

## INSTITUTE OF BARRISTERS' CLERKS

### CODE OF CONDUCT FOR INSTITUTE OF BARRISTERS' CLERKS (IBC)

#### (1) Introduction

- 1.1 The Bar of England and Wales is an important part of the system of the administration of justice serving the needs of the public, the upholding of the rule of law and the maintenance of civil liberties. Members of the Institute of Barristers' Clerks (the "IBC") provide support services to members of the Bar in Chambers, their professional and lay clients. *See rule 3(f) of the rules of The Institute of Barristers' Clerks (IBC)*
- 1.2 This Code should be read in conjunction with, and as ancillary to, the current version of the BSB Handbook. Members of the IBC should be particularly familiar with all matters set out in the Bar Code of Conduct at Part 2 of the BSB Handbook.
- 1.3 It is the duty of all IBC members to guide and advise members of their chambers where necessary, ensuring that at all times they adhere to the Conduct Rules as set out in the BSB Handbook and the IBC Code of Conduct
- 1.4 Any barristers' clerk who is in doubt about matters of conduct of business or practice may refer to Appendix A of this Code of Conduct

#### (2) Commencement and Amendment of Code of Conduct

- 2.1 This Code was amended on 25 January 19 and will come into force on 19 March 2019.
- 2.2 Amendments, additions and revocations to this Code may be made by the Executive Committee in an Extraordinary General Meeting or at the Annual General Meeting

#### (3) General Principles

- 3.1 Upon becoming a member of the IBC such member must undertake that, so long as they remain a Barristers' Clerk, they will observe this Code of Conduct.
- 3.2 The IBC has no jurisdiction over any persons employed by Chambers who is not a member of this Institute and whose contract of employment does not make the application of this Code a condition, but Senior Clerks and Practice Managers or Chambers Administrators should, wherever possible, make such persons aware of the contents of this Code of Conduct.
- 3.3 It is the duty of any Clerk, Practice Manager or Chambers' Administrator employed by a member of the Bar not to engage in conduct which is illegal, dishonest or otherwise discreditable to their position, or which is likely to bring the IBC or the profession into

disrepute.

**(4) Definitions**

- 4.1 A clerk or practice manager is a person who is contractually engaged by a member or members of the Bar for the promotion and organisation of their practice(s). *See rule 4A(i) of the rules of The Institute.*
- 4.2 "Client" includes both professional client and lay client unless stated to refer to one or the other alone.
- 4.3 "Court" includes any court or tribunal or any other person or body before whom a barrister may appear as an advocate.
- 4.4 "Employer"
- (a) the Head of Chambers where members of such chambers have delegated authority to the Head of Chambers to act as employer,
- (b) where the employer is a company shall include a holding, subsidiary or associated company of the employer.
- 4.5 "BSB Handbook" refers to the current version of the Bar Standards Board Handbook

**(5) Qualification and Membership of the Institute**

- 5.1 The requirements for qualification and membership of the Institute are set out in the Rules of the Institute.

**(6). Subscription to the Institute**

The rules relating to subscription are set out in the Rules of the Institute (rules 5 and 6) and the Disciplinary Rules and Regulations Appendix.

**(7) Administration of Chambers – General**

- 7.1 Guidance as to the administration of chambers is to be found in Appendix A of this Code.
- 7.2 Failure to comply with any of the provisions referred to in 7.1 shall be considered relevant in any disciplinary proceedings.
- 7.3 Any complaint of a disciplinary nature or relating to allegations of misconduct should be made in writing to the Chair of the IBC, who will review it in confidence
- 7.3 Complaints of misconduct or misdemeanour against a clerk shall be investigated under the rules governing the Etiquette and Disciplinary Committee's procedures set out in Appendix B to this Code. The decision of this Committee shall be binding on the person bringing the complaint and the person complained of, subject to any Appeal by the Complainee.

## APPENDIX A

### 1. Relationships with Barristers

A barristers' clerk:

- 1.1 must have a contract of employment with their employer, whether that be the Head of Chambers or Chambers' Service Company
- 1.2 will use their best endeavours at all times to promote the professional welfare of each member of Chambers.
- 1.3 will arrange the diary and general work programme of the barrister to the best of their ability.
- 1.4 will ensure that fee notes or invoices are submitted to those instructing in accordance with the agreed Terms of Work.
- 1.5 should be mindful at all times of the relevant Equality and Diversity Policy and Work Allocation Policy when considering unallocated work flow.
- 1.6 must refer to the BSB Handbook Part 2 rC25 and rC26 in the event having to return Instruction/Briefs to alternative Counsel
- 1.7 must treat all confidential information as such and be up to date with GDPR regulations
- 1.8 shall inform the Barrister and client at the earliest possible moment of any circumstances which may result in the Barrister being conflicted in relation to potential instructions or instructions received. (see current edition of BSB Handbook for rules and guidance)

### 2. Relationships with Solicitors and Lay Clients

A barristers' clerk has a duty to:

- 2.1 inform counsel's professional and lay-clients of Chambers' Terms of Work, complaints procedure and money laundering regulation procedures.
- 2.2 ensure that instructions received for counsel are appropriate for counsel's areas of expertise and seniority
- 2.3 ensure confidentiality on all instructions or brief/s received in Chambers and must be familiar with Chambers' confidentiality policy and wider GDPR rules
- 2.4 seek the consent of those instructing in order to communicate directly with a lay client

### **3. Relationships with Chambers**

A barrister's clerk must:

- 3.1 work at all times in conjunction the other Chambers' clerks and staff to ensure that Chambers is managed and administered competently and efficiently.
- 3.2 be fully aware of the current BSB Handbook and in particular the Rules (Section C)
- 3.3 be familiar with their Chambers' Staff Handbook and all relevant policies and procedures
- 3.4 whenever possible, endeavour to aid and assist any pupil with the common practices within Chambers and wherever possible, properly to advise the said Pupil on a career at the Bar.

### **4. Relationships with the Court Service**

When dealing with any section or member of the court service, judicial or otherwise, a barristers' clerk must:

- 4.1 act in an honourable, courteous and responsible manner at all times.
- 4.2 wherever possible, provide the relevant listing officers with any information which may be helpful to facilitate the smooth running of the Courts.
- 4.3 Co-operate fully, whenever possible, in dealing with requests from the courts as to the length of hearings, availability of Counsel, Solicitors and witnesses, and the likelihood of cases suddenly lasting longer or shorter than originally estimated.
- 4.4 make arrangements for the swift removal of the Barrister's papers and books from the Courts at the conclusion of a hearing.
- 4.5 ensure that the other side is kept informed when seeking adjournments, late markings etc. of cases listed before the Court, unless extreme circumstances prevent them from doing so
- 4.6 keep themselves fully acquainted and apprised of current listing procedures.
- 4.7 at all times act within the parameters of this Code of Conduct whilst also having regard for the BSB Handbook Rules

### **5. Relationships with Clerks**

At all times a barristers' clerk

- 5.1 shall treat all other clerks with respect and integrity; shall use best practice on all occasions when liaising with other clerks; and shall behave at all times in a manner which does not compromise the reputation of their chambers, the IBC, or the profession as whole
- 5.2 when arranging a fixture should only do so in consultation with the clerk to the barrister representing any other party.

## **APPENDIX B**

### **DISCIPLINARY COMMITTEE RULES AND REGULATIONS**

#### **1. Constitution**

- (a) The Disciplinary Committee shall consist of four members of the IBC Executive Committee, excluding the Chair of the IBC.
- (b) The Chairman of the Disciplinary Committee shall be appointed by the Chair of the IBC who may consult the IBC Management Committee before making such appointment.
- (c) The Administrator of the IBC may be appointed to attend for notation purposes.

#### **2. Complaints against a Member**

- (a) A complaint against a member must be made to the Chair of the IBC in writing and whenever possible be supported by documentary evidence. A complaint may be made by any member, or any person (hereinafter called the Complainant) having reason to believe that another member has behaved in a manner unbecoming a member of the IBC (hereinafter called the Complainee)
- (c) A list of all possible witnesses, their names and contact details, must be lodged with any Complaint or as soon as possible thereafter and in any event no later than 7 days after the lodging of the Complaint
- (d) The Chair of the IBC shall, within 14 days of receipt of the Complaint, appoint a Chair of the Disciplinary Committee and three further panel members and send a copies of the Complaint to each, double enveloped and marked "private and confidential"
- (f) On receipt of the Complaint the Chair of the Disciplinary Committee shall give the member against whom the complaint has been made 14 days to consider the matter, inviting the Complainee within that timescale to acknowledge receipt of the papers ("the Complaint") and give a written indication of whether the Complainee accepts or denies all or part of the said Complaint.
- (g) Within 14 days of the Complainee's reply being received by the Chair of the Disciplinary Committee, the Chair will convene a meeting of the Disciplinary Committee, to which the Complainee and Complainor will be invited to present their argument either orally or in writing.
- (h) Following this meeting, the Disciplinary Committee will, within 14 days notify the parties of their decision in writing.

- (i) The Committee is only empowered to arrive at findings of “proven” and “not proven”. It can order expulsion or suspension from the membership of the IBC
- (j) If the Committee is of the opinion that the Complaint has been proved it shall make a finding to that effect and it shall have the power to order that the member concerned be expelled or suspended from the membership of the IBC for such period as the Committee shall decide. In the absence of any appeal being received from the Complainee within 28 days of the date of the Written Notice of the Findings (see 9 (a) below) the Committee will inform the Complainee’s employing chambers of it’s decision.

**9. Appeal Procedure**

- (a) A Complainee who has been ordered by the Disciplinary Committee to be expelled or suspended from membership may, within 28 days of the date of the written Notice to them of the findings of the Disciplinary Committee, appeal to the Executive Committee of the Institute, constituting the Chair of the IBC and the remaining two members of the Executive Committee not previously on the Disciplinary Committee, forming the Appeal Committee
- (b) In the event of such an Appeal the same procedure shall apply as that of the Disciplinary Committee as at 9 (g)
- (c) If an oral hearing is requested, the appellant is permitted to bring a friend or colleague with them in either a supporting or representative capacity
- (d) The Appeal Committee will, within 14 days of the either the oral hearing or the Appeal Committee meeting to consider the Appeal, notify the Appellant of their findings. They may either allow the Appeal and overturn the decision of the Disciplinary Committee or dismiss the Appeal and uphold the decision of the Disciplinary Committee
- (c) Such findings of the Appeal Committee shall be binding and there is no further right of Appeal.

**10. Publication of Findings and Orders**

At the conclusion of 28 days from the date of the Notice of the Disciplinary Committee, there not having been received by the Executive Committee a Notice of Appeal; or following any Appeal Hearing, the Disciplinary/Executive Committee shall publish in both the next IBC Bulletin and the Annual Report of the IBC, a note of findings and orders relating to the complaint.

Further, should the Disciplinary/Executive Committee decide that the complaint is of sufficient seriousness, then they will report the matter to the appropriate authorities.

**11. Records of Proceedings**

These are confidential and must remain in the custody of either the Chair of the IBC or the

Administrator to the Committee for a minimum of six years, after which time they will be securely destroyed. They must not be disclosed or released to any other source without an order of a Court.

### **APPENDIX "C"**

1. Any Barristers' Clerk, Practice Manager or Chambers Administrator who is a member of the Institute of Barristers' Clerks (IBC) is bound by the rules of the IBC and by the Code of Conduct published by the IBC, together with these Disciplinary Rules.
2. Breaches of this Code and/or the rules of the IBC may result in a finding of "proven" by the Disciplinary Committee
3. Non-payment of the professional subscription fees for the IBC are covered in Rule 6 of the IBC Rules.