



## **Estimates & Terms of Engagement Code & Guidance**

### **Estimates & Terms of Engagement 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**:

- **Clients receive good quality independent information, representation and advice; (Outcome 1.1)**
- **Client matters are dealt with using care, skill and diligence; (Outcome 2.2)**
- **Clients have the information they need to make informed decisions. (Outcome 3.3)**

Providing timely Estimates and **Terms of Engagement** which are easy to understand helps you deliver these **Outcomes** and to act in a principled way:

1. **Act with independence and integrity. (Overriding Principle 1)**
2. **Maintain high standards of work. (Overriding Principle 2)**
3. **Act in the best interests of your Clients. (Overriding Principle 3)**
4. You act honestly, professionally and decently. (**CoC P1b**)

5. You do not give false or misleading information relating to the provision of **Regulated Services**. (CoC P1e)
6. You **promptly** advise **Clients** of any significant changes to projected **costs**, timelines and strategies. (CoC P3m)
7. 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)

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

### **Estimates**

8. Any estimate of **costs** is stored on a **Durable Medium** and states:-
  - 8.1 the name of the **Client**, and the nature of the transaction;
  - 8.2 the basis on which fees for abortive work will be payable;
  - 8.3 the proposed fees and other expenses (such as **bank** transfer fees) payable to you (such fees and other expenses are deemed to be inclusive of VAT unless VAT is separately itemised);
  - 8.4 any disbursement likely be incurred on the basis of the instructions received (such **disbursements** are deemed to be inclusive of VAT unless VAT is separately itemised);
  - 8.5 where the total sum payable as estimated under paragraph 8.3 is likely to be exceeded that the Body will advise the **Client** of that fact and provide an explanation and a revised estimate;
  - 8.6 in respect of paragraphs 8.3 and 8.4:
    - 8.6.1 unless otherwise stated fees will be deemed to be inclusive of the costs of post, telephone calls, facsimile communications and email;
    - 8.6.2 unless separately specified, the estimate of proposed fees payable to the body will be deemed to include fees for:-
      - representation of the lender;
      - service of notices on a landlord or management company.
    - 8.6.3 the **Client** is advised where it is not possible to provide an estimate of fees and **disbursements** because the relevant information is not available.
9. If it becomes apparent that the total sum payable as estimated under paragraph 8 is likely to be exceeded or that the relevant information has become available, as soon as practicable you:-

- 9.1 advise the **Client**; and
- 9.2 provide the **Client** with a written explanation on a **Durable Medium**.
10. Any fees, expenses, **disbursements** and VAT to be charged in respect of an abortive transaction are notified to the **Client** on a **Durable Medium** as soon as those matters can reasonably be calculated whether or not an invoice is delivered at this time.

### **Terms of Engagement**

11. You provide **Clients** with **Terms of Engagement** with a request that the **Client** confirms their agreement to the terms.
12. The **Terms of Engagement** summarise the nature of instructions and with sufficient clarity so as to be readily understandable to the **Client**.
13. The **Terms of Engagement** include:-
  - 13.1 your name, address, telephone and other contact details;
  - 13.2 if not included in paragraph 13.1, the name of one of your **Managers**;
  - 13.3 the name of the individual having day-to-day conduct of the matter and where applicable the name of the individual responsible for its overall supervision;
  - 13.4 if the matter is to be conducted by a team, the identity of that team and the name of its leader(s);
  - 13.5 the name of the individual to whom any **complaint** should be made;
  - 13.6 an explanation of the procedure to be adopted where the **Client** is dissatisfied with the services or conduct of any of your **Managers** or **employees**. This information must also include the **Client's** right to complain to the **Legal Ombudsman** at the conclusion of the **complaint** process, the time limits for doing so and full details about how to contact the **Legal Ombudsman** (see **Complaints Code**).
  - 13.7 the following wording:-

“If you make a valid **claim** against us for a loss arising out of work for which we are legally responsible, and we are unable to meet our liability in full, you may be entitled to **claim** from the **Compensation Fund** administered by the Council for **Licensed Conveyancers** (from whom details can be obtained”).
  - 13.8 You keep a copy of, and any evidence that the **Client** has agreed, the estimate and **Terms of Engagement** on a **Durable Medium**.

## **Estimates and *Terms of Engagement* Guidance**

### **Estimates**

1. It is advisable to set out the likely fees to be incurred in an estimate rather than in a quotation since a quotation will be treated as a fixed price contract which cannot be varied notwithstanding any provision in the ***Terms of Engagement*** to the contrary.

### ***Terms of Engagement***

2. It is good practice for ***Terms of Engagement*** to include:
  - authority for you to retain or destroy the contents of a ***Client's*** file or transfer the data onto another ***Durable Medium*** (see Transaction Files Code & ***Guidance***, paragraph 5 of the ***Example Approach***)
  - The wording suggested at Chapter 8 of Combating Anti Money Laundering and Terrorist Financing Code and ***Guidance – Example of Wording to be incorporated into the Terms of Engagement***.

Please also see the Mortgage Fraud Guidance provided at page 116.