



Management & Supervision Arrangements Code & Guidance

Management & Supervision Arrangements 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 are provided with a high standard of legal services (Outcome 2.1);**
- **Client matters are dealt with using care, skill and diligence; (Outcome 2.2)**
- **Appropriate arrangements, resources, procedures, skills and commitment are in place to ensure Clients always receive a high standard of service. (Outcome 2.3)**

Appropriate management and supervision **arrangements** help you deliver these **Outcomes** and require you to act in a principled way:

1. **Maintain high standards of work. (Overriding Principle 2)**
2. You ensure all individuals within the entity are competent to do their work. (CoC P2c)
3. You supervise and regularly check the quality of work in **Client** matters. (CoC P2d)
4. You **systematically** identify and mitigate risks to the business and to **Clients**. (CoC P2f)
5. You promote ethical practice and compliance with regulatory requirements. (CoC P2g)

6. You enable staff to raise concerns which are acted on appropriately. (**CoC** P2h)
7. You maintain proper governance, management, supervision, financial and risk management **arrangements** and **controls**. (**CoC** P2i)
8. You maintain proper records to evidence your **arrangements** and how they are applied. (**CoC** P2o)

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

9. A **Manager** who is an **Authorised Person** is responsible for ensuring that all of the entity's **employees** are properly supervised. (**CoC** P2m)
10. You make provision for alternative supervision **arrangements** in case of illness, accident or other unforeseen event. (**CoC** P2n)
11. You **systematically** identify, monitor and manage risks to the delivery of this Code's [the **Code of Conduct**] **Outcomes**. (**CoC** P5j)

Management and Supervision **Guidance**

Supervision **arrangements**

1. Factors in determining whether the work is being effectively supervised include:-
 - (a) the number of **Authorised Persons** available to supervise each office;
 - (b) the volume and nature of the work undertaken;
 - (c) the number, competence, training and duties of unqualified staff;
 - (d) **arrangements** for an **Authorised Person** to monitor incoming and outgoing communications.
2. The way in which a body's **arrangements** ensure compliance with the **Code of Conduct** (and thereby, all **regulatory arrangements**) is a matter for the individual body. However, each body must be able to show that **arrangements** are in place and are operating in order to satisfy the **CLC** it is compliant.
3. Matters to be taken into account in determining whether the management **arrangements** and systems adopted by the body are appropriate will include its size and management structure; the number, experience and qualifications of staff; and the nature of work undertaken; and the mechanism for periodic review of their effectiveness.

Arrangements - examples of high-level good practice

Business Arrangements

4. Effective supervision and quality assurance procedures are in place across the organisation and include suitably competent and experienced persons regularly checking the quality of work carried out in **client** matters.
5. Training **arrangements** enable all **employees** to maintain a level of competence appropriate to their work and level of responsibility.
6. Recruitment, selection and employment **arrangements** ensure that the body does not employ an unfit and improper person who could compromise the interests of the public and **clients**.
7. Compliance policies promote ethical practise, encouraging the body and its staff to act in a way which is compatible with the regulatory requirements.
8. Staff are aware how, and to which named individual, they can raise concerns of non-compliance or wrong doing. They are encouraged and feel able to raise concerns, and are confident these will be acted upon appropriately and they will not be victimised for raising them.
9. There is a clear and effective governance structure and reporting lines.

Risk Management

10. Appropriate **arrangements** and operating procedures mean that any risks to the achievement of regulatory responsibilities – in particular the delivery of the positive **outcomes** identified in the **Code of Conduct** - the best interests of individual **clients**; assets and money which **clients** have entrusted to you; business continuity; and the body's financial stability; are **systematically** identified, monitored, managed and determined efforts made to mitigate the risks presented.

In the event of Absence, Incapacity or Death Guidance

Introduction

1. It is important that you are able to protect your business and its **clients** in an emergency such as incapacity or death. It is particularly relevant for Sole **Practitioners**. The **guidance** below is intended to highlight issues which may arise and to provide possible solutions. However, it is up to you to decide what options best suit your own circumstances and which will enable the business to continue to deliver positive **Outcomes** for **Clients** even in exceptional circumstances/an emergency.

Identifying Suitable Attorneys

2. You should appoint a suitable individual as Attorney to manage the business if you are not able to do so. The Attorney should be legally qualified and preferably an **Authorised Person**. The

Attorney should be capable of dealing not only with the affairs of the **clients**, but also with your personal and business affairs. However, consideration should be given whether to appoint different individuals to manage personal affairs and those of the business.

3. An Attorney must be willing to take on the responsibility for managing the business. In an emergency they must be able to find contact names, addresses and files, obtain details of **client** ledgers and access the computer systems. You may wish to take account of the following:
 - any arrangement is more likely to be successful if, at the outset, it is reciprocal;
 - it should be kept under regular review;
 - whether your family and any **employees** should know of the arrangement;
 - whether there should be any specific Indemnity Insurance arrangements;
 - if the absence is planned, **clients** should be told who will be dealing with their matter.

Absence

4. Specific Authority - Arrangements may be made with a **bank** for named Attorneys to operate specific **bank** accounts.
5. Power of Attorney - May be of general or specific application.

Each of these forms of authority ceases to have effect when either a donor or their attorney becomes incapable or dies.

Incapacity

6. Lasting Power of Attorney (LPA):
 - the prescribed form should be used;
 - two Attorneys may be appointed jointly or jointly and severally;
 - consider including a clause entitling the Attorney to charge and be paid professional fees for managing the business (Charging Clause);
 - the LPA ceases to be valid on your death or on the death or incapacity of the Attorney.

Death

7. Will/Grant of Probate:
 - the Will should provide for the business to be managed in the short term

- an **Authorised Person** should be appointed as Executor; alternatively, power should be given to the Executor to appoint an **Authorised Person** to manage the business
- a Charging Clause should be included
- specific instructions may be included in a “side” document to the Will which can be changed depending on circumstances.