

Revised Code of Conduct following 2023 Public Consultation

Purpose: For approval

Author: Head of Policy and Regulatory Standards

Approver: Director of Strategy and External Relations

Summary

This paper summarises the feedback received via the recent public consultation which invited the sector's views and input on draft new Ethical Principles and Outcomes (see Annex A). This paper also sets out the revisions made to the draft new Ethical Principles and Outcomes in light of the feedback received (see Annex B showing proposed amendments). If approved, the Ethical Principles and Outcomes will be included in a revised version of the Code of Conduct to come into effect on 1 May 2024, subject to approval by the Legal Services Board (Annex C is clean version of the Code).

Recommendations

To approve the revisions to the Code of Conduct as set out at Annex B of this paper for submission to the Legal Services Board for approval.

Relevant Regulatory Objectives

The publication of a revised Code of Conduct supports the fulfilment of all Regulatory Objectives in various ways and in particular, supports fulfilment of those highlighted below.

RO1 - protect and promote the public interest

RO2 - support the constitutional principle of the rule of law

RO3 - improve access to justice

RO4 - protect and promote the interests of consumers

RO5 - promote competition in the provision of legal services

RO6 - encourage an independent, strong, diverse and effective legal profession

RO7 - increase public understanding of the citizen's legal rights and duties

RO8 - promote and maintain adherence to the professional principles

Relevant CLC Principal Risks

As highlighted below, failure to properly consult and to give due consideration to feedback provided through public consultation would give rise to a risk in relation to non-delivery of the CLC's current strategy. In bringing this paper to Council and inviting sign-off of the revised Code of Conduct, we are taking steps to deliver our strategy and mitigate this risk.

1. Loss of significant practice fee income caused by depressed market conditions, practice churn or practice closure
2. Unplanned increase in the cost of regulation to the point where expenditure exceeds income
3. Loss of any or multiple SMT members
4. The CLC is unable to attract and retain capable and competent employees due to uncompetitive pay or benefits
5. A major incident, either physical or cyber threatens the continuity of the CLC through loss of staff or infrastructure
- 6. Not delivering on the CLC Strategy**
7. Practices are not able to secure Professional indemnity insurance or terms are unaffordable or unacceptable to the CLC
8. Organisational performance and staff welfare risks in a small organisation

Financial impact

Costs associated with the delivery of the consultation and post-consultation implementation of the revised Code of Conduct were anticipated and planned for at the commencement of this project and factored into the 2023/24 budget.

With the exception of the significant expansion of the requirements around 'knowing your client', the changes to the Ethical Principles and Outcomes that Council is asked to approve today are minimal. Whilst these changes deliver a Code that more clearly articulates the desired outcomes that will be achieved through compliance and are more exacting in their expectations of the profession, the changes to the Code are likely to necessitate only minor review and revision for most practices. As such, the financial impact for the regulated sector is anticipated to be minimal, and having had advanced notice of the upcoming changes, practices will have been able to factor any necessary changes to their practices and processes into operational and business plans.

Diversity and inclusion impact

No differential impact on any groups identified or anticipated and it is worth noting that Ethical Principle 6 aims to promote greater awareness and understanding of the Equality obligations that regulated individuals and practices have.

Communications requirements

The revised Code of Conduct will be published on the website [here](#) and dissemination of information about the changes and the date that the revised Code comes into effect to be communicated to the regulated sector via the usual communication channels in advance of 1 May 2024 (assuming Council and the LSB approve the revisions).