervision, financial, and risk management arrangements and controls.

You must also comply with the following specific requirement unless you are able to satisfy the CLC, or relevant disciplinary committee, that you are acting in a way which is consistent with the Principles and delivers the applicable Outcomes:

4. You make provision for alternative supervision arrangements in case of illness, accident or other unforeseen event.

Guidance & Possible Arrangements

Purpose of Guidance

The purpose of this Guidance is to remind you of the importance of protecting your business in an emergency such as incapacity or death. It is particularly relevant for Sole Practitioners. The Guidance is intended to highlight issues which may arise and suggest possible solutions. However, it is up to you to decide what options best suit your own circumstances to enable the business to deliver positive Outcomes for Clients even in exceptional circumstances/an emergency.

Identifying Suitable Practitioners

1. You should appoint a suitable individual as attorney (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.
2. 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

3. Specific Authority - Arrangements may be made with a bank for named Attorneys to operate specific bank accounts.
4. Power of Attorney - May be of general or specific application. Each of these forms of authority ceases to have effect when either a Licensed Conveyancer or their attorney becomes incapable or dies.

Incapacity

5. 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

6. 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 - 'Fit & Proper' Issues

Outcomes-Focused

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

- **Clients trust and value the service you provide and feel adequately protected;**
- **Clients are confident that you comply with the law;**
- **Clients trust you to provide them with a competent standard of legal services;**
- **Clients are confident that you act in their best interests, and that you have the appropriate resources, skills, procedures and intentions in place for this;**
- **Clients trust you to treat their affairs confidentially except as required or permitted by the law or with the Client's consent;**
- **Clients are confident that their information is processed in accordance with data processing law and good practice.**

Making sure both you and the CLC are aware of 'fit and proper' issues concerning your stakeholders helps you deliver these Outcomes and requires you to act in a principled manner:

1. **Act with independence and integrity. (Principle 1)**
2. **Maintain proper standards of work. (Principle 2)**
3. **Act in the best interests of Clients. (Principle 3)**

4. Deal with regulators and ombudsmen in an open and co-operative way. (Principle 5)

5. You act honestly, professionally and decently.
6. You systematically identify and mitigate risks to the business and to Clients.
7. You keep the interests of the Client paramount.
8. You systematically identify, monitor and manage risks to the delivery of the Code of Conduct's outcomes.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

9. You have systems and controls in place to enable you to identify each of the factors set out at requirements 11 and 12.
10. You promptly notify the CLC when you identify any factor set out at requirement 11 and 12 as a result of compliance with requirement 6.
11. Except with the permission of the CLC, you do not employ or pay any person to provide Regulated Activities where you know, after making reasonable enquiries, that that person:
 - is subject to an Order of Licence revocation, suspension or disqualification;
 - has been convicted of a criminal offence involving fraud, dishonesty or deception or an indictable offence which has not been spent by virtue of a period of rehabilitation without offending under the Rehabilitation of Offenders Act 1974;
 - has had the CLC's statutory powers of intervention exercised against them or a CLC regulated body in which they were a principal, partner, manager or employee;
 - has had had an Order made against them by a professional body (other than an Order which provides only for the payment of costs by them) of which they were a member; or
 - has been found guilty of an offence under section 44(1), (1A) or (1B) or subject to a section 43(2) Order under the Solicitor's Act 1974.
12. You promptly notify the CLC if you or any Manager, Head of Legal Practice, Head of Finance and Administration or owner of the entity is likely to be a risk to the interests of Clients or to any of the other regulatory objectives because you or they:-
 - are a person to whom any of the provisions of requirement [11] applies;
 - have breached this Code;
 - have failed to satisfy a civil judgement within the time limited;
 - are an undischarged bankrupt or have made a composition or arrangement with creditors unless:-

- the bankruptcy is annulled on the grounds that you or they ought not to have been adjudged bankrupt or, you or they are not subject to bankruptcy restrictions or an interim order as the debts have been paid in full on the annulment date; or
- the composition or arrangement of debts is paid in full on the date on which payment is completed or within five years from the date on which the terms of the deeds of composition or arrangement are fulfilled;
- 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, a CLC regulated body which has had its authorisation refused, revoked or made subject to conditions;
- have been a Licensed Conveyancer in, or Manager of, an entity regulated by another Approved Regulator or Licensing Authority which has had its licence to practise refused, revoked or made subject to conditions
- are the subject of an order made by an Approved Regulator or Licensing Authority (including the CLC) or on appeal from such an order;
- were a Licensed Conveyancer in or Manager of a body at the time of an act or omission resulting in the body being subject to an order made by an Approved Regulator or Licensing Authority (including the CLC);
- is not a suitable person to be engaged in the direction or ownership of a body by reason of character, conduct or association and in particular been in breach of statutory requirements regarding payment of tax or for a licence;
- have been disqualified by order from holding office as a Manager;
- lack capacity within the meaning of the Mental Capacity Act 2005 and powers under section 15 to 20 or section 48 have been exercised
- have been disqualified from being a Director of a company;
- have been disqualified from acting in any capacity for a legal services, financial or other provider;
- any adverse finding by a civil court or employment tribunal;
- any disciplinary proceedings commenced by a regulatory or professional body;
- has been charged, cautioned or convicted for a criminal offence.



Promote Equality of Access & Service Code & Guidance

Promote Equality of Access & Service Code

Outcomes-Focused

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

- Clients feel their interests are actively promoted and protected;
- Clients are confident that the legal services sector is accessible to them and responsive to their needs;
- No Client is unlawfully discriminated against.

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 do not discriminate (directly or indirectly) against, victimise or harass any Client, employee, colleague, job applicant or third party.
3. You comply with relevant equalities legislation.
4. You make reasonable adjustments to prevent persons with disabilities from being placed at substantial disadvantage.
5. You provide equal opportunities for all partners, employees or applicants.

You must also comply with the following specific requirement, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with Principle 6 and delivery of the applicable Outcomes:

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

Equality of Access & Service Guidance

Purpose of this guidance

This guidance aims to help you deliver these Outcomes by providing you with an overview of the effect of the Equality Act when it comes fully into force. It provides you with general guidance about the 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.

Guidance – the Equality Act

Scope of the Equality Act 2010

1. The Equalities Act 2010 received Royal assent on 8 April 2010. The Government Equalities Office currently envisages that the provisions in the Act will come into force as follows:
 - **October 2010:** Main provisions.
 - **April 2011:** The integrated public sector Equality Duty, the Socio-economic Duty and dual discrimination protection.
 - **2012:** The ban on age discrimination in provision of goods, facilities, services and public functions.
 - **2013:** Private and voluntary sector gender pay transparency regulations (if required) and political parties publishing diversity data.
2. The Act not only amalgamates existing discrimination law but strengthens the law by:
 - protecting a broader range of characteristics,
 - providing dual discrimination protection and
 - extending the duties regarding age, sexual orientation and religion or belief.

Characteristics protected by the Act

3. 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?

- 4.1 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.
- 4.2 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.
- 4.3 You are permitted to take positive action. This means you can take action which is a proportionate means of addressing disadvantage or under-representation experienced by people who share a protected characteristic e.g. when deciding who to recruit, promote or train, an employer takes into consideration where people having the protected characteristic are at disadvantage or are under-represented. This can be done only where the candidates are as qualified as each other.

- 4.4 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.
- 4.5 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?

5. 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> <p>Also includes dual discrimination because of a combination of two protected characteristics.</p>
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 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

- 6.1 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.

- 6.2 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.
- 6.3 The definition of what constitutes 'reasonable' is based upon a 'substantial disadvantage' or 'unreasonably adverse experience' threshold.

Service Provision

7. 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

- 8.1 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).
- 8.2 As an employer you are responsible for the actions of your employees and as a principal you are responsible for the actions of agents.
- 8.3 Employers of 250 or more people will be required to publish gender pay gap (the size of the difference between men and women's pay expressed as a percentage) information about differences in pay between men and women.

Partnerships

9. 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)

10. 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

- 11.1 You must not discriminate or harass due to the end of a service or employment relationship.
- 11.2 You must not instruct, cause or induce another party to contravene the Act's duties.

Family Law

12. 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

13. 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

- 14.1 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.
- 14.2 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 Principle to *Promote Equality of Access and Service*.

More detail

15. More of the detail on the Act's provisions is found in Annex A.

Promote Equality of Access and Service - Suggested 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 it offers you the minimum that the CLC considers is likely to be needed for compliance. It is likely that each individual business will need to amend this policy to ensure that it matches your particular circumstances. The Policy you adopt should take into account how many employees it has, the nature of its work and its clients.

Equality & Diversity Policy

1. Our commitment

<p>We are committed to:</p> <ul style="list-style-type: none">• recognising diversity;
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- 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 their access to 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 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.



Student Training Code & Framework

Outcomes-Focused

This Code seeks to ensure that only those able and committed to delivering the CLC's Code of Conduct's Outcomes for Clients are awarded a Practising Licence.

Student Training Code

Application Provisions

1. Your student application must be in the form prescribed by the CLC and accompanied by the required fee.
2. Your application and any notice given to the CLC should be addressed to the CLC's offices at 16 Glebe Road, Chelmsford, Essex, CM1 1QG or to such other address as may be designated by the CLC.
3. Your application must be fully completed and demonstrate to the satisfaction of the CLC that you are a fit and proper person to be registered as a student.
4. If the CLC thinks appropriate, you must support your application with a statutory declaration and produce such other evidence requested to support your application.

Application Determination

5. If your application is not accepted and you wish to appeal this decision you must apply in writing to the CLC within 28 days of receiving notification of the application refusal.

Practical Training

6. As a CLC registered student you must complete your practical training and produce evidence of this to the CLC on its request in such form as it may require.

7. Practical training required by requirement 6 is that stage of training: -
 - (a) when you are engaged: -
 - (i) in the provision of conveyancing services for, or for the equivalent of, two years on the basis of a working week of 25 hours; and
 - ii) under the supervision of a qualified person; and
 - (b) which in the opinion of the CLC is current and relevant and of an adequate standard.

Qualification and Examinations

8. You must attend CLC qualifying examinations.
9. If, having presented yourself for a CLC qualifying examination and you consider your performance to have been adversely affected as a result of illness or exceptional circumstances you should apply to the CLC within 21 days of the examination for a concession to be granted.
10. If in its consideration of your concession application, the CLC thinks fit, you must:
 - (a) support your application by a statutory declaration and production of other evidence requested; and/or
 - (b) attend an interview; and/or
 - (c) comply with any other steps the CLC considers necessary.

Annual Registration

10. As a registered student you must pay to the CLC on the first day of September (or such other date as the CLC may determine) each year the annual registration fee as prescribed by the CLC.

Student Training Framework

Registration Determinations

1. The CLC will notify the applicant of its determination of their application within 28 days of its receipt.
2. The CLC will give reasons for refusing any application.
3. If a refusal is appealed the CLC shall convene a meeting of the Adjudication Panel to determine the application.
4. The CLC shall notify the applicant of the Panel's determination not more than three months after the appeal has been lodged.

Practical Training

5. The CLC will judge the standard to be adequate if the registered student has gained practical experience as certified in any 'Final Checklist for Practical Training' which may be issued by the CLC from time to time.

Assessment and Qualifying Examinations

6. The CLC determines the syllabus.
7. The CLC may provide:-
 - (a) for examination and assessment of various types and levels and at different times;
 - (b) for limiting the number of times candidates who may attempt any qualifying examination and the effect of failure to achieve the required standard; and
 - (c) the maximum period during which candidates must successfully complete all qualifying examinations and the effect of failure to do so within that time limit.
8. Qualifying examinations will be held on dates determined by the CLC.

Examination Concessions

9. The granting of a concession is at the discretion of CLC which may:-
 - (a) grant a concession with or without conditions; or
 - (b) refuse the application.
10. In determining your application for concession the CLC will take account of the results obtained by the candidate in the examination to which the application relates.
11. The granting of a concession can be made by CLC staff or the Exam Board. If a concession is refused, within 28 days after the CLC has sent notification of its determination the applicant may appeal to the CLC Adjudication Panel which will review the decision.

Examination Exemptions

11. The CLC may grant a registered student exemption from a qualifying examination subject to such terms and conditions it imposes.



Management & Supervision Arrangements Code

Outcomes-Focused

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

- **Clients are confident that you act with reasonable care, skill and diligence;**
- **Clients trust and value the service you provide and feel adequately protected.**

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

1. **Maintain proper standards of work. (Principle 2)**
2. **Act in the best interests of your Clients. (Principle 3)**
3. You maintain proper governance, management, supervision, financial and risk management arrangements.
4. You maintain proper records to evidence your governance, management, supervision, financial and risk management arrangements and controls and how they are applied.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

5. A Manager who is a Qualified Person is responsible for supervising the Conveyancing Services provided by his employees.
6. You have arrangements in place to ensure compliance with the CLC Code of Conduct and these arrangements are being operated.
7. Alternative arrangements for supervision are capable of being implemented promptly when effective supervision is at risk because of illness, accident or other unforeseen cause.

Guidance/Information

1. Factors in determining whether the work is being effectively supervised include:-
 - (a) the number of Qualified 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 a Qualified Person to monitor incoming and outgoing Communications.
2. The term “arrangements” is used to include all systems, procedures, processes and methods of organisation to ensure compliance with the Code of Conduct and other regulatory arrangements. The way in which they are implemented 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.



Professional Indemnity Insurance Code

Outcomes-Focused

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

- **Clients feel their interests are actively promoted and protected;**
- **Clients are confident you operate in accordance with regulatory requirements.**

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 Clients. (Principle 3)**
2. **Deal with regulators in an open and co-operative way. (Principle 5)**
3. You only provide Regulated Services whilst you have professional indemnity insurance in force.
4. 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.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

5. 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.
6. You promptly notify insurers in writing of any facts or matters which may give rise to a claim under the CLC's Indemnity Policy.

Professional Indemnity Insurance

7. You must have professional indemnity insurance in place at all times with an Authorised Insurer when you are providing CLC regulated services either through the CLC's Master Policy or through a policy which the CLC is satisfied in all its conditions and cover is at least equivalent to the cover provided under the CLC Master Policy.
8. You must:
 - 8.1 Pay the applicable annual premium for Master Policy cover;
 - 8.2 Comply with the Insurance terms as apply to you;
 - 8.3 Comply with the Self Insured Excess Policy and such other policies as the CLC may issue;
 - 8.4 Produce a current Evidence of Insurance when requested by the CLC;
 - 8.5 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-regulated body or when any Evidence of Insurance is avoided.

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

9. Any professional indemnity policy obtained other than through the CLC's Master Policy must:
 - 9.1 have in place a professional indemnity policy which the CLC is satisfied in all its conditions and cover is at least equivalent to the cover provided under the CLC Master Policy ; or
 - 9.2 to the extent it is not in its conditions and cover at least equivalent to the cover provided under the CLC Master Policy obtain supplemental cover from an Authorised Insurer so that the CLC is satisfied that the combined effect of the original and supplemental policy is in its conditions and cover at least equivalent to the cover provided under the CLC Master Policy.

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

10. If on application:
 - 10.1 you satisfy the CLC that the EU body that you are Manager of 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 requirement 7 whilst the EU Professional Cover (and any agreement with the cover provider) remains in force and is complied with;
 - 10.2 you satisfy the CLC that the EU body you are Manager of has Partial EU Professional Cover then the EU body and its Managers shall be exempted from the obligation to comply with regulation 7 whilst the Partial EU Professional Cover (and any agreement with the cover provider) remains in force and is

complied with on condition that they take out and maintain a CLC Supplemental Policy.

Claims

- 11.1 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

- 12.1 Your self-insured Excess must not 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 £501,000 and £1,000,000;

and this is subject to the overriding requirement that the CLC is satisfied with the body's proposal to avoid additional exposure of the CLC's Compensation Fund to unpaid excesses.

- 12.2 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.

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

Guidance

1. A Licence will not be issued to a Licensed Conveyancer Manager unless the applicable Evidence of Insurance for your Recognised or Licensed Body has been produced to the CLC.
2. As a guide to the provisions under requirement 12.2 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

Information

1. The CLC's requirement for all CLC regulated bodies to have professional indemnity insurance cover in place at all time whether through the CLC's Master Policy or through another policy it has approved provides protection for both CLC regulated bodies and their clients by covering negligence; acts, errors and omissions; breach of duty; civil liability; and fraud claims. 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.

2. 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 8.5.



Undertakings Code & Guidance

Introduction

An undertaking is an unequivocal declaration of intention addressed to someone who reasonably places reliance upon it. It need not be in writing nor contain the word “undertake” to be enforceable.

Undertakings Code

Outcomes-Focused

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

- **Clients are confident that you act with reasonable care, skill and diligence.**

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

1. **Maintain proper standards of work. (Principle 2)**
2. You comply fully with any undertaking given by you.
3. You act only within your professional competence.
4. You keep the interests of the Client paramount.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with this Principle and delivery of the applicable Outcomes:

5. You keep the Client informed if you are unable to do work within a reasonable timescale after receiving instructions.
6. 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.

7. 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.
8. 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.
9. Where you have given an undertaking to redeem a mortgage or charge you redeem it immediately following completion of the transaction occasioning the redemption.
11. 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.

Guidance

Information

1. Neither the CLC nor its Discipline and Appeals Committee 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.

Suggested 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 the Principle of Maintain Proper 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” to 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.



Acting as Insurance Intermediaries Code & Guidance

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.

These requirements apply to all CLC bodies except where a body is a sole practitioner.

Acting as Insurance Intermediaries Code

Outcomes-Focused

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

- **Clients feel their interests are actively promoted and protected;**
- **Clients trust and value the service you provide and feel adequately protected;**
- **Clients are confident that any arrangements you have for the referral of work are consistent with your obligations to the Client, the CLC and the law;**
- **Clients are aware of the name and status of the person dealing with their matter and the name of the person responsible for overall supervision;**
- **Clients are confident you operate in accordance with regulatory requirements.**

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. (Principle 1)**
2. **Maintain proper standards of work. (Principle 2)**
3. **Act in the best interests of your Clients. (Principle 3)**

4. Promote equality of access and service. (Principle 6)

5. You do not give false or misleading information relating to the provision of Regulated Services.
6. You act honestly, professionally and decently.
7. You only recommend a particular person, business or product when it is in the best interests of the Client.
8. You provide the Client with all relevant information relating to any fee arrangements.
9. You act only within your professional competence.
10. You keep the interests of the Client paramount.
11. You promote ethical practice and compliance with regulatory requirements.
12. You co-operate with other regulators and ombudsmen.

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

13. Subject to Requirement 17 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.
14. To effectively oversee Regulated Activities you appoint a Manager as the person who:-
 - 14.1 is responsible for ensuring the body has procedures and practices to enable it to comply with this Code;
 - 14.2 will supply to the CLC or its agents information as required by the CLC; and
 - 14.3 will notify the CLC immediately and in any event no later than seven days after each such appointment is made.
15. 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.
16. 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.

17. 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 the Treasury under section 327(6) FSMA.
18. 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).
19. You do not carry on, nor hold the body out as carrying on, a Regulated Activity other than one which is permitted by this Code or one in relation to which it is a FSMA Exempt Person.
20. You do not carry on any Insurance Mediation Activity unless it is included in the Insurance Intermediaries Register.
21. 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.
22. The body and all of its Principals comply with the terms and provisions of the CLC's Acting as an Insurance Intermediary Code.

Acting as Insurance Intermediaries

Insurance Intermediaries Register

23. 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 Practices to the FSA.
24. Unless trading as a Sole Principal, you nominate one of your Principals to be listed on the Register as the main contact, with all correspondence relating to Insurance Intermediary Activities is addressed to that individual.
25. You check that the body is listed on the Insurance Intermediaries Register before conducting any activity covered by paragraph 4 of the Guidance.
26. You promptly inform us of any changes required to your entry in the FSA's register.

Notifications provided to clients

27. 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 (paragraph 33). To comply with Distance Marketing Regulations that information must be provided on a Durable Medium as soon as possible.

Passporting

- 28. 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).
- 29. 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)

- 30. All information under paragraphs 31 and 32 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.
- 31. Before providing Regulated Activities, you provide the following information on a Durable Medium to the client:-
 - 31.1 the name, address, telephone and other contact details of the Licensed Conveyancer;
 - 31.2 if not included in 31.1, the names of the partners or directors of the Licensed Conveyancer.
 - 31.3 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;
 - 31.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);
 - 31.5 the name of the individual to whom any complaint should be made;
 - 31.6 an explanation of the procedure to be adopted where the Client is dissatisfied with the services or conduct of a Licensed Conveyancer which must

include the name and address of the CLC and the Legal Ombudsman (see further CLC Complaints Code & Guidance).

31.7 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”).

31.8 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’”.

32. 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 on a Durable Medium:-

32.1 if it has not already been provided on a Durable Medium

32.2 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;

32.3 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 CLC Body;

32.4 whether the CLC Body has given or will give advice:-

32.4.1 on the basis of a fair analysis of the market; or

32.4.2 from a limited number of insurance undertakings; or

32.4.3 from a single insurance undertaking;

32.5 if paragraph 32.4.2 or 32.4.3 applies you must disclose whether the body is contractually obliged to conduct Insurance Mediation Activity in this way;

32.6 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;

32.7 based on the information provided by the Client, a statement, reflecting the complexity of the contract proposed, that:-

32.7.1 sets out the Client’s demands and needs;

32.7.2 confirms whether or not advice on the contract has been given to the Client;

32.7.3 explains the reasons for giving advice on the contract where such advice is given to the Client.

33. You may provide the information at paragraphs 31 and/or 32 orally only if:

33.1 the Client requests it; or

33.2 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.

34. When informing the Client that advice is given on the basis of a fair analysis, in accordance with paragraph 32.4, you must:

34.1 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

34.2 explain to the Client that it has done so.

Accounting to the Client

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

Other

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

Guidance

Legislative Background

1. The Insurance Mediation Directive requires that arrangers or sellers of insurance products be regulated. Generally providers must be regulated by the FSA (known as 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 CLC 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 13 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, 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."
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.

The meaning of "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 Activities which arise out of, or are complementary to, the provision by the Practice of that Regulated Service to that Client (s.332(4) FSMA and requirement 13); and
 - (ii) Any service provided in the course of carrying on a Regulated Activity must be incidental to the Professional Services you provide (s.327(4) FSMA and requirement 13).
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 Activity, 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 the licensed conveyancer may arrange a missing landlord indemnity policy on behalf of that buyer. He may not arrange that same policy to a different client as a stand alone product.

The meaning of "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 the Client that you receive commission. Unless the client agrees to you keeping it, the commission belongs to the Client and must be paid to the Client. 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 CLC Body is in breach of the Code the CLC, may:-

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



Conveyancing Files Code & Guidance

Conveyancing Files Code

Outcomes-Focused

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

- **Clients trust you to treat their affairs confidentially except as required or permitted by law or with the Client's consent;**
- **Clients are confident that their information is processed in accordance with data processing law and good practice.**

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. (Principle 3)**
2. You disclose Client information only as you have been instructed (or as required by the CLC's Codes or by law), keeping effective records

You must also comply with the following specific requirements, unless you are able to satisfy the CLC, or the relevant disciplinary committee, that you are acting in a way which is consistent with these Principles and delivery of the applicable Outcomes:

3. You disclose client information only as you have been instructed (or as required by the CLC's regulatory requirements or by law), keeping effective records of any disclosure you make.

File

4. 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.

5. 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

6. Originals must only be handed to one Client with the consent of any other Client.
7. You must provide each Client with a copy without charge.
8. You should release copies to third parties only with the consent of all Clients.

Joint retainers –Client and lender

10. 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.

Guidance

1. Conveyancing 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;
 - 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 lenders.
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 Recognised Body from third parties.

In the case of joint Clients these documents belong to the Clients jointly.

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 be capable of being determined only if the original is produced.

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 Recognised 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 a request for the file or part of it is made by or on behalf of a lender, you should determine the ownership of the various papers in accordance with paragraphs 2 and 3 above. 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).

Suggested 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 the Principle of Act in the best interests of your Clients

~

1. To make a copy (without charge) for its own benefit of any documents released;

2. Where documents are requested with a view to any claim being made against it:
 - not to make any admission of liability;
 - to notify insurers of the circumstances (as required by the Code of Conduct);
 - to 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) to make a reasonable charge.
 5. 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.

Retention and Destruction of the file contents.

6. The CLC recommends:
 - (a) the contents of files relating to the sale of property are retained for a minimum of six years;
 - (b) the contents of any other file are retained for a minimum of fifteen years;
 - (c) after the relevant minimum period, and provided you have the Client's authority, you review the file to decide whether it may be safely destroyed;
 - (d) you consider retaining separately and for a longer period the authority from the Client.
7. If the matter involved a mortgage, then any specific requirements of the particular lender should be taken into account.



Licensed Conveyancer Licensing Framework

Outcomes-Focused

Only those individuals able and willing to deliver the Code of Conduct Outcomes through a principled manner are licensed as CLC Licensed Conveyancers.

Application For and Grant of a Licence

1. An applicant applying for the first time to be issued with a licence must be a 'fit and proper'¹ person to practise as a Licensed Conveyancer and have either:
 - (a)
 - (i) passed the CLC's Qualifying Examination; and
 - (ii) completed the CLC's Practical Training requirements; or
 - (b) demonstrated to the satisfaction of the CLC, in accordance with the terms and conditions prescribed, that you have the relevant educational and professional qualifications and experience in the provision of the Regulated Services for which you have asked to be licensed.
2. They must deliver to the CLC's offices:
 - (a) a correctly completed application in the form prescribed by the CLC; and
 - (b) the fee payable.
3. If applying for a Licence they must, if applicable, also deliver to the CLC's offices the additional fee payable as prescribed by the Fees Payable Structure if as a Manager you have failed to deliver to the CLC an Accountant's Report within the period required by the Accounts Code.

Licence Requirements

4. A licensed conveyancer can only provide Regulated Services to the public:
 - (a) as a Manager of a CLC Body;

(b) as a Manager of a body regulated by a Legal Regulator or a Licensing Authority other than the CLC; or
(c) if neither 4(a) nor 4(b) is applicable, as an employee of a CLC Body, or of a body regulated by a Approved Regulator or a Licensing Authority other than the CLC;

and a Licence will be endorsed to this effect.

5. The CLC must be satisfied of the applicant's capability and willingness to comply with the CLC Code of Conduct and other CLC Codes.
6. They must comply with any conditions which the CLC decides to endorse on their licence, otherwise enforcement action will be taken.
7. They must return their licence promptly to the CLC should they cease to be eligible to remain a licensed conveyancer, or should the CLC demand return of the licence.
9. Whilst a licence is in force a licensed conveyancer must notify the CLC of any changes to information provided under 2(a) within seven days of becoming aware of such changes.

Applications to remove or vary conditions

10. If an application for the removal or variation of a condition on a Licence is made, the applicant must provide the CLC with a completed application and the prescribed fee.

Useful Information for licensed conveyancer applicants

Application

11. The CLC will deem a Licence application to have been made on the day on which you have complied fully and finally with the requirements of 2.
12. In considering an application for a Licence the CLC may, at its discretion, require you to attend for interview.
13. You may, when applying for a Licence, apply in addition for a duplicate Licence which, if issued, shall be free of charge. If you apply to the CLC at any other time for a duplicate Licence a fee is payable.

The Licence

14. Licences are in the form prescribed by the CLC and, subject to the entitlement of the CLC to issue Licences subject to conditions which vary these periods, are valid:
 - (a) for three years when they are first issued; and
 - (b) for an indefinite period on renewal.

Licence Refusal

18. The CLC may refuse your Licence application if:
- (a) you have not complied with requirement 2;
 - or
 - (b) it is not satisfied that you are a fit and proper person to practise as a licensed conveyancer

Licence Conditions

19. Any Licence may, at the time of its grant or subsequently, be endorsed with such conditions as the CLC thinks fit. At its discretion, and at any time, the CLC may remove any condition imposed.
20. Where an endorsement, amendment or removal of an endorsement of a Licence is made the CLC shall record this in the register maintained under Section 19 of the 1985 Act.
21. The CLC may refuse an application for the removal or variation of a Licence condition if:
- (a) you have not complied with requirement 2; or
 - (b) it is not satisfied that you are a fit and proper person to practise with the removal or variation of such a condition on the Licence.
22. Where a Licence condition application has been made the CLC will notify you of its decision within 42 days of its receipt of the application. Should the applicant not hear from us in this period, the application will be deemed to have been refused.
23. When the CLC agrees to the removal or amendment of all or any of the conditions imposed, those conditions will remain effective until the Licence is delivered to the CLC's offices together with the fee payable.

Entitlement to appeal

24. Subject to section 15(3) of the 1985 Act and requirement 22 (as applicable), in any case where it decides to refuse an application for a Licence or for the removal or variation of a condition on a Licence the CLC will notify you of the refusal of the application and of the grounds on which it has been refused.
25. The CLC's decision may be appealed under section 29 of the 1985 Act.

Fees

26. Fees payable are those prescribed by the CLC's Fees Payable Structure.



Council for

Licensed Conveyancers

Litigation & Advocacy Supplementary Code

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

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 them 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:

- **Clients are confident you act in the interests of justice;**
- **Clients consider that you act in good faith towards them**

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



Recognised Body Certification Framework

Outcomes-Focused

Only those bodies able and willing to deliver the Code of Conduct's Outcomes by acting in a principled manner are licensed as CLC Recognised Bodies.

Application for and Grant of a Certificate of Recognition

1. A licensed conveyancer or other Authorised Person can apply to provide Regulated Services to the public as a Sole Principal, partnership, a Limited Company or a Limited Liability Partnership.
2. A Recognised Body which is a Company must:
 - a) be registered in England and Wales under the Companies Acts;
 - b) have its registered office is in England and Wales and at the place, or one of the places, of business of the Company;
 - c) have at least one Licensed Conveyancer as a Managers and, one of the company's Managers who does not have to be a licensed conveyancer is appointed Chairman.
3. A Recognised Body which is Limited Liability Partnership (LLP) must:
 - a) be registered in England and Wales under the Limited Liability Partnerships Act 2000;
 - b) have its registered office is in England and Wales and at its place, or one of its places, of business;
 - (c) have at least two LLP Members, at least one of whom must be a Licensed Conveyancer;
 - d) have made provision in the event of deadlock a Qualified Person has a deciding vote in all matters.
4. If making a first-time application the applicant must deliver to the CLC offices the following:
 - (a) a CLC application form, correctly completed without amendment, and signed by a Manager who must be an Authorised Person (where an individual acts in more than one capacity they must sign in each capacity);

- (b) the fee payable;
- (c) evidence that you have received an quotation for professional indemnity insurance;
- (d) any contribution required towards the CLC's Compensation Fund

(e) Company applications must also be signed by the company secretary and accompanied by a copy of its Memorandum and Articles and a declaration it complies with this Framework; and

(f) a Company or LLP application must include its certificate of incorporation.

5. The applicant may be called to attend an interview with the CLC to discuss details of the application.
6. They must inform the CLC of any issues which may cause the body to be unable to meet the CLC Recognised Bodies provisions or:

(a)	The body has at any time had made against it:
	(i) one or more of the orders referred to in paragraphs 4(2), 4(2D) and 5(4) of Schedule 6 to the 1985 Act;
	(ii) an order of the High Court made under paragraph 6(1) or 6(1A) of Schedule 6 to the 1985 Act;
(b)	any charge or third party interest relating to a member or the body
(c)	If requirement 11 or 12 of the Notification Code apply to any Manager or employee.
(d)	Applicant fails to pay the application fee;
(e)	Applicant fails to provide evidence of compliance with the CLC Compensation Fund Code; or
(f)	any reason in the public interest that the CLC has identified.

in order that the CLC can take into account any 'fit and proper' issues which may impact upon the application's determination.

Licence Determinations

7. If an application is granted with conditions attached the conditions must be complied with.
8. If conditions are imposed during the currency of your certificate the certificate must be promptly delivered to the CLC for amendment and the conditions imposed must be complied with.
9. If making an application for removal or variation of certificate conditions at a time other than certificate renewal the applicant must use the appropriate CLC form,

- correctly completed and signed by a Manager and accompanied by the fee payable.
10. If an application is refused the applicant may appeal to the CLC Discipline and Appeals Committee within 28 days of receipt of the CLC's determination.

Application to Renew

11. An application to renew registration must be made before the current certificate expires and must include:
- (a) the fee payable according to the CLC's Fees Payable Structure;
 - (b) evidence of current compliance with the CLC's Professional Indemnity Code;
 - (c) any contribution required towards the CLC's Compensation Fund
 - (d) either a declaration that there have been no changes to your managers, owners or governance arrangements since the last renewal which have not been notified to the CLC; or provide details of any changes which have not been notified.

Duty to Notify

12. During the currency of a certificate the CLC must be notified of :
- i) Any change in circumstances identified in 2, 3 & 6 – notify within 14 days of becoming aware of it;
 - ii) A planned change of business or registered office address - notify not less than 28 days before the change is implemented;
 - iii) Any change of Managers – notify within 7 days of the change taking place;
 - iv) A breach of the CLC Code of Conduct Overriding Principles – notify within 14 days of the change taking place;
 - v) The body:
 - has a winding-up or administration order made on it; or
 - it passes a resolution for voluntary winding-up; or
 - where an administrative receiver of the body is recognised.– notify within 14 days of the change taking place.
 - vi) The body ceases to be registered as an LLP under the Limited Liability Partnerships Act 2000 – notify within 14 days of the change taking place
13. The body must have in place arrangements to ensure its Manager is promptly notified of any changes as identified above.
14. In an LLP of two Members, if one of them:

(a)	is committed to prison in civil or criminal proceedings; or
(b)	is unable, because of incapacity caused by illness, accident or age, to attend to the practice for a period of more than 14 days (or such other period as the CLC may determine); or
(c)	Lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20, or section 48, of that Act have been exercised in relation to him; or
(d)	abandons the LLP; or
(e)	has a licence issued by the CLC subject to a condition which would be breached by continuing as a LLP Member; or
(f)	is not a Licensed Conveyancer; or
(g)	Dies,

the remaining LLP Member must be an Authorised Person, and within 28 days of the occurrence (or the end of any time period determined under paragraph (b)) an additional person has become an LLP Member for the Certificate of Recognition to remain valid. You must notify the CLC of these changes.

15. Where a body's Manager:

(a)	is committed to prison in civil or criminal proceedings;
(b)	is unable, because of incapacity caused by illness, accident or age, to attend to the practice of the Recognised Body for a period of more than 14 days (or such other period as the CLC may determine);
(c)	lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20, or section 48, of that Act have been exercised in relation to him;
(d)	abandons the practice of the Recognised Body;
(e)	has a licence issued by the CLC subject to a condition which would be breached by continuing as a Manager; or
(f)	Dies;

there must be a Manager who is a Permitted Person, and within 28 days of the occurrence (or the end of any time period determined under paragraph (b)) an additional Manager who is a Licensed Conveyancer is in place for the Certificate of Recognition to remain valid. You must notify the CLC of these changes.

16. The body must not have as a Manager a person lacking capacity (within the meaning of the Mental Capacity Act 2005). No voting powers must be exercised in respect of any shares registered in that person's name.

Cessation of Recognition

17. Should the CLC determine that the body is presenting too much of a risk to the delivery of positive Outcomes for Clients, the CLC Body will be informed that the Certificate of Recognition will cease and it must be immediately surrendered to the CLC.
18. Any appeal must be made to the CLC Discipline and Appeals Committee within 28 days of receipt of notification of the CLC's determination.

Inspection and Discipline

19. To enable the CLC to investigate if there has been a contravention of its regulatory requirements, the CLC Body must provide the CLC with all the information it has requested. This may include its records, papers, files and financial accounts and must be held on a Durable Medium.

Useful Information for Recognised Body applicants

1. A Certificate of Recognition is valid for one year from date of issue (unless otherwise specified in the Certificate) and must be renewed on an annual basis. Any Certificate of Recognition issued remains the property of the CLC.
2. A renewed Certificate is deemed to have been issued the day following the expiration of the existing Certificate. If a new Certificate has not been issued prior to an existing certificate's expiry though a complete application has been made, it remains current until a new one is issued. If the renewal application is refused, the existing Certificate remains current within the period within which an appeal may be brought and if so, until the appeal is determined or abandoned.
3. Any document served on a body under this Framework will be posted to your principal office.
5. The CLC will notify you of its determination within 42 days of receiving a complete application. The CLC will determine one of the following three options:
 - (a) to grant a Certificate free of conditions; or
 - (b) to grant a Certificate which imposes conditions;
 - (c) to refuse the application.
6. When refusing an application, the CLC will notify you of the grounds on which the refusal was made. If you does not receive notification within the 42 day period the application is deemed to have been refused, and you are deemed to have been notified of this.
7. Conditions may result in you incurring expenditure and include:
 - (i) limiting the types of Regulated Services a body may provide; or
 - (ii) requiring the body to take specific steps the CLC deems conducive to safeguarding the interests of consumers or other regulatory objectives.
8. Any conditions imposed will take effect at the time the CLC directs e.g. a condition may take effect immediately, or may not have effect until after any appeal in relation to it.
9. A Certificate of Recognition automatically ceases to have effect if the CLC refuses to recognise an applicant or to continue to recognise a Recognised Body.
10. If it appears to the CLC that there has been a contravention of any of its regulatory arrangements, a Manager is liable to disciplinary proceedings and sanction:
 - under sections 24, 24A and 26 of the 1985 Act if he is a Licensed Conveyancer;

- under schedule 6 of the 1985 Act (whether or not he is a Licensed Conveyancer), and
- under schedule 6 of the 1985 Act as a Recognised Body.



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, authorised Approved Regulators to regulate Approved 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
Accounting Records	includes all documents or records on a Durable Medium necessary for the operation of a system of book-keeping
Accounting Period	the period for which the accounts of the Licensed Conveyancer 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 Practice in respect of each Accounting Period
Advocacy	representing a client's interests in court by exercising the rights of audience as set out in Section 119 of the Courts & Legal Services Act 1990
Aged Balance	(a) a sum outstanding to the credit of an individual ledger account; (b) where there has been legal completion of the Conveyancing transaction or it has become abortive; and (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.

Alternative Business Structure (ABS)	Firms providing legal services which have an element of external investment or ownership, enabled by the Legal Services Act 2007
AML/CTF Legislation	Anti Money Laundering Legislation and Combating the Financing of Terrorism Legislation and, in particular, <ul style="list-style-type: none"> • Proceeds of Crime Act 2002 (as amended); • Terrorism Act 2000 (as amended); and • Money Laundering Regulations 2007 (the Regulations).
Applicant	<ul style="list-style-type: none"> • any person who intends to apply, or is currently applying, for registration as an 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 an Alternative Business Structure licence
Approved Regulator	the CLC, the Law Society, the General CLC of the Bar, the Master of the Faculties, the Institute of Legal Executives, the Chartered Institute of Patent Attorneys, the Institute of Trade Mark Attorneys, the Association of Law Costs Draftsmen and such other bodies which are authorised to regulate providers of Reserved Legal Services
Articles	prescribe a company's regulations: setting out the relationships between shareholders and directors of the company as required by Section 18 of the Companies Act 2006
Attempt an examination	A candidate presenting his/herself for a qualifying examination whether or not an answer is submitted
Authorised Insurers	has the meaning given by Section 21(5) of the 1985 Act:- <ul style="list-style-type: none"> a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 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 sub-paragraph (i) or (ii) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member State other than the United Kingdom
Authorised Person	<ul style="list-style-type: none"> • a person authorised by an Approved Regulator to carry on reserved legal activities e.g: • a licensed conveyancer as defined by Section 11(2) of the 1985 Act; • a solicitor;

	<ul style="list-style-type: none"> a Fellow of the Institute of Legal Executives.
Bank	a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits
Beneficial Owner	the individual or company who is the ultimate beneficial owner of a firm
Brokers	the insurance brokers 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	a student registered with the CLC who sits or intends to sit a CLC Qualifying Examination
Client	Individual or business who/which has procured legal services from you, or may seek to procure such services
Conflicts of Interest	Separate duties to act in the best interests of two or more clients in relation to the same or related matters and there is a risk these duties conflict or there is a risk that your own interests conflict with your duty to act in the best interest of a client.
Customer Due Diligence (CDD)	Includes all of: <ul style="list-style-type: none"> o "Customer Due Diligence measures" (as defined by Regulation 5); o "Ongoing Monitoring" (as defined by Regulation 8(2)); o "Enhanced Customer Due Diligence measures" (as described in Regulation 14); o "Enhanced Ongoing Monitoring" (as referred to in Regulation 14).
Certificate of Recognition	a certificate issued by the CLC to a body corporate recognising it as a Recognised Body - under Section 32 of the 1985 Act - suitable to undertake the provision of CLC regulated services.
Claim	a claim or circumstance defined by the CLC's Master Policy
Claimant	any person making a claim for a grant from the CLC's Compensation Fund and where the context so admits shall include in the event of the death or insolvency of such person reference to his personal representative or his trustee in bankruptcy as the case may be
CLC Body	A body regulated by the CLC i.e. a CLC Recognised Body or a CLC Licensed Body
CLC Regulatory Arrangements	The rules set out by the CLC through its Codes
CLC Supplemental Policy	a contract of professional indemnity insurance, made between the Authorised Insurers and an EU Practice, which provides cover as modified in accordance with the the Indemnity Rules, or as otherwise determined by the CLC

Client	any person or persons for whom a Licensed Conveyancer acts or intends to act in the provision of services regulated by the CLC
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 Practice of the Licensed Conveyancer and in the title of which account the word 'Client' appears
Client Money	any money held or received for a Client by a Licensed Conveyancer incidental to the provision of services regulated by the CLC
Communications	communications sent by or on behalf of a Licensed Conveyancer or Recognised Body by post, by a telecommunication system or by other means whilst in an electronic form
Company	has the meaning given by section 735(1) of the Companies Act 1985 ... TBA
Compensation Fund	the fund out of which grants and other payments are made by the CLC for the purposes of relieving or mitigating losses incurred by the public due to negligence, fraud or other dishonesty as set out at section 21(2) of the 1985 Act
Code of Conduct	the professional principles which all members of the CLC regulated community must uphold
Continuing Professional Development	the minimum requirements of continuing education and training in recognised courses: <ul style="list-style-type: none"> • 6 hours in each year in which a limited licence is held; and • 12 hours in each year in which a full licence is held
Control	strategic management, risk management, accounting and financial controls (including supervisory and audit functions)
Conveyancing Services	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 as in the meaning given in section 11(3) of the 1985 Act
Costs	<ul style="list-style-type: none"> • includes fees, charges, expenses and remuneration charged to the Client by the Licensed Conveyancer and any Value Added Tax element • includes fees as defined by section 39(1) of the 1985 Act - "fees" includes charges, disbursements, expenses and remuneration
the CLC	the Council for Licensed Conveyancers established under section 12 of the 1985 Act
the CLC's Statutory Duty	to ensure that the standards of competence and professional conduct among persons who practise as Licensed Conveyancers are sufficient to secure adequate protection for consumers, and that the Conveyancing

	Services provided by such persons are provided both economically and efficiently
Disbursements	any payment made, or for which a liability to pay has been incurred, by a Licensed Conveyancer 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	Committee established under Section 25 of the 1985 Act to hear and determine appeals and cases referred to it by the Investigating Committee.
Divestiture	Where there are concerns of improper influence the CLC has the right to apply for the Licensed Body's owner to have their shareholding withdrawn.
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
Energy Performance Certificate (EPC)	Records how energy-efficient a property is as a building and provides A-G ratings. Must be produced by the property seller within 28 days of putting it on the market.
Enforcement	action taken by the CLC in response to a regulatory breach
Equalities Legislation	Equality Act 2010
European Lawyer	a European Lawyer as defined in the European Communities (Lawyer's Practice) Regulations 2000 (SI 2000 No 1119) who is not a Qualified Person
EU Home Professional Rules	the professional rules which authorise the European Lawyer and the EU Practice of which the European Lawyer is a Manager to practise in a state within the European Union (but not England and Wales)
EU Practice	an entity providing Regulated Services 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 Practice 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 Master Policy
EU Professional Cover – Partial	professional indemnity cover provided to the EU Practice 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 Master Policy
Evidence of Insurance	evidence that the Insured has appropriate cover under the Master Policy
Exempt Person	as defined in section 417(1) FSMA, in relation to a Regulated Activity, a person who is exempt from the General Prohibition in respect of that activity
Fit & Proper Person	The CLC requires that all:

	<ul style="list-style-type: none"> • applicants; • practitioners; • owners or managers of an Alternative Business Structure; <p>are able to demonstrate that they are suitable for the role</p>
Financial Services and Markets Act 2000 (FSMA)	Financial Services and Markets Act 2000 which provides the framework within which the regulator for the financial services industry, the Financial Services Authority, operates
General Prohibition	the prohibition imposed by section 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
Guidelines	the regulatory rules and principles are underpinned by guidelines which identify considerations to be borne in mind when seeking to deliver the identified outcomes; in some instances they provide a possible route to the positive outcomes sought, but importantly, not the only route - if members of the regulated community are able to generate the same or better outcomes another way they are welcome to do so
Head of Finance & Admin	the manager in an Alternative Business Structure (ABS) designated responsible for the ABS complying with the Accounts Rules of its license and for reporting any licensing requirement breaches to their Licensing Authority; the individual does not have to be a lawyer
Head of Legal Practice	the manager in an Alternative Business Structure (ABS) designated responsible for the ABS complying with the terms of its licence and for reporting any licensing requirement breaches to their Licensing Authority; the individual must be a lawyer
Inform	Written notification
Insurance Mediation Directive (IMD)	Insurance Mediation Directive (No 2002/92/EC)
Indemnity Policy	the insurance policy made by the CLC under section 21 of the 1985 Act to indemnify the regulated community, both current and former, against losses arising from civil liability incurred by them
Insurance Intermediaries Register	The record maintained by the Financial Services Authority under section 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
Insured	a Recognised Body which has Evidence of Insurance
Investigating Committee	The committee established under section 25 of the 1985 Act to carry out a preliminary investigations and determine

	some complaints.
Legal Disciplinary Practice	legal services firms in which non-lawyers can enter into partnership and in which up to 25% of a firm's equity can be owned by non-lawyers; a limited form of Alternative Business Structure
Legal Services Board	The body which supervises the regulation of all legal services by the Approved Regulators and Licensing Authorities
Licence	<ul style="list-style-type: none"> • a licence to practise as a Licensed Conveyancer issued by the CLC under Part II of the 1985 Act; • a licence issued under the CLC's Probate Rules;
Licence Year	the period from 1 November to the following 31 October or such other 12 month period as the CLC may prescribe.
Licensable Body	A body applying to the CLC to become an Alternative Business Structure Licensed Body.
Licensed Body	A licensed Alternative Business Structure.
Licensed Conveyancer	a person who holds a Licence issued by the CLC to offer to the public conveyancing and other legal services regulated by the CLC
Licensing Authority	an Approved Regulator who has been approved by the Legal Services Board to license Alternative Business Structures
Limited Liability Partnership	a body corporate formed by being incorporated under the Limited Liability Partnerships Act 2000 recognised by the CLC under section 32 of the 1985 Act to provide Regulated Services
Limited Liability Partnerships Act 2000	the Limited Liability Partnerships Act 2000, the Limited Liability Partnerships Regulations 2001 and any other regulations made under that Act
Litigation	the exercise of functions of issuing a writ or otherwise commencing proceedings before a Court and any ancillary functions
LLP Member	a member of a Limited Liability Partnership
Local Authority	a body listed in section 23 of the Local Government Act 2003
Manager	in relation to a Recognised Body, means a person who is: <ul style="list-style-type: none"> (a) a member of the Recognised Body, if the Recognised Body is a Company and its affairs are managed by its members; (b) a director of the Recognised Body, if the Recognised Body is a Company and paragraph (a) does not apply; (c) a partner, if the Recognised Body is a partnership; (d) a LLP member, if the Recognised Body is a Limited Liability Partnership; (e) a member of its governing body, if the Recognised Body is an unincorporated body (other than a partnership); and

	(f) a Licensed Conveyancer, if sub-paragraphs (a)-(e) do not apply and the affairs of the Recognised Body are not managed by another Licensed Conveyancer
Master Policy	the CLC's insurance policy to indemnify current and former licensed conveyancers against losses arising from civil liability incurred by them
Memorandum of Association	the meaning given by Section 8 of the Companies Act 2006 i.e. a memorandum stating that the subscribers - 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.
Memorandum of Understanding	defines the relationship between the Licensing Authorities (LAs) in the event of an individual and the entity within which they practice being regulated by different LAs
Office Account	an account in the name of a Licensed Conveyancer or his Practice for holding Office Money
Office for Legal Complaints/Legal Ombudsman	the independent ombudsman service which deals with consumer complaints about legal services; covers redress – not regulation – for all legal services providers
Office Money	money which belongs to a Licensed Conveyancer and any other money which is not Client Money and includes: (a) money held or received in connection with running the Practice 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 by the Licensed Conveyancer 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 to the Licensed Conveyancer which is recorded in the office columns of the appropriate client ledger account
Outcomes	the end result of the application of the principle or rule; the CLC's regulatory framework is focused upon the outcomes generated by the regulated community's action, both for clients and for the reputation of the legal profession as a whole
Overriding Principles	The principles that all CLC bodies and licensed conveyancers must comply with at all times in their

	<p>delivery of legal services:</p> <ol style="list-style-type: none"> 1. Act with independence and integrity; 2. Maintain proper standards of work; 3. Act in the best interests of 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.
<p>Parent Undertaking</p>	<p>As defined in section 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 its subsidiary undertakings are, or are to be treated as,</p>

	<p>parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.</p> <p>(6) Schedule 7 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>
Permission	permission given by the CLC to any Practice to provide Regulated Activities in accordance with section 327 FSMA
Practical Training	<p>a) training in the provision of conveyancing services:</p> <p>i) for, or for the equivalent of, two years on the basis of a working week of 25 hours; and</p> <p>ii) under the supervision of a qualified person; and</p> <p>(b) which in the opinion of the CLC is current and relevant and of an adequate standard. The CLC will judge the standard to be adequate if the registered student has gained practical experience as certified in any 'Final Checklist for Practical Training' which may be issued by the CLC from time to time.</p>
Practice	a Licensed Conveyancer or Probate Practitioner who is a sole practitioner; or two or more Licensed Conveyancers/Probate Practitioner in partnership; or a Recognised Body; each providing legal services to the public regulated by the CLC
Practitioner	any person holding a Licence in force granted by the CLC
Principal	a sole practitioner or any partner or director of a Practice
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	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
Professional Principles	<p>The professional principles are set out in Part 1 of the Legal Services Act 2007:</p> <p>(a) that authorised persons should act with independence and integrity;</p> <p>(b) that authorised persons should maintain proper standards of work;</p> <p>(c) that authorised persons should act in the best interests of their clients;</p> <p>(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</p>

	to the court to act with independence in the interests of justice; and (e) that the affairs of clients should be kept confidential.
Professional Services	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 (?)
Qualifying Examinations	the methods of assessment and examination in accordance with the CLC's syllabus from time to time in force
Recognised Body	<ul style="list-style-type: none"> • a body recognised by the CLC under Section 32 of the 1985 Act to provide Regulated Services to the public; • includes, where the context permits, any Manager (including a Licensed Conveyancer who is a Manager) or employee acting for the Recognised Body
Recognised Course	a course, lecture, seminar or other programme or activity approved or run by the CLC for the purposes of these Rules
Registered Student	a person who has registered as a student with the CLC in accordance with its Training Rules
Regulated Activities	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	Reserved Instrument Activities such as conveyancing. Probate Activities, the Conduct of Litigation and the Exercise of a Right of Audience which you are authorised by the CLC to provide.
Regulatory Framework	The CLC rules which the regulated community is required to follow, includes the Code of Conduct and all its underpinning rules
Regulatory Objectives	The regulatory objectives are set out in Part 1 of the Legal Services Act 2007: <ul style="list-style-type: none"> (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; (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. * services provided by Authorised Persons.
Reporting Accountant	an accountant qualified in accordance with rule ----- instructed by the Licensed Conveyancer to prepare and sign an Accountant's Report
Reserved Legal Activities	the right to conduct litigation, rights of audience, probate services, administration of oaths, notarial activities and conveyancing services
Respondent Practice	means a Licensed Conveyancer or Recognised Body or former Licensed Conveyancer or Recognised Body in respect of which a compensation claim is made
Rightful Recipient	the person beneficially entitled to receive monies held by the Licensed Conveyancer or any sum vested in the CLC under paragraph 6 or 6A(3) of schedule 5 to the 1985 Act
Rights of audience	appearing before and addressing a court, includes the calling and examination of witnesses
Risk	an uncertain event or set of events that, should it occur, will have an effect on the achievement of the CLC's objectives; risk is measured in terms of a combination of the likelihood of a perceived threat or opportunity occurring and the magnitude of its impact on our objectives
Risk assessment	the assessment of the risk posed by an individual or practice will be informed
Risk-based	in determining what (if any) action to take to non-compliance with regulatory requirements we will determine the impact that risk is likely to have on the professional principles and the intended outcomes identified in the Code of Conduct
Rules	a strict, prescriptive, direction for conduct
Self Insured Excess Policy	the policy issued by the CLC setting out the limits of excess under the Master Policy
Separate Designated Account	an interest bearing account (but not a share account) at the branch (or the head office) located in England or Wales of a Building Society or Bank in each case in the name of the Practice of the Licensed Conveyancer, 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.
Special Bodies	The definition provided in Section 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.
Suggested Procedure or Approach	our rules and principles are underpinned by guidance documents providing a possible route to the positive outcomes sought, but importantly, not the only route; if the member of the regulated community is able to generate the same or better outcomes another way they are welcome to do so
Systematically	Procedures/systems....
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 these Rules in such form as the CLC may from time to time prescribe
Variation	a variation of the operation of Rules including a full or part exemption from them or a deferral of their operation or any other concession and “vary” shall be construed accordingly (taken from CPD Rules)
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 Courts & Legal Services Act 1990 and the Legal Services Act 2007	
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	