Conflicts of Interest Code

In this Code ‘you’ refers to individuals and bodies regulated by the CLC; all individuals and bodies regulated by the CLC must comply with this Code. You must not permit anyone else to act or fail to act in such a way as to amount to a breach of this Code.

Outcomes-Focused

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

- Each Client’s best interests are served; (Outcome 3.1)
- Clients have the information they need to make informed decisions; (Outcome 3.3)
- Clients are aware of any limitation or any condition resulting from your relationship with another party. (Outcome 3.5)

The prevention, detection and mitigation of conflicts of interests help you deliver these Outcomes and act in a principled way:

1. Act with Independence and Integrity. (Overriding Principle 1)
2. Act in the best interests of your Clients. (Overriding Principle 3)
3. You keep the interests of the Client paramount (except as required by the law or the CLC’s regulatory arrangements). (CoC P3b)
4. You do not act for a Client where you judge it is not in their best interest for you to do so. (CoC 3c)
5. 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. (CoC P3d)

You must also comply with the following specific requirements:
6. Where the entity 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. (CoC P3n)

7. Before or when 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 and you explain the relevant issues and risks to them.

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 do not act, or do not continue to act, for a Client where your ability to give independent advice is in any way restricted. This may arise if:

   (a) you owe separate duties to act in the best interests of two or more clients in relation to the same or related matters, and those duties conflict, or there is a significant risk that those duties may conflict; or

   (b) your duty to act in the best interests of any client in relation to a matter conflicts, or there is a significant risk that it may conflict, with your own interests in relation to that or a related matter.

10. If a conflict arises which was or should have been foreseen, you do not charge either Client a fee for the work undertaken (other than for disbursements properly incurred).

11. As an exception to requirement 6, and provided no conflict of interest arises, if you are a body with only one Authorised Person you 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.

Should you require information on how to meet your responsibilities under this Code, please see the CLC’s Conflicts of Interest Guidance.