

# Code of Conduct & Supporting Guides to Good Practice



# Introduction

Persons enrolling with The Institute of Legal Executives (ILEX) become bound by its Memorandum and Articles of Association. They must:

- support the aims and objects of ILEX;
- uphold the standards of professional practice prescribed in the Code of Conduct and Guides to Good Practice; and
- comply with all of ILEX's rules and bye laws.



The Articles of Association provide for Disciplinary Bodies to be established which have power to consider and determine any complaint that a member is guilty of conduct which is unbecoming to the member or to ILEX.

The Disciplinary Bodies may decide that such a person should be excluded or suspended from membership or be fined, reprimanded or admonished and may order payments to be made by way of compensation or in respect of the costs of any investigation or disciplinary proceedings.

## *Notes:*

In the Code of Conduct, 'member' includes all grades of membership of ILEX and words importing the masculine gender only shall include the feminine gender.

Where a member is subject to other jurisdictions or legal systems than those of England and Wales he is expected to comply with these professional standards where practicable but will not necessarily be deemed to be in breach if there has been compliance with established local custom and practice which is itself in conflict with these standards. Regard shall be had to the International Code of Ethics for the Legal Profession.

## **New Code of Conduct, New Disciplinary Rules 2010**

The ILEX Code of Conduct and Guides to Good Practice will be changing in 2010. Check the ILEX Professional Standards (IPS) website ([www.ilexstandards.org.uk](http://www.ilexstandards.org.uk)) from April 2010 for the new version. The Investigation and Disciplinary Rules are changing from 4 January 2010. This booklet refers to the rules and procedures which come into force then.

## The Code of Conduct

1. A member, in his professional life and employment, shall so conduct himself and the matters of which he has conduct, in such a manner:

- (1) as to avoid any action or situation which may bring disrepute upon the Institute or its members;
- (2) as to avoid doubt being cast upon his own professional integrity;
- (3) as will assist the impartial administration of justice;
- (4) as will recognise that the interests of the client are paramount to those of all others, save that at all times and in all matters a member's primary and overriding duty is to the court;

and shall observe and be bound by this Code of Conduct and the Guides to Good Practice issued from time to time by ILEX.

2. A member shall not:

- (1) misuse the trust reposed in him nor reveal confidential information other than to those entitled to receive it;
- (2) for the personal gain of himself or his family take advantage of information gained in the course of his conduct of any matter;
- (3) hold himself out as a Legal Executive nor display the distinguishing letters 'F.Inst.L.Ex.' after his name unless that member is in good standing as a fully paid up Fellow entered in the Register of Members of the Institute;
- (4) directly or indirectly discriminate against any person, nor victimise or harass them on the grounds of their age, gender, disability, race, colour, ethnic or national origin, sexual orientation, marital or family status, religion or belief.

3. A member shall at all times work within the framework of the law and shall use his best endeavours to avoid any breach of the law by his employer or the client.

## Guides to Good Practice for the Legal Executive

### Issued by the Council of the Institute of Legal Executives

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#### Notes

1. The Guides to Good Practice amplify the principles of behaviour which should assist the Legal Executive throughout his career. As a statement of principles and objectives they represent the standards observed by experienced Legal Executives in giving good service to clients. All members of ILEX are required to observe and comply with them to the extent that they are relevant to the work the member is undertaking.

2. For the purposes of these Guides the expressions:

'The Legal Executive' includes both male and female and all grades of ILEX member; and

'Principal' means any Legal Executive, Solicitor, Barrister, Licensed Conveyancer or other authorised person under whose name the Legal Executive is practising whether that person be the employer or is employed as a Legal Executive, Solicitor, Barrister, Licensed Conveyancer or other authorised person in any office, department, corporation or undertaking. In the case of Associate Prosecutors, 'Principal' will include a lawyer manager employed by the Crown Prosecution Service.

## **A. Generally**

(1) The Legal Executive should accept such work as he is competent to handle and will perform such duties without fear or favour but will obtain additional expertise or guidance from appropriately qualified persons where it is necessary to do so.

(2) The Legal Executive should endeavour to maintain the highest level of legal knowledge within his chosen field and to that end will be aware of changes in the law and legal practice.

(3) The Legal Executive should consider himself accountable for his own work and ensure that those he supervises are equipped to carry out their duties in a competent manner.

(4) The Legal Executive should ensure that he and his subordinates are familiar with legislation governing the provision of legal services including (but not limited to) the Legal Services Act 2007, the Courts and Legal Services Act 1990 and the Solicitors Act 1974 and the Solicitors Code of Conduct and Solicitors' Accounts Rules, as from time to time in force, and will comply with those rules or provisions that are relevant to any work in hand.

(5) On first accepting instructions in any matter the Legal Executive should advise the client of his qualification, whether as a Fellow or other grade of member, and position in relation to the organisation within which he is working.

The client should also be made aware of the effects of costs upon any course of action chosen. He must advise on the availability of any right of the client to apply for public funding and on the effect of receipt of such funding on the client or the other party and the effect, if any, of the statutory charge.

## **B. In relation to his employment**

(1) The Legal Executive will use his best endeavours to avoid circumstances in which his duties and his private interests conflict or may appear to conflict and will make immediate and full disclosure of any personal interest which may occur to both his Principal and the client.

(2) The Legal Executive will refrain from acting or advising in any matter where his ability to advise objectively may be impaired.

(3) The Legal Executive will at all times keep the client promptly and effectively informed of progress and developments in the matter in hand.

(4) The Legal Executive on becoming aware that any matter is not being conducted with reasonable expedition, whether for want of decision by some party or otherwise will inform both his Principal and the client of the delay as the circumstances dictate.

(5) The Legal Executive will have regard to the health and safety of his colleagues at work.

(6) The Legal Executive will always use his best endeavours to ensure the safety and security of deeds, documents and data whether under his personal control or in the care of his Principal.

(7) The Legal Executive should not withdraw his services from his employer in a manner contrary to the procedure agreed between employers and employees for settling disputes. The withdrawal of services in furtherance of an industrial dispute does not, of itself, constitute unprofessional conduct, nor does litigation relating to the terms of employment of the Legal Executive.

### **C. In relation to other lawyers, legal advisers or legal assistants,**

whether in the same employment or with whom the Legal Executive has dealings, the Legal Executive will recognise that each has obligations to his own client and to his employer and will not attempt to injure the reputation or professional standing of another lawyer, legal adviser or legal assistant.

### **D. Licensed Conveyancers**

All members of the Institute (of whatever grade) who are also Licensed Conveyancers and are either practising on their own account or are employed by a Licensed Conveyancer, are required to observe and be bound by both The Code of Conduct and The Supporting Guides to Good Practice subject to the following:

(1) The Supporting Guide A-4 should be read as including reference to the Licensed Conveyancers' Rules of Conduct,

Practice and Discipline.

### **E. Associate Prosecutors**

Members who are Case Workers designated as Associate Prosecutors by the Director of Public Prosecutions in accordance with section 7A(1) of the Prosecution of Offences Act 1985 shall observe and are bound by:

(1) This Code of Conduct and Supporting Guides to Good Practice, except that the Guides to Good Practice numbered A(4), A(5), B(3) and D shall not apply;

(2) Any Instructions issued by the Director of Public Prosecutions under section 7A(3) and (4) of the Prosecution of Offenders Act 1985; and

(3) The Statement of Ethical Principles for Crown Prosecution Service Designated Caseworkers

as they are in effect, in each case, from time to time.

Members who are Associate Prosecutors shall be aware of and, so far as they are relevant to their duties as Associate Prosecutors, have regard to the following:

(1) The Crown Prosecution Service Code of Conduct; and

(2) The Crown Prosecution Service National Standards of Advocacy

as they are in effect from time to time.

## IPS Complaints Procedure

IPS will follow the procedure outlined below when a complaint is made against a member.

1. A complaint should be made in writing wherever possible. IPS will contact the complainant to agree heads of complaint and obtain supporting evidence. Other enquiries may be made to obtain evidence.

2. A copy of the complaint is then sent to the member. They are asked to respond to the complaint and provide evidence in support of their response. Copies of responses are provided to complainants for their comment.

3. When an investigation is complete a summary of the issues is prepared and the matter is put to the Professional Conduct Panel for consideration.

4. The Panel will meet as a panel of two independent lay members and one professional member.

5. The Panel will decide if there has been misconduct. If there has not it will reject the complaint. If there has been misconduct it may:

- reprimand or warn a member;
- require a member to give undertakings;
- impose conditions upon a member; or
- refer serious matters to the Disciplinary Tribunal.

6. A member or complainant may be able to appeal against a decision or order of the Panel. An Appeal must be made within 21 days. An appeal will be heard by the Appeals Panel which may confirm or vary the decision of the Professional Conduct Panel.

7. In some cases IPS will be able to determine a case without referral to the Panel.

The types of cases include:

- Rejecting a case where IPS has no jurisdiction;
- Entering into a determination by consent, where a member has accepted misconduct and a penalty;
- Referring very serious cases directly to the Disciplinary Tribunal.

8. If a complaint is referred to the Disciplinary Tribunal the complainant will be informed of the hearing date of the Disciplinary Tribunal and may be required to attend as a witness.

9. The member will receive full information of the case against them and be entitled to attend and be represented at the Tribunal hearing.

10. Disciplinary cases will be heard by two independent lay members and one professional member.

11. The Tribunal will decide whether the charges have been proved and, if they have, what disciplinary action should be taken.

12. The Tribunal has the power to:

- exclude a person from membership;
- reprimand or warn the member; and/or
- impose conditions.

In addition the member may be ordered to pay:

- a fine up to £3000; and/or
- costs.

13. The member may appeal against a decision of the Disciplinary Tribunal to the Appeals Panel who may confirm or vary the findings of the Disciplinary Tribunal.

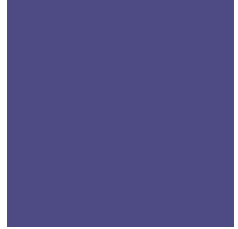
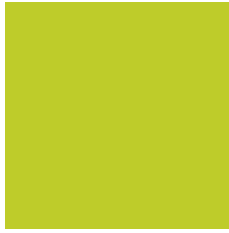
14. All disciplinary orders will be published.

## Other Complaints Procedures

### There are other bodies to which a complaint can be made:

- The Solicitors' Regulation Authority (SRA) is responsible for the regulation of solicitors and deals with allegations of misconduct.
- All solicitors' firms should have procedures for dealing with clients' concerns or complaints. Clients should receive a client care letter which explains who they can contact in the firm if they have a complaint.
- If a firm of solicitors does not deal with a complaint, or its response is unsatisfactory, a complaint can be referred to the Legal Complaints Service (LCS). The LCS investigates complaints about the service provided by solicitors and their staff, including members of ILEX employed in solicitors firms.
- The CLC (Council for Licensed Conveyancers) deals with complaints against conveyancers registered with them.
- The Bar Standards Board (BSB) of the Bar Council handles complaints against barristers.
- The OISC (Office of the Immigration Services Commissioner) handles complaints against immigration law advisers.
- The Crown Prosecution Service (CPS) operates internal disciplinary provisions for dealing with complaints about Associate Prosecutors. ILEX and the CPS have agreed arrangements to determine how such complaints should be dealt with.
- The Legal Services Ombudsman (LSO) can review the way ILEX handled a complaint against a Legal Executive Advocate. She also reviews complaints handled by the BSB, LCS and CLC.
- Complaints about fees charged by solicitors firms can be referred to the SRA for a 'remuneration certificate' or to the courts for 'taxation'. Strict time limits apply.
- Claims for negligence may be pursued by litigation. Legal advice should be taken.
- The police handle allegations of dishonesty.
- The OLC (Office for Legal Complaints) will take over responsibility for all complaints about legal service, towards the end of 2010.





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