

Changes to the draft Ethical Principles following consultation

January 2023

An analysis of the responses received to the initial consultation on the Ethical Principles can be found at Annex A. There were four responses to the form consultation from the Consumer Reference Group (which itself brings together a range of organisations), the OLC, The Legal Services Consumer Panel and the Society of Licensed Conveyancers. There were three responses to the online survey. All responses were very supportive of the proposed changes.

As a result, we have made the following changes to the draft Principles. Yellow highlighting indicates an addition and a strike-through indicates a removal.

The amendment to Principle 2 was suggested by the Consumer Reference Group (CRG) and is clearly a useful high-level requirement.

The deletion in Principle 5 was also suggested by the CRG to broaden out the requirement from compliance alone to all collaboration.

The addition to Principle 6 was suggested by the CRG to ensure that it is understood and good practice on diversity and inclusion extends to clients and does not apply solely to the workplace.

The new draft Ethical Principles read as follows:

1. Act with integrity, honesty, and independence
2. Know each customer, treat them fairly, keep their money safe, **communicate openly and truthfully** with them and act in their best interests
3. Uphold the rule of law and public trust in the profession and legal services
4. Maintain high standards of professional and personal conduct
5. Collaborate openly and truthfully ~~to comply~~ with regulators, ombudsman, and other legal professionals
6. **Promote and support equality, diversity and inclusion in practice, service delivery and dealings with clients**

Other points raised in consultation

The Legal Services Consumer Panel (LSCP) suggested that vulnerable consumers should be referred to explicitly in Principle 2. This is a point that can best be taken account of in the revision of the Code of Conduct in the section that will set out the expectations that flow from the Principles. We also do not want to dilute the intention that there is an onus and expectation to know each and every client.

LSCP also suggested that there should be an additional principle on whistleblowing. Again, we consider that this can best be taken account of in the rest of the Code of Conduct in the detail around Principles 3, 4 and 5.

Next Steps

A revised version of the full Code of Conduct will be prepared for consultation.

CLC Ethical Principles: Consultation Process - Formal Written Responses

Background

Standard consultation and workshops

- There were 4 set of comments obtained in responses to our consultation.
- While the number may be limited, they are from the core group we would have hoped to obtain insights from.
- All broadly welcomed the proposed changes, while recommended some alterations.
- Whistleblowing and working examples of how the Principle may apply were the 2 most common themes that emerged across some respondents.

On the supporting questionnaire, there were 3 responses.

- On Q1: on the new Principles – and if they cover ‘all the aspects of ethical legal service delivery that they should’:
- There was general support – 3 answered ‘Yes’.
- On Q2: on the expansion of new equality, diversity and inclusion requirements – and if they may be any potential negative impacts:
- There was broad backing - 2 answered, noting ‘No’.

Response Dashboard

Q / Organisation	CLC CRG	LS CP	OLC	SLC
Overall				
Q1 Principles				
Q2 EDI	N/A		N/A	

Key

Green: Response sent - Comments generally supportive of proposals (with additional recommendations).

Blue: No response sent - to the specific Q. (And no negative points / risks flagged).

Table of Responses

Question / Organisation	CLC Consumer Reference Group¹	Legal Services Consumer Panel	OLC	SLC
General Feedback	<p>Supportive and welcomed the changes. Seemed better and clearer. Also felt they were significant in refereeing to new and more demanding expectations.</p> <p>Members asked if timeliness of communication to clients was an expectation of 'high standards' And also whether efficiency and value for money were aspects of Ethical conduct / service.</p> <p>Suggested examples/illustrations of how each Principle can be adhered to.</p>	<p>The Panel was supportive of these changes.</p> <p>And noted that they are well considered.</p>	<p>Thought the new Principles were very clear.</p> <p>Set out expectation of firms.</p> <p>Makes it easier for OLC to do their work.</p> <p>And potentially also allows them to refer to CLC for misconduct (e.g. If they discover a firm has not been honest with them).</p>	<p>Broadly welcomed the review. And the intentions behind it. Agreed, subject to comments below, that they are suitable, and will enhance standards (both on Day One Outcomes , and for post-qualified conveyancers).</p> <p>Would have preferred more information/weight behind the findings of the workshops that informed the consultation. With more details on how the changes will lead to the development/introduction of wider regulatory arrangements.</p> <p>Stated that will best work in practice if the final Code is published alongside examples of how each Principle can be adhered to.</p>
<p>Q1.</p> <p>Respondents are asked to comment on any of the draft Ethical Principles. You may wish to provide additional or alternative wording, but please explain the rationale for any proposed changes.</p> <p>(See Footnote for list of proposed Principles),²</p>	<p>Principle 2 – query around whether this could be expanded to something like 'communicate openly and truthfully to clients,'</p> <p>Had a question around the incentives for compliance, and how to make this (and the other Principles) stick</p> <p>Principle 3 – could consider referring specifically to whistleblowing.</p> <p>Principle 5 – a question around whether 'comply' is required in the text. Also noted that, apart from legal professionals, there are a range of other bodies, such as HMRC</p>	<p>Principle 2 – could be strengthened by mentioning vulnerable consumers explicitly.</p> <p><i>Overall</i> – a strong view that there should be an additional principle on whistleblowing. (Not just for actions committed, but to act as a valuable deterrent).</p>	<p>Principle 2 – felt a much fuller description.</p> <p>Principle 4 – adding 'personal conduct' could help the CLC in identifying issues where a firm/individual has not maintained high standards, or treated consumers fairly.</p> <p>Principle 5 – Noted our addition of 'truthfully.'</p>	<p>Principle 2 – a wider view beyond identification, e.g. the client's objectives. And how they should treat them fairly.</p> <p>Principle 5 – would be beneficial to expand upon the wording, and fuller transparency behind this decision, noting that only a small number have 'lapses in openness and cooperation.'</p> <p><i>Overall</i> – requested clarity that the CLC itself will also adhere to the new Ethical Principles, in relation to its interactions with the regulated community and wider public.</p>

¹ Membership involved in this specific feedback (from a wider group): the Homeowners Alliance; the Office for Legal Complaints; the National Consumer Federation; a former CLC Council member; and an independent consumer advocate.

² List of Proposed Principles

1. Act with integrity, honesty, and independence
2. Know each customer, treat them fairly, keep their money safe, and act in their best interests
3. Uphold the rule of law and public trust in the profession and legal services
4. Maintain high standards of professional and personal conduct
5. Collaborate openly and truthfully comply with regulators, ombudsman, and other legal professionals
6. Promote and support equality, diversity and inclusion in practice and service delivery.

<u>Question / Organisation</u>	CLC Consumer Reference Group¹	Legal Services Consumer Panel	OLC	SLC
	<p>that should 'be in view in terms of openness and truthfulness.'</p> <p>Principle 6 – could be more active if it also expected adaptation and change (alongside promotion and support). It should be clear the scope also applies to clients/consumers.</p>			
<p>CONSULTATION QUESTION 2 Please comment on any diversity or inclusion impact that you believe could arise from the draft Ethical Principles.</p>	<p>-</p>	<p>The Panel was not aware of any impacts that could emerge from these draft Principles.</p> <p>Welcomed the extension of diversity beyond the professional and into delivering services.</p>	<p>-</p>	<p>Do not believe the changes will adversely affect the CLC's ongoing commitment on these issues.</p>