



## Dealing with *Non-Authorised Persons* (third parties) 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. In the context of this Code the **Non-Authorised Person** refers to the party on the other side of a transaction.

### **Outcomes-Focused**

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

- **Clients receive an honest and lawful service; (Outcome 1.2)**
- **Clients are provided with a high standard of legal services; (Outcome 2.1)**
- **Client matters are dealt with using care, skills and diligence; (Outcome 2.2)**
- **Each Client's best interests are served; (Outcome 3.1)**
- **Clients are aware of any limitation or any condition resulting from your relationship with another party. (Outcome 3.5)**

Demonstrating probity in your dealings with **Non-Authorised Person** third parties helps you deliver these **Outcomes** and act in a principled way:

1. **Maintain High Standards of Work. (Overriding Principle 2)**
2. **Act in the Best Interests of your Clients. (Overriding Principle 3)**
3. 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. **(CoC P1c)**
4. You do not take unfair advantage of any person, whether or not a **Client** of the business. **(CoC P1l)**
5. You promote ethical practice and compliance with regulatory requirements. **(CoC P2g)**

6. You keep the interests of the **Client** paramount (except as required by the law or the **CLC's regulatory arrangements**). (CoC P3b)

You must also comply with the following **specific requirements**:

7. You do not have dealings with any **Non-Authorised Person carrying on reserved legal activities** including conveyancing (unless there is clear evidence that person is an **exempt person** (see schedule 3 **2007 Act**).
8. You report to the **CLC** (without submitting your transaction file) where a **Non-Authorised Person is carrying on reserved legal activities**, including conveyancing, which appears to be or to have been a breach of s.14-16 **2007 Act**.

#### **Dealing with Non-Authorised Persons**

9. You :-
  - (a) avoid extending your duty of care to persons who are not **Clients** by seeking to ensure that, to your knowledge, you do not provide legal advice (in the circumstances provided by Hedley Byrne v Heller [1964] AC 465) on which they may seek to rely;
  - (b) not accept any undertaking which a non-Authorised 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 a **Non-Authorised Person** Party 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 **Non-Authorised 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 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.

Should you require information on how to meet your responsibilities under this Code, please see the **CLC's Dealing with Non-Authorised Persons** (third parties) Code & **Guidance**.

