

CONSULTATION

PROPOSALS TO REVISE THE CODE OF CONDUCT

INTRODUCTION

ILEX Professional Standards Ltd (IPS) is the regulatory body for Chartered Legal Executives and other grades of member registered with the Chartered Institute of Legal Executives (CILEx). CILEx is an approved regulator under the Legal Services Act 2007.

IPS is preparing applications to seek practice rights for CILEx members in litigation, conveyancing and probate and to become a regulator of legal practices. IPS will be submitting the applications to the Legal Services Board (LSB) in pursuit of these aims. As part of this process we wish to seek your views on our proposed revision to our Code of Conduct (the Code).

The current Code of Conduct was well received and has performed well. However, in light of the applications which are to be made, our Code must be applicable not only to the conduct of members of CILEx, but also to the conduct of the practitioners and legal practices that we seek to regulate. We have therefore revised our Code to address the changing landscape in which we seek to operate.

IPS seeks views on its proposals.

The consultation will close 19th October 2012

POSITIONING AND STRUCTURE OF NEW CODE

In preparation of the applications, we are reviewing and revising our regulatory arrangements where appropriate. The new Code will overarch additional regulatory arrangements in respect of specific areas of regulated practice.

Guidance on the Code will be provided for in the *Guidance on the Code of Conduct*. The *Guidance* is not issued for consultation at this time. However, some definitions that are envisaged to be contained within the *Guidance* are appended (Appendix 3) to this consultation where an understanding of those definitions may be beneficial to effective assessment of the principles and outcomes.

INCORPORATION OF EXISTING ARRANGEMENTS

The Rights of Audience Conduct Rules

The CILEx Rights of Audience Conduct Rules currently set out the standards to be observed by CILEx members exercising rights of audience. These rules have been reviewed in the process of formulating this Code. In light of the expansion in scope of the new Code of Conduct, it is envisaged that the Rights of Audience Conduct Rules will be withdrawn subsequent to a successful application – their content being covered by the provisions of the new Code. Guidance will be provided on the outcomes expected of Advocates.

The Accounts Rules

IPS has previously consulted on Accounts Rules. For the current applications, these rules have been reviewed and assessed as remaining valid as part of our regulatory package. They have been amended only so far as required to permit definitional parity with our other regulatory arrangements. The Accounts Rules are provided at appendix 4.

SUMMARY

The full Code appears at Appendix 1.

We have sought to confine our development to necessary changes only and our questions to the substantive changes.

A Consultation response form is included.

Throughout this document, references will be made to the obligations that the Code places upon all of those subject to IPS regulation. The regulated community subject to the code will be referred to collectively throughout.

INTRODUCTION

1. The Code of Conduct is applicable to all members of CILEx, regardless of the grade in which they are registered. It is intended to apply equally to members, regardless of the types of work they undertake or the mode through which they practice, *i.e.* employed, self-employed or an owner or manager of a practice. However, there are other regulatory provisions that will also apply to those who are subject to the Code, dependent upon the type of work they are engaged in. In addition to CILEx members, this Code will also apply to CILEx practitioners and Authorised Bodies that are authorised and regulated by IPS.
2. The Code informs clients and helps the public to understand the standards expected of those subject to the Code.
3. The Code is applicable to those subject to it both in the professional work they undertake and, where relevant, in their personal conduct.
4. It is intended that the Code should meet the regulatory objectives, as applicable, and the professional principles set out in the Legal Services Act 2007. The Code has been drafted to ensure that the client and public interest are at the forefront of the work of those subject to it. In doing so the Code meets the general regulatory objectives where they are not directly expressed.
5. Where a complaint is made about the conduct of anyone subject to the Code, IPS will assess whether the alleged conduct has breached the Code. The investigation into the conduct will be carried out in accordance with additional arrangements set out for that purpose. IPS will consider whether there is a case to assess a complaint. Whenever it is necessary to bring a case before the Disciplinary Tribunal, charges will be drafted with reference to the Code.

Q 1 Do you agree that the approach adopted to expanding the application of the Code provides an effective overarching core regulatory framework that sets out the standards of conduct expected of everyone we regulate? If not, please identify any areas where you believe development is required.

Q2 Do you agree that the definitions of CILEx Member, CILEx Practitioner and Authorised Body (annex 3) adequately encompass all those subject to regulation by the Code? If not, please identify any area of deficiency in this respect.

PRINCIPLES AND OUTCOMES

PRINCIPLE 1

You must uphold the rule of law and the impartial administration of justice.

6. Principle 1 remains unchanged from that in the existing Code. The outcomes under this principle are restatements of matters addressed in the current guidance to the existing Code.

Q3 Do you agree that the outcomes under principle 1 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas of deficiency in this respect.

Q4 Do you have any other comments on the outcomes under the first core principle? If so please provide details.

PRINCIPLE 2

You must maintain high standards of professional and personal conduct and justify public trust in you, your profession and the provision of legal services.

7. Principle 2 of the current Code has been significantly amended by addition in this Code. The addition relates to the requirement to “justify public trust in you, your profession and the provision of legal services”.
8. Those subject to our regulation must advise their client of their professional status and that they are authorised to practise and/or regulated by IPS. Where their practice is regulated by IPS their business communications must confirm that. Clients need to know who they are dealing with and what their professional status is. Where someone who is personally and professionally subject to the Code is employed in a practice that is regulated by another approved regulator, it is inappropriate for the business communications of that entity to specify the individual’s professional regulation separately from the regulation of that practice. We believe that consumers and clients may find this confusing. In addition, we have no authority to prescribe, to a practice that we do not regulate, what should be included in their business communications. Therefore outcome 2.1 is limited to those that we do regulate. However, where we regulate a practice, we believe that it is important that the public should be aware of our regulation so that consumers and clients have a clear route to us as regulator.
9. Those we regulate either are, or are working towards, qualification as trusted professional practitioners within the legal profession. It is fundamental that those who represent the interests of a client can be trusted to provide an

honest, competent, diligent, reliable and professional service. At all times those who are subject to the Code must, through their personal and professional conduct, continue to justify the trust that the public places in them to perform to the standards the Code demands.

10. Members of the regulated community must not engage in any conduct that could undermine or affect adversely the confidence and trust placed in them. IPS would not expect all personal issues to fall within the ambit of the Code. The types of personal conduct that might be a matter for IPS will include criminal convictions, financial misconduct, bankruptcy and dishonesty. Views are sought as to whether any other aspects of personal conduct should be included in the *Guidance*.
11. Further regulatory arrangements under the Code make provisions compelling disclosure of prior conduct that could undermine or affect adversely the confidence and trust placed in those we regulate.

Q5 Do you agree that the expansion of principle 2, as expressed above, is appropriate and effective? If not, please specify how you would propose we achieve regulatory oversight in this respect.

Q6 Do you agree that the outcomes under principle 2 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q7 Are there any other aspects of personal conduct that should be included in the *Guidance*? If so, please set out your views.

Q8 Do you have any other comments on the outcomes under the second core principle to the Code? If so please provide details.

PRINCIPLE 3

You must behave with honesty and integrity.

12. The third core principle requires that members of the regulated community behave with honesty and integrity. This principle remains unchanged from the existing code. Outcomes 3.1 and 3.2 were expressed as guidance in the current Code.
13. Those subject to the Code must report to us any suspicion that another has breached the code unless they are bound by legal professional privilege or client confidentiality. This places an obligation on the regulated community to inform us of conduct which they suspect breaches the Code. Effective regulation in an outcomes-focussed environment will always require trust. We

need to trust the regulated community and the public needs to be able to trust us to protect them from misconduct by those we regulate.

14. Those subject to the Code must report to the relevant authority any misconduct of another, which falls to be regulated by that authority, unless bound by legal professional privilege or client confidentiality. This places an obligation upon, for example, a CILEx member to report the misconduct of, for example, a Chartered Legal Executive who is a partner in a practice that is regulated by, for example, the Solicitors Regulation Authority (SRA) to the SRA. This will not apply if the information is about a client whom they represent in a professional capacity.
15. Members of the regulated community must not hold themselves out as having a qualification or professional status that they do not possess. It would therefore be a breach of the Code for members of CILEx to represent themselves as Chartered Legal Executives when they have not been admitted to CILEx in the grade of Fellow. Similarly, although a Chartered Legal Executive Advocate may perform the functions of a Duty Solicitor, they must not hold themselves out to be a Solicitor, even where the role they are performing is titled in those terms.

Q9 Do you agree that the outcomes under principle 3 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q10 Do you have any other comments on the outcomes under the third core principle to the Code? If so please provide details.

PRINCIPLE 4

You must comply with your legal and regulatory obligations and deal with regulators and ombudsmen openly, promptly and co-operatively.

16. This principle encompasses the existing principle 4 but broadens that requirement. Under the proposed Code, this principle has been expanded to require compliance with the Law and regulation and to specify the manner in which regulators and ombudsmen will be dealt with.
17. Those we regulate must ensure that they understand and comply with all their legal and regulatory obligations. A comprehensive list of the IPS regulatory arrangements will be provided in the *Guidance on the Code of Conduct*.
18. We suggest that there is no utility in prescribing regulation, whether that be outcomes-focused or otherwise, which seeks only to regulate for an outcome which is already provided for in law or in other regulations. In this Code we

therefore do not seek to make provision for matters already addressed elsewhere.

19. In an outcomes-focused regulatory landscape, we as regulator must be satisfied that those subject to our regulation are complying with their obligations. In respect of our own regulatory arrangements, the onus is placed upon those we regulate to ensure their ability to demonstrate that they have adhered to the principles and met the associated outcomes required by the Code.
20. In an increasingly diverse legal services market it is important that those we regulate do not place others in breach of any regulatory requirement or rule of professional conduct, whether this is by act or omission. Many of those we regulate will also be the subject of other regulatory provisions and rules of professional conduct that govern their professional behaviour. For example, the CILEx membership includes Associate Prosecutors, who are employees of the Crown Prosecution Service (CPS). Associate Prosecutors must of course comply with the CPS Codes and rules applicable to them. These include the instructions issued by the Director of Public Prosecutions, CPS Code of Ethical Principles, National Standards of Advocacy and Code of Conduct.
21. Those subject to our Code must respond openly, promptly and co-operatively to communications from regulators and ombudsmen. This is necessary so as to ensure that regulatory matters and consumer and client concerns or complaints can be dealt with within reasonable timescales. Consumers and clients are entitled to have complaints addressed in a timely manner.

Q 11 Do you agree that Principle 4 adequately provides for outcomes-focused regulation in respect of the area of legal and regulatory compliance and effectively requires co-operation and engagement with oversight bodies?

Q12 Do you agree that the outcomes under principle 4 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q13 Do you have any other comments on the outcomes under the fourth core principle to the Code? If so please provide details.

PRINCIPLE 5

You must act competently in the best interests of your clients and respect client confidentiality.

22. Principle 5 is an amalgam of the existing principles 9 and 5 with elements of the existing principle 8. This principle addresses client care and on-going competency.
23. This core principle reflects the general position that those subject to our regulation must act competently in the best interests of their client, except that their overriding duty rests with the courts. It reflects one of the regulatory objectives and a professional principle set out in the Legal Services Act.
24. The principle also sets out the basic client care requirement to respect client confidentiality expected of all those we regulate. This aspect of the principle is expanded upon in the outcomes detailed under this principle.
25. Outcomes under this principle require the regulated community to maintain a high level of competence in their legal work and to ensure that their legal knowledge is current and sufficiently detailed for their role. They must identify and address any deficiencies in their knowledge or training, or that of their staff, so as to maintain a level of competence and knowledge appropriate to the work and level of responsibility in which they or their staff are engaged.
26. Those we regulate must act only on matters that are within their competence and must not act in an area of law where they do not possess sufficient knowledge or experience.
27. Under these outcomes, those we regulate may act in a matter only if they have the competence to do so. Competence covers knowledge, skills and experience. However, the *Guidance* will recognise that an individual might be developing their competence under supervision. In such instances they are able to act provided there are proper arrangements for supervision and training in place to help them to develop their competence while ensuring the quality of the service.
28. Those subject to our Code must act upon their client's instructions except when to do so would conflict with the law or the Code, and must not act in a matter where they do not have the right or are not authorised to act.
29. Those we regulate must explain and agree client care information with clients. This explanation and agreement must cover the terms upon which services are to be provided, the extent of the services, payment, and the likely or anticipated costs and timescales for the advice and services to be provided. The information referred to in the outcomes is regarded as the absolute minimum. IPS propose that the *Guidance* will expand upon the information which IPS expects to see evidenced in satisfying us that the principle has been adhered to and that the outcomes have been met.
30. Those subject to our Code have a duty to provide prompt, clear and accurate information and advice to their clients, advise them openly and honestly and

keep them up to date with information they need about the work that is being conducted for them within agreed timescales.

31. All conduct complaints are dealt with by IPS. The handling of complaints about the service received is dependent upon the status of the individual or body complained about. Those we regulate must inform their client fully as to their complaints procedures including the client's right to refer a complaint about the service provided to the Legal Ombudsman (LeO) or IPS as appropriate. Whilst a complaint in respect of the service provided by a Chartered Legal Executive will be dealt with by LeO, IPS is conscious that a section of its regulated community are not authorised persons under the Legal Services Act 2007. Accordingly, service complaints in respect of those in this section of the community will be dealt with by IPS.
32. Those we regulate must not charge a client for the cost of handling a complaint.
33. Where we regulate a practice we believe it to be important that, where a regulatory question arises, we should be able to obtain access to the relevant client file. Outcome 5.11 therefore requires those we regulate to include in their terms of business with their client that we may exercise our regulatory powers in relation to the client's matter and that we may seek access to the client's papers for that purpose. We require those we regulate to inform their client that they will grant us access to the client file unless the client objects. The *Guidance* will specify the means by which we shall deal with client objections.
34. Those who are subject to the Code must maintain confidentiality in respect of their client's affairs except where to do so would conflict with the law or the Code, or where their client explicitly authorises them to disclose confidential information.
35. A substantial amount of trust is placed in providers of legal services by clients, the public, employers and other legal professionals. Due to the nature of the work that our regulatory community are involved in they receive confidential information. Those we regulate must respect the confidentiality of the information divulged to them and disclose it only as appropriate. This principle reflects one of the professional principles in the Legal Services Act. This outcome also recognises that there may be instances where confidential material has to be disclosed. For example, information may be disclosed under the Money Laundering Regulations to prevent or detect money laundering offences. In those instances a member should not be considered to be in breach of the Code.

Q14 Do you agree that Principle 5 adequately provides for outcomes-focused regulation in respect of the areas of client care and on-going

competency? If not, please identify any areas for improvement in this respect.

Q15 Do you agree that the outcomes under principle 5 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q16 Do you have any other comments on the outcomes under the fifth core principle to the Code? If so please provide details.

PRINCIPLE 6

You must treat everyone fairly and without prejudice.

36. Those subject to the Code are required to treat everyone fairly and without prejudice. In the existing Code of Conduct there is a requirement to treat everyone equally. That requirement does not appear in this Code. We have good reason for this.
37. Improving access to justice is a regulatory objective under the Legal Services Act 2007. If our Code is to provide the overarching regulatory framework necessary for us to facilitate meeting this regulatory objective, we must address obstacles to access to justice directly.
38. Consumer vulnerability, as something distinct from client vulnerability, is not something that the existing code deals with. Historically the legal profession has regulated how those subject to regulation have interacted with and provided their services to their clients. However, if we are to assess matters such as access to services for the vulnerable or disadvantaged then we must make enquiry of the relationship between those subject to our Code and those who seek their services, not simply those who use their services. We have therefore separately defined the terms of 'consumer' and 'client' and have formulated a definition for those who may be regarded as intrinsically vulnerable in their seeking access to legal services, not just their use of them. We have included our proposed definitions for 'consumer', 'client' and 'vulnerable' at annex 3 so as to facilitate a more informed assessment of this core principle and its associated outcomes.
39. By separating the intrinsically vulnerable from those who may possess some other characteristic which may place them in a position of vulnerability to prejudice, we have effectively separated how we address our regulation of the relationship between the legal service providers under our Code and their consumers and clients in these areas.
40. Existing legislative provisions in respect of anti-discrimination already adequately deal with protecting people from discrimination. We need to

ensure that those we regulate appreciate their obligations to consumers who may seek, but not ultimately use, their services. We also need to provide for protection of the vulnerable in their seeking or obtaining legal services.

41. Adequately assisting consumers and clients to access justice and the full range of legal services, whilst providing each client with equal opportunities for favourable outcomes in their matter, will necessarily involve some additional work on the part of those we regulate when they deal with the vulnerable. In this respect, outcome 6.1 places a positive duty upon those we regulate to treat the vulnerable differently so as to ensure the same opportunity for the vulnerable individual as is afforded others. It is for this reason that we no longer state an expectation that everyone will be treated equally.
42. Although we have not required compliance with any specific policy in respect of equality or diversity, outcome 4.2 does obligate those we regulate to take all practicable steps to ensure they can demonstrate they have adhered to the principles and met the outcomes. In practice, in respect of CILEx practitioners and authorised bodies, we envisage reviewing their policies and action plans to ensure outcome 4.2 is met in respect of principle 6 and outcome 6.1.

Q17 Do you agree that principle 6 effectively deals with the issue of access to justice and protection of the vulnerable? If not, please advise of any areas for improvement.

Q18 Do you agree that the outcomes under principle 6 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q19 Do you have any other comments on the outcomes under the sixth core principle to the Code? If so please provide details.

PRINCIPLE 7

You must ensure your independence is not compromised

43. Principle 7 is unchanged from the current Code. Outcomes under this principle have however been amended from those expressed as guidance under the existing Code.
44. Clients have a right to expect that the advice they receive is impartial and free from any external pressure. Therefore this principle requires that those subject to our regulation remain impartial and do not allow their independence to be compromised. This principle incorporates a regulatory objective and professional principle of the Legal Services Act.

45. Independence can be compromised in a number of ways. The Code provides some examples which include acting where there is, or is a significant risk of, a conflict of interest, or where instructions have been given under duress or undue influence or by a third party. The last outcome under this principle also covers instances where there may be commercial, financial or other pressures. Financial pressures may include introduction and referral arrangements.

46. *Guidance* will expand upon matters arising under this principle.

Q20 Do you agree that the outcomes under principle 7 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q21 Do you have any other comments on the outcomes under the seventh core principle to the Code? If so please provide details.

PRINCIPLE 8

You must act effectively and in accordance with proper governance and sound financial and risk management principles.

47. This principle addresses practice management.

48. The Code requires that those we regulate maintain proper standards of work and keep accurate records. In matters such as communications with clients, professional colleagues and others their records must wherever possible be contemporaneous and in any event must be made as soon as practicable thereafter. Contemporaneous notes are expected to be the normal manner in which records of matters are kept. However, we acknowledge that in some practice areas it is, on occasion, simply not possible to make a contemporaneous note. In these circumstances the record must be made as soon as practicable. It is important to include such matters within the Code to protect the interests of clients by ensuring that full records are kept and that they are advised properly.

49. Those subject to our regulation are to ensure that they properly supervise tasks that they have asked others to perform on their behalf, recognising that they remain accountable for any such work. Where work is delegated or outsourced to agents, we will expect that the person or body we regulate will remain compliant with outcome 4.2. It will be no defence to an allegation of a breach of the Code to point to the work of an agent as being in some way deficient in terms of the Code. We do not believe it is practical or beneficial for us to import into our regulation, a requirement that those we regulate should have terms in their agency agreements that provide for our oversight of the agent whilst instructed by a subject of our regulation. We shall hold our regulated individual or body liable for the work of anyone they instruct to

conduct work on their behalf. To that end they must ensure that anyone they have asked to perform work on their behalf is appropriately qualified and authorised to perform that work.

50. Our regulated community must also ensure that clients' matters are supervised and regularly checked by those with sufficient competence and experience to assess the quality of the work and to ensure issues identified are addressed. The public, consumers and clients have a right to expect that those subject to our regulation are not only providing them with quality advice and services, but also that they have systems in place to ensure the quality of that work is commensurate with the provisions of outcome 5.1. To that end those we regulate must adhere to effective management, oversight and reporting structures.
51. We must be satisfied that our regulated community have in place effective procedures to ensure their compliance with their legal and regulatory obligations.

Q22 Do you agree that principle 8 effectively deals with outcomes-focused regulation in the area of practice management? If not, please advise of any areas for improvement.

Q23 Do you agree that the outcomes under principle 8 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q24 Do you have any other comments on the outcomes under the eighth core principle to the Code? If so please provide details.

PRINCIPLE 9

You must protect client money and assets.

52. Client money and the assets of clients and others must be protected. Our accounts rules prescribe the detail of our regulatory arrangements in this respect.
53. This principle and the associated outcomes, together with our accounts rules, cover both regulatory objectives and professional principles in the protection and promotion of the interests of the public and consumers and in ensuring that those we regulate act with integrity, maintain proper standards of work and act in the best interests of their clients.
54. Our regulated community must therefore identify, assess, manage and promptly address risks to money and assets entrusted to them by their clients and others. They must also effectively monitor the financial stability of their

business or their role within it, so as to protect client money and assets from risks associated with the financial position of their business or that of their employer.

55. It will be no defence for an employee of a business, which exposes clients to losses, to advise that they were aware of the risks posed to clients but that, as they were not involved in the management of the business, they were not obligated to bring the risks to our attention as regulator. Outcome 9.2 in conjunction with outcome 3.3 will obligate the employee with knowledge or suspicion that the business in which they are employed is exposing client money or other assets to risks associated with the financial stability of the business to report this to us without delay.

Q25 Do you agree that this principle effectively addresses regulation of the financial protection of clients? If not, please identify any areas for improvement.

Q26 Do you agree that the outcomes under principle 9 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.

Q27 Do you have any other comments on the outcomes under the ninth core principle to the Code? If so please provide details.

General Questions

We also have the following general questions.

Q28 Do you agree that the proposed structure of our regulatory arrangements constitutes an effective outcomes-focused approach to regulation? If not, please explain why, and provide any suggestions you may have to improve upon our proposals.

Q29 Do you agree that our proposed amendments to our Code effectively expand its provisions to cover practitioners and authorised bodies in addition to CILEx members? If not, please provide any areas for improvement.

Q30 Do you agree that our Accounts Rules have been redrafted appropriately to cover our new definitions and approach? If not, please provide and areas for improvement.

HOW TO RESPOND

Please send your completed response form to IPS through one of the following methods:

- Email to ipsconsultations@ilexstandards.org.uk
- By post to ILEX Professional Standards Ltd, Kempston Manor, Kempston, Bedford MK42 7AB
- By DX to ILEX Professional Standards Ltd, DX 124780 Kempston 2

SUBMISSION DEADLINE

The deadline for the submission of responses is **19 October 2012**

The IPS Code of Conduct

This Code (the **Code**) has been issued by ILEX Professional Standards Limited (**IPS**), the regulatory body of the Chartered Institute of Legal Executives (**CILEx**). It sets out the principles to which CILEx members, CILEx practitioners and Authorised Bodies must adhere in their conduct, practice and professional performance, and the outcomes they must meet.

Membership and regulated practice carry both privileges and responsibilities. They require that in your conduct, practice and professional performance you:

- develop and use your professional knowledge and skills for the benefit of those who use your services
- maintain good professional relationships with others
- act in a way that promotes confidence and trust in the legal professions and the provision of legal services.

Core Principles

You must adhere to the following core principles in the work you do and the decisions you make. The principles also help the public to know the standards of behaviour that are expected of you.

You must:

1. Uphold the rule of law and the impartial administration of justice.
2. Maintain high standards of professional and personal conduct and justify public trust in you, your profession and the provision of legal services.
3. Behave with honesty and integrity.
4. Comply with your legal and regulatory obligations and deal with your regulators and ombudsmen openly, promptly and co-operatively.
5. Act competently in the best interests of your client and respect client confidentiality.
6. Treat everyone fairly and without prejudice.
7. Ensure your independence is not compromised.
8. Act effectively and in accordance with proper governance and sound financial and risk management principles.
9. Protect client money and assets.

Application

You must comply with the Code whenever it applies to you. Your professional and personal conduct will be judged against it and a breach may lead to action being taken against you. Compliance with the Code will be taken into account in considering information which raises a question about your conduct, practice or professional performance.

The Principles Explained

Each core principle is supported by a series of outcomes. You must adhere to the principles and meet the outcomes.

There is guidance in the document *Guidance on the Code of Conduct*. This document is not exhaustive but is intended to help you to understand our expectations of you. Compliance with the *Guidance* is not an absolute requirement but you may be called upon to justify a departure from it if your behaviour is called into question.

Definitions

In the Code: **You** and **your** means a CILEx member, CILEx practitioner or Authorised Body.

The IPS *Guidance on the Code of Conduct* defines further terms contained within this Code.

1. Uphold the rule of law and the impartial administration of justice.

You must:

- 1.1 Understand and comply with your primary and overriding duty to the court, obey court orders and do nothing which would place you in contempt.
- 1.2 Not knowingly allow the court to be misled.

2. Maintain high standards of professional and personal conduct and justify public trust in you, your profession and the provision of legal services.

You must:

- 2.1 Advise your client of your professional status and that you are authorised to practise and/or regulated by IPS. Where your practice is regulated by IPS your business communications must confirm that.
- 2.2 Not engage in any conduct that could undermine or affect adversely the confidence and trust placed in you and your profession by your client, your employer, professional colleagues, the public and others.

3 Behave with honesty and integrity.

You must:

- 3.1 Be honest in all your dealings and in all financial matters.
- 3.2 Not intentionally mislead anyone you deal with.
- 3.3 Report to IPS without delay any suspicion that another has breached the Code unless bound by legal professional privilege or client confidentiality.
- 3.4 Report to the relevant authority any misconduct of another which falls to be regulated by that authority unless bound by legal professional privilege or client confidentiality.
- 3.5 Not hold yourself out as having a qualification or professional status that you do not possess.

4 Comply with your legal and regulatory obligations and deal with regulators and ombudsmen openly, promptly and co-operatively.

You must:

- 4.1 Understand and comply with the law and regulation applicable to you.
- 4.2 Take all practicable steps to ensure you can demonstrate that you have adhered to the Core Principles and met the associated Outcomes.
- 4.3 Not place others in breach of any regulatory requirement or rule of professional conduct.
- 4.4 Respond openly, promptly and co-operatively to communications from your regulators and ombudsmen.

5 Act competently in the best interests of your client and respect client confidentiality.

You must:

- 5.1 Maintain a high level of competence in your legal work and ensure that your legal knowledge is current and of sufficient depth for your role.
- 5.2 Identify and address any deficiencies in your knowledge or training, or that of your staff, so as to maintain a level of competence and knowledge appropriate to the work and level of responsibility in which you or your staff are engaged.
- 5.3 Act only on matters that are within your competence.
- 5.4 Not act for a client in an area of law where you have insufficient knowledge or experience.
- 5.5 Act on your client's instructions except when to do so would involve a breach of the law or this Code.
- 5.6 Not act in a matter where you do not have the right or are not authorised to act.

- 5.7 Adequately explain and agree with your client the terms upon which your services are to be provided, including the extent of the services, payment and the likely or anticipated cost and timescale for the advice and services to be provided.
- 5.8 Provide prompt, clear and accurate information and advice to your client, advise them openly and honestly and keep them up to date with information they need about the work you are performing for them within agreed timescales.
- 5.9 Inform your client fully as to your complaints procedures including their right to refer a complaint to the Legal Ombudsman or IPS where appropriate.
- 5.10 Not charge a client for the cost of handling a complaint.
- 5.11 Where your practice is regulated by IPS, include in the terms of business with your client, a statement that IPS is your regulator and may seek access to their papers and that, in these circumstances, you will grant IPS access unless the client objects.
- 5.12 Maintain confidentiality in respect of your client's affairs except where to do so would conflict with the law or the Code or where your client explicitly authorises you to disclose confidential information.

6 Treat everyone fairly and without prejudice

You must:

- 6.1 Ensure your business or your role within it, your business model, processes and practices adequately:
 - assist consumers and clients to access justice and the full range of legal services; and
 - provide each client with equal opportunity to secure a favourable outcome in their matter, irrespective of their vulnerability or susceptibility to discrimination.

7 Ensure your independence is not compromised.

You must:

- 7.1 Not act or continue to act where there is a conflict of interest or a significant risk that a conflict may arise.
- 7.2 Not act or continue to act for a client if you reasonably consider that they are providing instructions under duress or undue influence, except where to withdraw from acting would be detrimental to the client's interests.
- 7.3 Where instructions are provided by a third party, confirm them with your client to ensure they are your client's own instructions.
- 7.4 Ensure that none of your commercial interests or financial arrangements adversely affect the independence of your advice or your ability to act impartially.

8 Act effectively and in accordance with proper governance and sound financial and risk management principles.

You must:

- 8.1 Maintain proper standards of work and keep accurate records. In matters such as communications with clients, professional colleagues and others, your records should be contemporaneous and in any event must be made as soon as practicable thereafter.
- 8.2 Ensure that you properly supervise tasks that you have asked others to perform on your behalf, recognising that you remain accountable for any such work.
- 8.3 Ensure that anyone you ask to perform work on your behalf is appropriately qualified and authorised to perform it.
- 8.4 Ensure that clients' matters are supervised and regularly checked by those with sufficient competence and experience to assess the quality of the work and to ensure issues identified are addressed.
- 8.5 Adhere to effective management, oversight and reporting structures.
- 8.6 Comply with effective procedures to ensure compliance with your legal and regulatory obligations.

9 Protect client money and assets.

You must:

- 9.1 Identify, assess, manage and promptly address risks to money and assets entrusted to you by clients and others.
- 9.2 Effectively monitor the financial stability of your business or your role within it, so as to protect client money and assets from risks associated with the financial position of your business or the business of your employer.

Further Help & Guidance

The *IPS Guidance on the Code of Conduct* is available at [www location to be determined]

If you are unsure how this Code applies to you, contact IPS on 01234 845770 or info@ilexstandards.org.uk

CONSULTATION QUESTIONS

The questions are listed below. Please provide your responses on the attached response form providing reasons for your answers.

- Q1** Do you agree that the approach adopted to expanding the application of the Code provides an effective overarching core regulatory framework that sets out the standards of conduct expected of everyone we regulate? If not, please identify any areas where you believe development is required.
- Q2** Do you agree that the definitions of CILEx Member, CILEx Practitioner and Authorised Body (annex 3) adequately encompass all those subject to regulation by the Code? If not, please identify any area of deficiency in this respect.
- Q3** Do you agree that the outcomes under principle 1 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas of deficiency in this respect.
- Q4** Do you have any other comments on the outcomes under the first core principle? If so please provide details.
- Q5** Do you agree that the expansion of principle 2, as expressed above, is appropriate and effective? If not, please specify how you would propose we achieve regulatory oversight in this respect.
- Q6** Do you agree that the outcomes under principle 2 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.
- Q7** Are any other aspects of personal conduct that should be included in the *Guidance*? If so, please set out your views.
- Q8** Do you have any other comments on the outcomes under the second core principle to the Code? If so please provide details.
- Q9** Do you agree that the outcomes under principle 3 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.
- Q10** Do you have any other comments on the outcomes under the third core principle to the Code? If so please provide details.

- Q 11 Do you agree that Principle 4 adequately provides for outcomes-focused regulation in respect of the area of legal and regulatory compliance and effectively requires co-operation and engagement with oversight bodies?**
- Q12 Do you agree that the outcomes under principle 4 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q13 Do you have any other comments on the outcomes under the fourth core principle to the Code? If so please provide details.**
- Q14 Do you agree that Principle 5 adequately provides for outcomes-focused regulation in respect of the areas of competence, acting in the best interests of clients and respecting client confidentiality? If not, please identify any areas for improvement in this respect.**
- Q15 Do you agree that the outcomes under principle 5 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q16 Do you have any other comments on the outcomes under the fifth core principle to the Code? If so please provide details.**
- Q17 Do you agree that principle 6 effectively deals with the issue of access to justice and protection of the vulnerable? If not, please advise of any areas for improvement.**
- Q18 Do you agree that the outcomes under principle 6 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q19 Do you have any other comments on the outcomes under the sixth core principle to the Code? If so please provide details.**
- Q20 Do you agree that the outcomes under principle 7 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q21 Do you have any other comments on the outcomes under the seventh core principle to the Code? If so please provide details.**

- Q22 Do you agree that principle 8 effectively deals with outcomes-focused regulation in the area of practice management? If not, please advise of any areas for improvement.**
- Q23 Do you agree that the outcomes under principle 8 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q24 Do you have any other comments on the outcomes under the eighth core principle to the Code? If so please provide details.**
- Q25 Do you agree that principle 9 effectively addresses regulation of the financial protection of clients? If not, please identify any areas for improvement.**
- Q26 Do you agree that the outcomes under principle 9 are sufficient and appropriate as a method by which to expand that principle into measurable outcomes? If not, please identify any areas for improvement in this respect.**
- Q27 Do you have any other comments on the outcomes under the ninth core principle to the Code? If so please provide details.**
- Q28 Do you agree that the proposed structure of our regulatory arrangements constitutes an effective outcomes-focused approach to regulation? If not, please explain why, and provide any suggestions you may have to improve upon our proposals.**
- Q29 Do you agree that our proposed amendments to our Code effectively expand its provisions to cover practitioners and authorised bodies in addition to CILEx members? If not, please explain any areas for improvement.**
- Q30 Do you agree that our Accounts Rules have been redrafted appropriately to cover our new definitions and approach? If not, please provide any areas for improvement.**

DRAFT DEFINITIONS

The following Draft definitions are proposed to be included with *Guidance on the Code of Conduct*. They have been included herein to facilitate a more detailed understanding of some of the outcomes in our Code.

Authorised Body (and by extension "Authorised Bodies")
any entity which is authorised and regulated by IPS

CILEx
the Chartered Institute of Legal Executives

CILEx member
a member of the Chartered Institute of Legal Executives in who has been registered in any grade.

CILEx Practitioner
any person who has been granted practice rights by the Chartered Institute of Legal Executives

Client
one who has entered into an agreement for the provision of legal services with an Authorised Body.

Consumer
one who seeks but has not yet entered into an agreement for the provision of legal services.

Entity
any person or body providing or offering to provide legal services which may include any Reserved Legal Activity

IPS
ILEX Professional Standards Ltd

Reserved Legal Activity
has the meaning given in section 12 of the Legal Services Act 2007, as amended

Vulnerable (and by extension "vulnerability")
a consumer or client is to be regarded as a vulnerable if, in obtaining or seeking to obtain legal services, they are at risk of encountering difficulties arising from any specific or general limitations as to their; physical abilities, sensory abilities, cognitive abilities, linguistic abilities, geographic location, economic resources or any combination of these.

You and Your
a CILEx Member, CILEx Practitioner, or Authorised Body.

THE IPS ACCOUNTS RULES

1. Authority and Interpretation

1.1 CILEx has delegated to IPS responsibility for these rules.

1.2 A breach of these Rules may result in proceedings being instigated.

1.3 Definitions:

- *Account Period:* as defined in Rule 10 hereof
- *Accounts Records:* as defined in Rule 7 hereof
- *Accountant's Report:* a statement from the Authorised Body's Reporting Accountant to confirm compliance with IPS Accounts Rules.
- *Authorised Body:* any entity which is authorised and regulated by IPS
- *Authorised Person:* an "Authorised Person" under Section 18 of the Legal Services Act 2007 in relation to a particular Reserved Legal Activity if that person is authorised to carry on that activity by a relevant approved Regulator.
- *Client Account:* an account at a bank or building society in England and Wales in the name of the Authorised Body and which includes in its title the words "Client Account". A Client Account may be an account pooling funds from more than one client or an account designated for a particular purpose.
- *Client Money:* money beneficially owned by anyone other than the Authorised Body.
- *Designated Client Account:* a deposit or share account for money relating to a single client and which includes in its title "client account".
- *Entity:* any person or body providing or offering to provide legal services which may include any Reserved Legal Activity
- *Guidance:* written guidance issued by IPS and describing itself as a Guidance on a given matter.
- *CILEx:* the Chartered Institute of Legal Executives
- *CILEx Practitioner:* any person who has been granted practice rights by the Chartered Institute of Legal Executives.
- *IPS:* ILEX Professional Standards Ltd.
- *Office Account:* an account at a bank or building society in England and Wales in the name of an Authorised Body and which includes in its title the words "Office Account".
- *Office Money:* money beneficially owned by an Authorised Body
- *Reporting Accountant:* as defined in Rule 13 hereof
- *Regulated Practice:* an entity regulated by the an Approved Regulator under the Legal Services Act 2007
- *You and Your:* a CILEx member, CILEx Practitioner or an Authorised Body

2. Client Money

- 2.1 You must as soon as is practicable pay Client Money received into your Client Account and only into that account unless:
 - 2.1.1 the client gives written instructions for the cheque or cash to be held as such for the client's own convenience; or
 - 2.1.2 the money received represents unpaid professional disbursements included in a payment of costs which may be paid into Office Account provided they are then disbursed within two working days.
- 2.2 You must use each client's money for that client's matter only.
- 2.3 Subject to rule 3.9 you may withdraw money from Client Account only upon the instructions of the client to whom the money belongs.
- 2.4 You may withhold money from Client Account on the written authorisation of IPS. IPS may impose a condition that you pay the money to a charity which gives an indemnity against any subsequent legitimate claim for the sum received.
- 2.5 You may transfer a client's money from Client Account to Office Account to settle that client's liability for costs incurred or disbursements paid by you in accordance with your terms of business and following the rendering of the relative account and/or written notice to that client that the funds are to be transferred.
- 2.6 Nothing in these Rules deprives you of any legal recourse or right, whether by way of lien, set off, counter claim or otherwise, against money standing in client account to the credit of the client against whom legal recourse or right is sought.
- 2.7 Regular payments from any body administering public legal services funding must be paid into your office account. You must within 28 days of submitting a report to such a body notifying completion of the matter either pay any unpaid professional disbursements or transfer into a Client Account a sum equivalent to the amount of unpaid professional disbursements relating to that matter. Where such a body permits you to submit regular reports at various stages during a matter the provisions relating to unpaid professional disbursements apply to any such disbursements included in each report. Regular payments can be either standard monthly payments paid by the body under legal services contracting arrangements or any other payments received from the body under an arrangement for payments on a regular basis.
- 2.8 You must maintain accurate and up to date accounts in accordance with these rules and any guidance issued by IPS from time to time.
- 2.9 You must retain your ability to repay Client Money immediately unless the client agrees otherwise in writing.
- 2.10 Notwithstanding any provision to the contrary in these Rules, in relation to matters which are publicly funded:
 - 2.10.1 Payments received from any body administering public legal services funding may be paid into Office Account with the written consent of that body provided that any payment in respect of unpaid disbursements must within 14 days of receipt

either be applied to pay those disbursements or transferred to Client Account unless the payments are regular payments in which case Rule 2.7 applies.

- 2.10.2 Payments received from any other party must be paid into Client Account and recorded in a ledger which notes any interest the body administering public legal services funding has in such receipt.
- 2.10.3 You may transfer any funds held on Client Account to which you are entitled after delivering to the body administering public legal services funding a report comprising an up to date and comprehensive cash account in relation to the matter in question and an intimation of your intention to effect a transfer to Office Account indicating the amount of the proposed transfer.
- 2.10.4 You must comply with your obligations to the body administering public legal services funding including but not limited to any obligation to preserve that body's statutory charge.

3. Client Account

- 3.1 You must not pay any of your own money into Client Account except either:
 - 3.1.1 when under a duty to do so imposed by these rules; or
 - 3.1.2 any nominal sum required to open or maintain the account; or
 - 3.1.3 where a payment is made under rule 3.2.
- 3.2 You may pay into Client Account an advance from you to fund a payment on behalf of a client or controlled trust. This money becomes Client Money or controlled trust money. Rule 6 (interest) will not apply to that money.
- 3.3 You must ensure that funds are not overdrawn against a specific client on Client Account
- 3.4 You must not effect any payments or receipts through Client Account unless those payments and receipts are incidental to the provision of substantive legal services by you to a client.
- 3.5 You may transfer Client Money between Client Accounts.
- 3.6 You may withdraw money from Client Account to reverse a payment into Client Account made in error.
- 3.7 You must make good any deficiency in Client Account, immediately that it becomes known, from your own funds through Office Account.
- 3.8 You must pay a receipt of mixed Client Money and other funds into Client Account and within 14 days transfer the amount of other funds to Office Account. In these circumstances you need not comply with the provisions of Rule 2.5.
- 3.9 You may transfer amounts from a ledger in the name of one client to a ledger in the name of another client:
 - 3.9.1 only with the prior written authority of both clients; and
 - 3.9.2 provided that it would have been permissible to withdraw that sum from the account in accordance with these rules; and
 - 3.9.3 it would have been permissible to pay that sum into the account under these rules.

3.10 You may hold funds jointly with:

- the Client,
- a CILEx Practitioner,
- an Authorised Body,
- a Regulated Practice,
- an Authorised Person, or
- a third party

when instructed in writing by your client to do so, provided that:

3.10.1 the funds are held on a joint account designated as to beneficiary and purpose; and

3.10.2 you maintain, available for inspection by IPS, the client's written authority for every payment made from the joint account upon your signature and duplicate original bank statements for the joint account; and

3.10.3 compliance with these requirements is confirmed in the Accountant's report required by Rule 10.

3.11 IPS may by written consent relieve you of your duty to comply with these rules in whole or part in relation to a specific client's funds where IPS considers it appropriate in the circumstances to do so and IPS is satisfied that adequate other arrangements exist to safeguard that client's interests.

4. Method and authority for withdrawals from client account

4.1 A withdrawal from a Client Account may be made only after a specific authority in respect of that withdrawal has been signed by an appropriate person or persons in accordance with the Authorised Body's procedures for signing on Client Account. An authority for withdrawals from Client Account may be signed electronically, subject to appropriate safeguards and controls.

4.2 Authorised Bodies must put in place appropriate systems and procedures governing withdrawals from Client Account, including who should be permitted by the Authorised Body to sign on Client Account.

4.3 A signed authority shall not be required for the transfer of money from one Client Account to another Client Account at the same bank or building society except where either is a separate designated account.

4.4 A withdrawal from a Client Account in favour of you must be made either by way of a cheque to you or by way of a transfer to your office account. The withdrawal in favour of you must not be made in cash.

5. Office Account

5.1 You must effect all payments and receipts of your own money in connection with your practice through an Office Account.

5.2 You must maintain as part of your required Accounts Records accurate and up to date records of payments from and receipts into Office Account.

6. Interest on Client Account

6.1 You must place Client Money on deposit so as to earn interest unless it would be unreasonable or inappropriate to do so.

- 6.2 You must account to each client for the proper proportion of any interest earned (or which ought to have been earned) except to the extent that, on that client's money:
 - 6.2.1 the amount due does not exceed such amount as IPS may from time to time stipulate in Guidance; or
 - 6.2.2 the interest is in respect of client money held on account of costs or disbursements; or
 - 6.2.3 the interest is in respect of money held for any body administering public legal aid funds.
- 6.3 You may not exclude your obligations to pay interest in accordance with these rules by contract with your client.
- 6.4 If you hold money as a stakeholder you must pay interest to the recipient of the stake.
- 6.5 Your client may, without prejudice to any other remedy, apply to IPS for a Certificate as to whether or not interest, or a sum in lieu of interest, should have been paid, and, if so, the amount. If IPS certifies that interest, or a sum in lieu of interest, should have been paid, you must pay the certified sum.

7. Accounting Records

- 7.1 You must operate proper accounting systems and controls resulting in the maintenance of complete and accurate Accounting Records sufficient to demonstrate the entitlements to all Client Money held by you and document every payment or receipt effected in the course of your practice.
- 7.2 In particular (but without limit) you must have available together for inspection by IPS the following:
 - 7.2.1 a record for every payment from Client Account;
 - 7.2.2 written vouchers describing and authorising every Client Account and Office Account transaction;
 - 7.2.3 an up to date ledger for each matter for each client showing all Office Account and Client Account transactions for that matter and the balance of Client Money held in relation to that matter for that client;
 - 7.2.4 Client Account and Office Account cash books showing every transaction on those accounts;
 - 7.2.5 all Client Account and Office Account bank statements and passbooks;
 - 7.2.6 all Client Account and Office Account chequebooks and paying in books with all counterfoils properly completed;
 - 7.2.7 documentary reconciliations of Client Account;
 - 7.2.8 all written authorities obtained for inter-client ledger transfers required by rule 3.9;
 - 7.2.9 all bills and written intimations of costs sent by you;
 - 7.2.10 a list of all joint accounts with the records required by paragraph 3.10.

- 7.3 You may maintain Accounting Records in either or both written and electronic form but insofar as records are maintained in electronic form you must:
- 7.3.1 electronically back up all information held at the end of business each day and store the most recent copy away from your premises whenever the office is closed;
 - 7.3.2 use a system which is capable of providing printed copies of ledgers and other information held immediately upon it being required.
- 7.4 You must take every necessary step to ensure that all Accounting Records are kept safe and in good order.

8. Reconciliation of Client Account

- 8.1 You must, at least once every five weeks:
- 8.1.1 compare the balance on the Client Account cashbook with the balance shown on the statements and passbooks (after allowing for all unpresented items) of all Client Accounts; and
 - 8.1.2 as at the same date prepare a listing of balances shown by the client ledgers of the liabilities to clients, and compare the total of those balances with the Client Account cashbook; and
 - 8.1.3 prepare a reconciliation statement that explains the cause of any difference; and
 - 8.1.4 take appropriate action promptly to correct any differences in order to balance the reconciliation statement.

9. Retention of Records

- 9.1 You must retain for a period of at least six years from the date of the last entry those materials referred to in rule 7.2 and all other records (whether held electronically or otherwise) pertaining to transactions on each Client Account, whether held as a general Client Account or a separate Designated Client Account.
- 9.2 You must retain paid cheques and other authorities for withdrawals from Client Account for a period of at least two years but these may remain in the physical possession of a bank or building society held on your behalf.

10. Accountant's Report

- 10.1 You must deliver to IPS an Accountant's Report from a Reporting Accountant that must cover a period of no more than twelve months;
- 10.1.1 contiguous with the period of the previous Accountant's Report delivered by you; or
 - 10.1.2 if there is no previous Accountant's Report, from the date upon which you first held Client Money.
- 10.2 If you have not held Client Money during the whole of a period for which an Accountant's Report would otherwise be required you may, in relation to that reporting period, provide to IPS in place of an Accountant's Report, a certificate (in such form as IPS may stipulate in any Guidance) to that effect and such certificate shall be deemed to be an Accountant's Report for the purpose of rule 10.1.

- 10.3 Your Accountant's Report must relate to your most recently concluded Account Period as defined in Rule 10.1 above and must be delivered to IPS as soon as reasonably practicable and in any event within six months from the conclusion of that Account Period.
- 10.4 You must deliver an Accountant's Report to IPS for the period up to and including the date upon which for any reason you ceased to hold Client Money.

11. Test Procedures

- 11.1 The Reporting Accountant must examine the Accounts Records selected by them and make the following checks:-
- 11.1.1 confirm that your accounting system complies with the requirements for Accounts Records in these rules; and
 - 11.1.1.1 that an appropriate client ledger is kept for each client; and
 - 11.1.1.2 the client ledger shows details of all money received, held or paid on account.
 - 11.1.2 for each client the transactions relating to Client Money are accurately recorded;
 - 11.1.3 make checks of postings to the client ledger accounts from records of receipts and payments of Client Money;
 - 11.1.4 compare a sample of payments into and from the Client Account as shown in the bank or building society statements or passbooks with your records of receipts and payments of Client Money;
 - 11.1.5 check the system for recording costs and making transfers of costs from the Client Accounts;
 - 11.1.6 examine a selection of documents to confirm that the documentary evidence of the financial transactions comply with these rules and that the entries relating to those transactions comply with these rules;
 - 11.1.7 select details of the balances on client ledgers for at least two dates and compare the total shown by the client ledger accounts of liabilities to the clients with the cash account balance, and reconcile that cash account balance with the balances held as client monies;
 - 11.1.8 confirm that reconciliation statements have been kept in accordance with these rules;
 - 11.1.9 check the client ledger accounts to see whether any payments have been made from the Client Account in excess of money held on behalf of that client;
 - 11.1.10 check the office ledgers, office cash accounts and the bank statements for any Office Account to see whether any Client Money has been improperly paid into an Office Account, or if it has been improperly paid into Office Account and has been kept there in breach of the rules;
 - 11.1.11 check the records for any Client Money held outside a Client Account to ascertain what transactions have been effected in

- respect of their money and to confirm that the client has given the appropriate instructions in accordance with these rules;
- 11.1.12 check the client ledgers to ensure these rules have been complied with in respect of maintaining records;
 - 11.1.13 check that statements and passbooks are being kept in accordance with these rules and cross check transactions with client files where appropriate;
 - 11.1.14 check that interest earned on Designated Client Accounts and accounts opened on clients instructions are credited in accordance with these rules; and
 - 11.1.15 ask for any information or explanations from you which is required as a result of these checks.
- 11.2 The Reporting Accountant may examine your accounting records, files and other documents at your office. If the Reporting Accountant requires access to these records, files and documents at your office you must permit access.
- 11.3 The Reporting Accountant must request, and you must provide, details of all accounts kept or operated by you in connection with your practice at any time during the Account Period to which the report relates.
- 11.4 The Reporting Accountant must note in the Accountant's Report any substantial departures from these rules discovered by them whilst carrying out work in preparation of the report.

12. Matters outside the Reporting Accountant's remit

- 12.1 The Reporting Accountant is not required to:-
- 12.1.1 extend their enquiries beyond the information contained in the documents produced, supplementary information and explanations given by you;
 - 12.1.2 enquire into stocks, shares, securities or documents of title held by you on behalf of your clients;
 - 12.1.3 consider whether accounting records have been properly written up at a time that does not fall within the period of time to which their report relates;
 - 12.1.4 check compliance with the provisions relating to payments of sums in lieu of interest.

13. Reporting Accountant

- 13.1 A person is eligible to be a Reporting Accountant for the purpose of these rules if they are an accountant who is:
- 13.1.1 a member of an accountancy body incorporated by Royal Charter or the Association of Authorised Public Accountants;
 - 13.1.2 a person who is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989 or the employee, director or partner of a firm or company which is so registered unless they are disqualified by the provisions of 13.2; or
 - 13.1.3 is eligible within guidelines which may be published by IPS from time to time but not otherwise.
- 13.2 A person may not be a Reporting Accountant if:

- 13.2.1 they have at any time within the previous five years been a partner, owner, manager, shareholder, member, employee or officer in the Authorised Body to which the report relates; or
 - 13.2.2 they are the parent, spouse, civil partner, sibling or child of a manager or employee of the Authorised Body; or
 - 13.2.3 they have been disqualified from acting as such by IPS by written notice given after such person has had a fair opportunity to make representations that such notice should not be given.
- 13.3 You must include the following provisions in the terms upon which the Reporting Accountant is to act:
- 13.3.1 The Reporting Accountant undertakes to deliver the required Accountant's Report which will have been prepared for submission to IPS who may rely upon it; and
 - 13.3.2 The Reporting Accountant may immediately report in writing to IPS any suspicion of dishonesty or any serious breach of these rules coming to their attention or any other matter which might constitute circumstances representing a material risk to client funds;
 - 13.3.3 The Reporting Accountant warrants that they are eligible to act as such under these rules and under those of their own professional body;
 - 13.3.4 You consent to the disclosure of confidential information by the Reporting Accountant to IPS if required by IPS for any purpose under these rules;
 - 13.3.5 The Reporting Accountant is instructed to notify IPS in writing immediately of the termination of their retainer as Reporting Accountant indicating any matter which could have given rise to a notification under rule 13.3.2.
 - 13.3.6 If a Reporting Accountant is unable for any reason to provide an Accountant's Report to IPS at the time and in the form required by these rules they are instructed to immediately notify IPS in writing with a full and appropriate explanation.

14. Content of Accountant's Report

- 14.1 The Accountant's Report shall be in such form as may be stipulated by IPS but must include statements that:
- 14.1.1 your accounting systems and records comply with rule 7 hereof;
 - 14.1.2 reconciliations have been carried out in accordance with rule 8 hereof;
 - 14.1.3 sufficient checks have been carried out to properly express the opinion that as at the end of the relevant financial period the amounts due to clients balance the funds in Client Account;
 - 14.1.4 on the basis of a reasonable number of checked balances, interest has been paid to clients in accordance with these rules;
 - 14.1.5 the test procedures set out in any current IPS Guidance to Reporting Accountants have been applied; and
 - 14.1.6 you either have or have not declined to produce any document or disclose any information requested by the Reporting

Accountant whether on grounds of confidentiality, privilege or otherwise.

15. Statutory Rules or Regulations

15.1 If you, in the course of practice, act as a liquidator, a trustee in bankruptcy, a Court of Protection receiver or a trustee of an occupational pension scheme, you must comply with the appropriate statutory rules and regulations and will not be in breach of these rules to the extent that any action or omission is required by applicable statutory rules and regulations.

15.2 You must obtain the authorisation of IPS before accepting any appointment referred to in paragraph 15.1 and must comply with any conditions referable thereto which are attached to the your authorisation by IPS.

16. Accounts Rules Waivers

16.1 If you do not hold client funds, IPS may grant you a written waiver from compliance with these Accounts Rules whilst this remains the case.