

**THE LEGAL SERVICES CONSULTATIVE PANEL**

**ADVICE TO THE SECRETARY OF STATE**

**ON AN APPLICATION BY THE LAW SOCIETY FOR APPROVAL OF  
RULE 1 CORE DUTIES AND RULE 2 CLIENT RELATIONS OF THE  
DRAFT CODE OF CONDUCT**

**LSCP Ref: No 2/2005**  
**Advice given December 2005**

## LEGAL SERVICES CONSULTATIVE PANEL

### APPLICATION BY THE LAW SOCIETY FOR APPROVAL OF RULE 1 CORE DUTIES AND RULE 2 CLIENT RELATIONS OF THE DRAFT CODE OF CONDUCT.

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#### ADVICE TO THE SECRETARY OF STATE

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##### The Panel and publication of advice

1. The Legal Services Consultative Panel (the Panel) was established by the Access to Justice Act 1999 in January 2000.
2. The Panel has considered a reference made by the Secretary of State (Referral No 2/2005, April 2005) seeking its advice concerning an application from the Law Society. The application in question seeks approval of rule 1 (Core duties) and rule 2 (Client relations) of the draft Code of Conduct which is intended to replace the current Guide to Professional Conduct of Solicitors. The Panel's advice was given in December 2005.
3. The advice is published on behalf of the Panel by the Department for Constitutional Affairs. The complete document appears on the Department for Constitutional Affairs' website [www.dca.gov.uk](http://www.dca.gov.uk) as well as being available in hard copy.
4. Further copies of the Panel's advice are available from the Panel Secretariat (*please telephone:* Surinder Sawali on 020 7210 8336).
5. The Panel comprises:

Mr Alan Street (Acting Chair)  
Mr Jonathan Acton Davis QC  
Professor John Bell QC (Hon)  
Professor Hugh Brayne  
Mr Jonathan Goldsmith

Mr John Hannam  
Ms Karen Mackay  
Professor Richard Moorhead  
Mr John Randall QC  
Mr John P Randall

Mr Simon Sapper  
Ms Peta Sweet  
Mr John Young CBE

# SUMMARY

## Principles

1. In considering and putting forward its advice on the application, the Panel has had regard to the principle central to the policy of the Courts and Legal Services Act 1990 and the Access to Justice Act 1999, namely the development of legal services in England and Wales (and in particular the development of advocacy, litigation, conveyancing and probate services) by making provision for new or better ways of providing such services and a wider choice of persons providing them, while maintaining the proper and efficient administration of justice.
2. The Panel has also considered the application in relation to the five principles of good regulation identified by the Better Regulation Task Force (an independent group established in 1997 to advise the government) against which the appropriateness and effectiveness of any type of regulation should be tested, namely transparency, accountability, targeting, consistency and proportionality.
3. In addition the Panel has taken into account the message delivered by the Secretary of State in his speech on Legal Services Reform on the 21 March 2005. When setting out his intentions for reform, the Secretary of State said "...ahead of the creation of the Legal Services Board, we will be looking closely at any rules of the professional bodies that we believe may not be operating fully in the consumers' interest". The Panel kept this in mind to ensure rules 1 and 2 are subject to proper competition considerations and whether they will operate in the best interests of the public.

## The Law Society's application

4. The Law Society's application is made to the Secretary of State under the provisions of Section 29 of, and Schedule 4 to the Courts and Legal Services Act 1990 (CLSA 1990) (as amended). The application seeks to amend the Guide to Professional Conduct of Solicitors (1999), which relates to Core duties and Client relations. The new rules are referred to as rule 1 and 2 of the Law Society's draft Code of Conduct.

## The Panel's observations and recommendations

5. The Panel makes the following observations and recommendations:

- **Rule 1 Core duties:**

**The Panel acknowledges the significance of this rule as it sets out the framework against which the entire Code should be considered. The Panel understands that the draft guidance to rule 1 is intended to provide some indication of the relationship between the core duties and other rules in the Code. The Panel has some concerns about how this would operate in practice. The Law Society has proposed amending the draft guidance to address some of these concerns. However, it is the Panel's view that due to the significance of the principles stated as core duties, the rule itself should confirm that the core duties are regulatory principles enforceable**

**in their own right and applicable in all circumstances even where there are more detailed related rules elsewhere in the Code. The Panel has concerns about who is covered by the rule and considers that further clarification upon the obligations extending beyond the solicitor's own actions is needed. The Panel recommends that rule 1.02 (Independence) should be amended to enable a solicitor to refrain from acting, not only when his/her independence would be compromised but also in circumstances where there is a likelihood of this happening. The reference to the principle of confidentiality in this rule is another matter of concern for the Panel, as the rule does not explicitly state that exceptions exist when it should be clear that they do. The Panel also recommends that the core duty of supervision and management should include all the three main elements of professional obligation: client, professional and public interest in the administration of justice.**

- **Rule 2 Client relations:**

**The Panel took into consideration the similarities and differences between this rule and rule 15 of the current practice rules. In broad terms the Panel is content with the rule as drafted with the exception of two issues. The first relates to the rule containing an element of doubt about the costs of handling complaints. The Panel recommends an amendment to the rule as opposed to an amendment to the guidance. Secondly, the Panel questions why the rule relating to Conditional Fee Agreements does not stipulate a requirement for solicitors to inform clients of their right to assessment at the time costs are sought rather than at the outset of taking a case.**

### **Conclusion**

6. The Panel advises the Secretary of State to approve the application, subject to the limitations set out in paragraphs 8.24 to 8.29 and 9.8 to 9.9 of this advice.

## LEGAL SERVICES CONSULTATIVE PANEL

# APPLICATION BY THE LAW SOCIETY FOR APPROVAL OF RULE 1 CORE DUTIES AND RULE 2 CLIENT RELATIONS OF THE DRAFT CODE OF CONDUCT.

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## ADVICE TO THE SECRETARY OF STATE

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### Introduction

1. This Advice relates to an application by the Law Society to the Secretary of State dated March 2005 to amend its rules on Core duties and Client relations. The background to this referral to the Panel is that the Law Society has undertaken a substantial revision of its Guide to Professional Conduct of Solicitors 1999.
2. The Law Society's application is made under Section 29 of the Courts and Legal Services Act 1990 ("CLSA"). In April 2005 the Secretary of State referred the proposal of the Law Society to the Legal Services Consultative Panel ("the Panel") for advice in accordance with the provisions of paragraph 11(1) of Schedule 4 to the CLSA 1990 as amended. The Panel understands that a similar referral has also been sent to the Office of Fair Trading.

### Background to the Application

3. The Law Society set up a working party in 1999 to review and revise its professional Code of Conduct. The proposed rules were first referred to the Panel in April 2005 and later in revised form in July 2005 after the Law Society approved its draft Code of Conduct. As well as draft rules 1 and 2, the Panel received draft guidance proposed to accompany these rules, a background note on the working party process and a further note from the Law Society responding to initial queries raised by the Panel about the proposed rules.

### The Panel's considerations

4. A working group was set up by the Panel to consider the proposed rules in detail and its members met with representatives from the Law Society on 25 July 2005 to discuss the main issues seen as potentially arising from the application. The Panel took into consideration the primary factors which contributed to the changes and the manner in which rules and guidance have been compiled as set out in the Law Society's background briefing. Following this meeting, the Law Society has responded constructively and provided the Panel with proposed amendments to the guidance which are aimed at meeting some of the Panel's initial concerns. The Law Society was not able to propose rule amendments as the procedure for rule implementation requires the agreement of the Law Society Council. For that reason the Law Society has refrained from referring the rules back to the Council until after the Panel's advice.

## Scope of the application

5. The referral relates in particular to draft rule 1, the core duties for the solicitors' profession, and draft rule 2, client relations. The Law Society indicated that the main reasons for the changes are a desire to reduce complexity; increase clarity and improve the ability of clients to comprehend the meaning of the new Code of Conduct; reduce unnecessary regulation; and to seek to ensure that regulation does not inhibit creativity and competition. To describe the Law Society's analysis of these factors in more detail:
  - (i) The current Guide is complex. There is little logic in distinguishing between what is a practice rule with statutory force, and what is dealt with by way of non-statutory principles and notes. The Guide has become a confusing mixture of rules, guidance, advice, notes etc.
  - (ii) While there are historical reasons for the complex development of the Guide, in which statutory rules and non-statutory obligations sit uneasily alongside each other, the complexity of the regulatory framework helps neither solicitors, clients, nor the various regulatory and adjudication bodies.
  - (iii) Clients may well feel that the complexity of the regulatory framework works against them and makes the rules inaccessible. Clients have as much right to understand the rules as solicitors. Clients may believe that the complexity allows solicitors to find "loophole" defences.
  - (iv) Solicitors believe that the detailed and complex structure gives some clients unrealistic expectations, especially for those who are unaware that they serve to lay down minimum standards rather than achieve perfection. Solicitors also believe the rules include too much detail in order to target the small minority of the dishonest and unprofessional solicitors which then overburdens the majority.
6. As a result, the working party set up by the Law Society identified its overriding aims and agreed with the Law Society Council its own principles of good rule making so that all the new rules could be measured against these principles.
7. The Panel understands from the Law Society that its working party took particular account of the need to remove unnecessary rules (such as rules or guidance not intended to be mandatory conduct requirements) and other provisions that simply replicate the law.

## 8. **Rule 1 Core duties**

8.1 The Panel considered the rule on core duties and the issue of its relationship with other rules in the draft Code of Conduct and whether this relationship had been expressed in a sufficiently clear manner.

8.2 The guidance to rule 1 is intended to provide some indication of the relationship between the core duties and the more detailed rules set out in the remainder of the draft Code. The guidance submitted to the Panel originally gave the Panel some concerns as it did not sufficiently explain the relationship between the core duties and the subsequent rules. The Panel was also aware of the potential for conflict between the core duties and subsequent rules (e.g. rule 1 suggests confidentiality is an absolute professional obligation when this is clearly not the position in the confidentiality rules which form rule 4 of the draft Code).

8.3 In particular, the Panel was unable to discern from either the rules or the guidance whether subsequent more detailed rules limit the core duties or merely provided examples of the specific way in which core duties manifest themselves. These concerns were underlined by part of the Law Society's response to the initial comments of the working group. The Law Society suggested that the core duties and the main rules be designed to complement one another as the main rules show how the core duties manifest themselves in practice *and* that they might limit the core duties.

8.4 The working group discussed this issue with representatives of the Law Society at a meeting on 25 July 2005 and encouraged them to reconsider their guidance. The Law Society took on board the comments and has now suggested revised guidance which sets out that, "The core duties as expressed in rule 1 function both as key principles and as enforceable standards of conduct. Some pervade all aspects of practice, such as those dealing with integrity and independence, and manifest themselves through many examples in the other rules. Other core duties work more closely in conjunction with specific rules which, in effect, illustrate how the core duties apply in practice. For example, the core duties make high level statements about important issues such as client care, conflicts of interest, the duty of confidentiality and the proper supervision and management of a practice, but the specific rules dealing with these areas provide much greater detail to explain how these duties apply. The core duties and the other rules must, therefore, be read in conjunction."

8.5 The Panel acknowledges the Law Society's efforts in revising the guidance but retain one concern. The Law Society appears to be saying that the core duties are enforceable in their own right, but where the subsequent rules deal with specific situations, these will usually take precedence over the core duties. However, where such detailed rules fail to anticipate an ethical problem they will not do so. This is an example of the 'loop hole' problem that the Law Society had appeared anxious to avoid. The preference of the Panel would be for the core duties to establish principle-based regulation. This would operate by defining clear principles applicable in all circumstances. It is an approach more in keeping with the current rules whereby the core duties are not reliant upon other rules for further elaboration.

### **Balancing competing interests**

8.6 A specific change between the proposed core duties and those set out in the existing rule 1 is the approach to balancing competing interests which face a practising lawyer. In particular there is a need to balance professional obligations, the public interest and the duty to the client. The Panel believes that the balancing of these interests is a key part of what it means to be a professional. The

balancing exercise is anticipated in rules 1.01 (Integrity), 1.02 (Independence) and in particular 1.03 (Best interests of Clients).

8.7 The core duty essentially seeks to explain how zealous a solicitor should be in advancing the interest of his or her client. One interpretation of rule 1.03 is that it permits the lawyer to do *anything* for the client unless it is *clearly* prohibited by law or by professional obligations. There is a danger that this may provide too much flexibility, enabling lawyers to ‘creatively’ interpret legal and professional obligations in the light of their client interests. Thus, if it is possible to identify any doubt in the application of a regulation or a professional standard, and the doubt means that the lawyer can take some action which benefits the client, then that doubt enables, and given the use of the word ‘paramount’ may require, the lawyer to ignore any doubts about the legality or ethicality of their actions and act in the client’s interests. This could potentially lead to a significant and undesirable deterioration in the behaviour which otherwise promotes professional conduct obligations or the public interest in the administration of justice. Several major financial scandals in the United States, including most recently Enron, have had such ‘zealous advocacy’ problems as a component.

8.8 Treating client interests as paramount is a change from the current rule 1, which simply has client interests as one of the core duties. The Law Society representatives explained this change principally in terms of the need to impress upon those solicitors who had not previously done so, the need to put their clients first. Principally this concern was directed at the well known client care problems that have affected the profession over the last twenty years. Insofar as this is the problem to be addressed, the Panel’s view was that it should be addressed by other means. Indeed, the proposed changes to the Code already significantly emphasise client care issues.

8.9 The Law Society considered the concerns expressed by the Panel and prepared further proposed guidance for the new core duties rule. The revised guidance stresses that ‘in all situations where such a conflict arises between core duties, the determining factor in deciding which duty should take precedence must be the public interest and, in particular, the public interest in the administration of justice.’ The view of the Panel is that this guidance is essential to the proper interpretation of the rule and is sufficient to meet the concerns highlighted by the Panel.

### **Omissions from rule 1**

8.10 The Panel felt that while the proposed Code seeks to regulate solicitors, registered foreign lawyers and registered European lawyers or recognised bodies, the current Guide appears to go wider. This is because it also covers a solicitor permitting another person to do anything on his or her part which breaches professional rules. The Law Society argued that this is covered by the solicitors’ duty to act with integrity, which prevents them from off-loading professional obligations through the way they deal with third parties. The Panel doubts the robustness of this argument.

8.11 The Panel has concerns about another essential difference in the way the principle of independence is dealt with in the current rule compared with the proposed new rule. It should be noted that the current rule prevents a solicitor from engaging in anything which either compromises or impairs, or is likely to compromise or impair, the solicitor’s independence. By omitting a reference to anything that is *likely to* compromise, the Panel found the new rule to have diluted the duty of a solicitor’s independence. The Panel considers it undesirable for rule 1.02 Independence to be expressed in a manner which could allow a solicitor to behave inappropriately without necessarily being in breach of the rule.

8.12 The Panel noted that there were two other aspects of the current rule 1 which are not reflected in the proposed rule: the duty not to compromise or impair the solicitor's duty to the court; and a person's freedom to instruct a solicitor of his or her choice.

8.13 The Panel was persuaded by the Law Society's argument that rule 1.01 requires solicitors to act with integrity towards courts (and others). Rule 1.10 requires solicitors not to behave in a way which damages or is likely to damage the reputation or integrity of the profession and guidance note 3(a) explains that as an officer of the court, this has ramifications for the solicitors' conduct both in practice and outside it. The Panel is satisfied that rules 1.01, 1.03 and 1.10 are sufficient representation of the solicitor's duty to the court within the core rules. The Law Society pointed out that the proposed rule 11 (Litigation and advocacy) sets out more detailed requirements for solicitors' interaction with the court, although rule 11 was not the subject of this application.

8.14 In answering the Panel's concerns in relation to restrictions on clients' ability to instruct solicitors of their choice, the Law Society has partly sought to rely on proposed rules which are not part of this referral, rule 9 (referrals of business) and rule 13 (in-house practice). The Panel's view is that there is a risk that freedom to instruct issues can arise more widely than in referral of business and in-house contexts. An example of this is the case where two UK solicitors firms were faced with a demand from tobacco companies to undertake not to pursue tobacco litigation for a defined period of time on the basis that the tobacco company would not pursue costs against the solicitors' clients. The two firms held differing views. On one hand it was considered to be in the interest of the existing clients, whilst on the other hand, that it compromised future clients' freedom to instruct a solicitor of their own choice. The Law Society's view was that proposed rule 1.02 (Independence) would be applicable in this situation. The Panel accepts this reasoning, though it leaves open the question as to how the new core duties would apply in such a situation.

8.15 The Panel also explored whether it would be appropriate for the additional duty of 'dignity and honour' to be included as a core duty to keep in tune with European Union legislation. The desire for harmonisation was seen as an obvious benefit to this approach. However, the Panel felt satisfied that there is sufficient protection for both concepts of dignity and honour within the duty of Integrity in rule 1.01.

## **Confidentiality**

8.16 Rule 1.04 is broader than the more detailed confidentiality rules and is also broader than the law permits. It suggests an absolute requirement of confidentiality, whereas there are exceptions in the case of money laundering or those situations where a solicitor knows their client is about to commit a criminal act likely to result in serious physical harm. The Law Society has argued that these points can be met by stating in guidance that the duty of confidentiality is not wider than the law and like all other core duties, the duty of confidentiality is "subject to any overriding legal considerations."

8.17 The Panel is not convinced that the Law Society's revised proposed guidance on confidentiality accurately captures the true position. It is the understanding of the Panel that in certain circumstances the law permits, but does not *require*, confidences to be broken. The guidance to the current rules states: "A solicitor *may* reveal confidential information to the extent that he or she believes necessary to prevent the client or a third party committing a criminal act that the solicitor believes on reasonable grounds is likely to result in serious harm." (Panel's emphasis added) Therefore, the existing guidance permits, but does not require, disclosure. The proposed guidance on

confidentiality in the new core duties rule apparently permits breaches of confidentiality only when the law requires it. The Panel does not think that is what is intended by the Law Society.

8.18 The Panel believes that the revised guidance has failed to state what is intended in relation to the principle of confidentiality and disclosure of information and that it would be incorrect for a core duty to misstate the position. In the interests of clarity, certainty and the need to communicate the core rules to clients and solicitors accurately, it should be clarified in the rule itself that exceptions exist. The Panel suggests the appropriate way to overcome any uncertainty would be for rule 1.04 to be expressed in a manner similar to rule 1.05 on Conflict of interests, where a reference is made to another rule in the Code. For the sake of consistency and clarity, this method could also be adopted for rule 1.04 to read, ‘you must keep all information about clients confidential (except in accordance with rule 4)’.

### **Conflict of interests**

8.19 Also in the interest of consistency, the Panel found there to be no justification for the conflict of interests rule 1.05 to rely on the word “strict” when emphasising that exceptions exist and is therefore an unnecessary addition. It is the Panel’s opinion that the rule directing a solicitor when not to act would be sufficiently robust by deleting the word “strict” from the rule and the reference to exceptions be expressed as “(except in accordance with rule 3)”.

### **Supervision arrangements**

8.20 In rule 1.09 there is a requirement for appropriate supervision arrangements “to meet your duties to the client”. There are two issues to be addressed.

8.21 Firstly, the Panel considered whether this is an obligation which should be included in the core duties. It could be argued that rule 1.07 (Fairness), rule 1.08 (Client care) and rule 1.09 (Supervision and management) should not appear as *core* duties because these principles do not apply exclusively to lawyers. However, the Panel also recognises the importance of these general principles and the Law Society’s legitimate desire to promote them in the profession through their inclusion as core duties.

8.22 A much stronger concern is that, as drafted, the lawyer’s core supervision duties only extend to client-based responsibilities. No reference is made to the duty to supervise to ensure compliance with professional or other obligations. The Law Society accepted the point that the obligations exist but not that they should be included in the core duties. The Panel’s view is that supervision of professional and public interest duties is particularly important given the increase in solicitors’ firms developing larger and more imaginative business models for the provision of legal services, involving both qualified and non-qualified staff and the increasing potential for such business models to give rise to ethical problems. As a result, the Panel’s advice is that:

- the duty to supervise is an important element of professional regulation suitable for inclusion as a core duty; and
- the duty to supervise should reflect all three main elements of professional obligation: client, professional and public interest in the administration of justice.

## **Recommendations**

8.23 The Panel has given full consideration to this application and advises the Secretary of State to approve the proposed rule 1 (Core duties) of the Law Society’s draft Code of Conduct subject to the amendments set out below:

8.24 If core duties are to be thought of, and to have the function of, core duties, the rules should state unequivocally that the core duties are regulatory principles enforceable in their own right and applicable in all circumstances, even where more detailed rules exist elsewhere in the Code. In doing so, it would reinforce the emphasis on principle-based regulation.

8.25 Rule 1 should make plain that the obligations set out in the entire Code of Conduct extend not only to a solicitor’s own acts but also to permitting another person to do anything on his or her behalf which breaches professional rules.

8.26 Rule 1.02 should be modified so as to retain the principle that a solicitor should not allow him/herself to act in a position where his/her independence is likely to be compromised. One way of achieving this would be to insert the phrase, “or become likely to be compromised,” after the word “compromised” in the present draft.

8.27 It is possible to state the duty of confidentiality more robustly without undermining it. Therefore rule 1.04 should not be accepted in its current form because it does not make plain the limited qualification to the duty and the position should be clarified.

8.28 The conflict of interests rule 1.05 contains an unnecessary inconsistency with a reference to “except in strict accordance with rule 3”. The Panel proposes the word “strict” should be deleted, as its removal would be of no consequence to the interpretation of the rule.

8.29 The core duty of supervision and management in rule 1.09 should extend beyond a duty to the client. Rule 1.09 should reflect the three main elements of professional obligation: client, professional and public interest in the administration of justice.

## **9. Rule 2 Client care**

9.1 The Panel considered the proposed rule 2 and understands that it replaces its predecessor rule 15 of the existing Guide to Professional Conduct of Solicitors (1999). In general the Panel is content with the nature of the rule, which sets out extensive and largely appropriate requirements as to client care aspects of the solicitor-client relationship.

9.2 The Panel identified some areas of specific concern in respect of this rule. In the Panel’s view, rule 2 does not deal with the issue of a solicitor’s obligation to try and convey information in a way that is likely to be understood by the client. The Law Society responded to this issue by providing proposed guidance which states, “This information must be provided in a clear and readily accessible form. You should note that “clear” – e.g. in 2.02(1)(a) and (b) - means “clear” as understood by the client”. The Panel is satisfied with this approach.

9.3 The Panel’s opinion is that rule 2.03(2)(b) ‘Information about the cost’, is too demanding in the information that it requires to be given to clients under a Conditional Fee Agreement. The Panel

believes that the time when solicitors need to tell their clients of their right of assessment is not at the outset of the case but when the solicitor starts to seek costs from the client.

9.4 The final issue relates to rule 2.05(3) which contains a requirement that the solicitor must not charge the client for the costs of ‘investigating’ a complaint. It is understood that this rule was required to combat the occasional practice on the part of a limited number of firms who have sought to charge clients for work involved in investigating a complaint.

9.5 The Panel considers rule 2.05(3) to be unintentionally narrow. It would appear to permit firms to charge for other costs associated with handling a complaint, such as a negotiating its resolution or defending a complaint as it proceeds through more formal mechanisms. Following discussions, the Law Society is proposing to amend the guidance so that it reads as follows: “2.05(3) prevents you charging your client for the cost of dealing with a complaint. “Investigating” includes all aspects of dealing with a complaint. Dealing properly with complaints is an integral part of any professional business”.

9.6 The Panel considers the Law Society’s proposal an improvement but is not satisfied that this provides sufficient clarity regarding the rule itself. Although the Law Society has proposed amending the guidance, the Panel does not agree this would be an appropriate measure. The Panel wishes to re-iterate that as a primary objective for amending the rules was to reduce complexity and provide greater clarity, it would be more appropriate to rephrase the rule and curtail unnecessary guidance. The Panel’s view is that the rule can be made clearer by amendment and without the need for further guidance by replacing ‘investigating’ with the word ‘handling’.

## **Recommendations**

9.7 The Panel has given full consideration to this application and advises the Secretary of State to approve the proposed rule 2 (Client relations) of the Law Society’s draft Code of Conduct subject to the amendments set out below:

9.8 Rule 2.03(2)(b) should be amended to reflect that solicitors need to inform clients about their right of assessment when the solicitor starts to seek costs from the client as opposed to at the outset of the case.

9.9 Rule 2.05(3) should be amended to eliminate any doubts about costs relating to the handling of complaints. It is necessary to amend the rule itself as opposed to the guidance for absolute clarity.

## **10. Conclusions**

10.1 The Panel advises the Secretary of State that the proposed rule 1 of the Law Society’s draft Code of Conduct should be approved subject to the recommendations in paragraphs 8.24 to 8.29 above.

10.2 The Panel advises the Secretary of State that the proposed rule 2 of the Law Society’s draft Code of Conduct should be approved subject to the recommendations in paragraphs 9.8 and 9.9 above.