

Australian Institute of Conveyancers (Vic Division) Incorporated

Code of Conduct

REVIEWED AND APPROVED
BY THE AIC VIC COMMITTEE
16 July 2014



1. INTRODUCTION

- 1.1 Ethics are rules of conduct built on honesty, fairness, integrity, courtesy and mutual respect.
- 1.2 This Code is a statement of what the Australian Institute of Conveyancers (AIC Vic) considers is the minimum acceptable standard for the ethical conduct of its Members.
- 1.3 Membership of the Australian Institute of Conveyancers (Vic Div) includes acceptance of a higher standard of conduct than that imposed by law on other conveyancers.
- 1.4 It is a requirement of membership of AIC Vic that a member complies with its Code of Conduct and agrees to follow the Code.
- 1.5 This Code does not override the obligations to comply with the legislation governing conveyancers in Victoria, including the Rules of Professional Conduct, but where the Code imposes a higher standard than the law, the Code shall apply.
- 1.6 The Code will take effect from 1 October 2014.
- 1.7 Amendments to the Code may be made by resolution of the Committee of Management of the Australian Institute of Conveyancers (Vic Div)

2. DEFINITIONS

- 2.1 “*AIC Vic*” means the Australian Institute of Conveyancers (Vic Div) Inc
- 2.2 “*The Act*” means the *Conveyancers Act (Vic) 2006 and its regulations*.
- 2.3 “*Applicable Legislation*” means all applicable enactments, regulations, codes, directions and other legal requirements operating in Victoria or the Commonwealth of Australia.
- 2.4 “*Conveyancer*” means a person licensed or registered to act as a conveyancer under the Act.
- 2.5 “*Member*” means a person defined as a member under the AIC Vic membership categories and who is a financial member of AIC Vic.
- 2.6 “*The Code*” means the AIC Vic Code of Conduct and Ethics.

3. PROFESSIONALISM

- 3.1 A member will act in their clients best interests within the limit of their instructions.
- 3.2 A member will not accept instructions:
- i. That is beyond their competence or that of their staff;
 - ii. For which there is not sufficient time or resources available to fulfil the task efficiently;
 - iii. For which the member is not indemnified under their professional indemnity policy; or
 - iv. That involves an illegal transaction
- 3.3 A member will not begin to act for a client until they have received instructions from the client.
- 3.4 A member will, at all times, use reasonable endeavours to complete in a competent manner and within a reasonable time any business entrusted to them by a client.
- 3.5 A member having due regard for their client's position of dependence on them and the degree of trust which a client is entitled to place on them shall treat their clients fairly and in good faith.
- 3.6 A member has a duty to communicate effectively and promptly with clients and will keep clients informed of all significant developments in any matter in which they are acting unless the client has instructed the member to do otherwise.
- 3.7 If a member gives an undertaking on behalf of a client:
- i. the member will ensure that explicit instructions to give the undertaking have been given by the client and that the client is fully aware of the obligations and the consequences of breaching the undertaking;
 - ii. the member will do whatever is necessary to ensure that the undertaking is complied with promptly in accordance with their terms.
- 3.8 A member must not:
- I. give to another conveyancer or legal practitioner an undertaking compliance with which requires the co-operation of a third party, who is not a party to the undertaking, and whose co-operation cannot be guaranteed by the member.
 - II. seek from another conveyancer or legal practitioner or that

conveyancer's or legal practitioner's employee, an undertaking, compliance with which would require the co-operation of a third party who is not a party to the undertaking, and whose co-operation could not be guaranteed by the conveyancer, legal practitioner or employee asked to give the undertaking.

- 3.9 A member may cease to act for a client given just cause and reasonable notice. The cessation may be mutual or instigated by the member or by the client.
- 3.10 When ceasing to act, a member should meet the requirements of the legislation in Victoria.
- 3.11 A member will offer all such assistance and give all such advice or information as may be necessary to enable any other conveyancer instructed to take over a matter, to take such matter in hand promptly and expeditiously and with the least duplication in costs.

4. KNOWLEDGE, COMPETENCE AND COMPLIANCE

- 4.1 A member will comply with all legislation and regulations that govern their activities and will refrain from any conduct or activity that would cause harm to others.
- 4.2 A member will keep up to date with the laws relating to conveyancing and other essential facts and public policies that affect their clients.
- 4.3 A member will abide by the rules and practice directions of the AIC Vic, and other relevant bodies in Victoria
- 4.4 A member will have the competence, skills and expertise to complete the transaction in accordance with professional standards.
- 4.5 A member will complete AIC Vic current Continuing Professional Development (CPD) requirements annually, as a condition of membership

5. CONFIDENTIALITY

- 5.1 A member will not (whether still acting under instructions or whether their instructions have been terminated) disclose any information obtained in the course of handling any matter:
- i. except for any communications which are required for the normal conduct of the matter;
 - ii. unless instructed to do so by the client; or
 - iii. unless permitted or required to do so by law.
- 5.2 For the purpose of ensuring the confidentiality of a client's business, a member will not share, occupy or use premises jointly with any person

unless appropriate arrangements have been made to ensure that confidentiality.

- 5.3 A member may carry on another business apart from a conveyancing business provided that:
- i. the conduct of that business is kept entirely separate from the conveyancing business;
 - ii. the other business is not of such a character that the conveyancer's interest and the duty to clients are likely to conflict;
 - iii. the carrying on of that business is not likely to lead to any infringement of the Act in Victoria or of this code or other State or Commonwealth legislation.
- 5.4 For the purpose of clause 5.3 a member will be deemed to be carrying on another business if that business is conducted by a company which is substantially under the member's direction or control.

6. CONFLICT OF INTEREST

- 6.1 A member will at all times make full and frank disclosure to clients of any matter or thing which could reasonably be regarded by the client as raising a conflict of interest on the part of the member.
- 6.2 The AIC Vic recommends that members do not act for more than one party to any transaction.
- 6.3 If there is potential conflict of interest (such as acting for more than one party in a transaction or there are personal interests), a member must notify the clients in writing and the clients must provide written acknowledgement that they understand the implications of such potential conflict.
- 6.4 If the choice is made to act for more than one party to any transaction, the member must comply with any legislation in Victoria and disclose this action to all clients in the transaction.
- 6.5 Where a member acts for more than one party in a transaction and a conflict of interest arises the member must cease to act for all parties in the transaction except as may be permitted by the relevant Act in Victoria.
- 6.6 A member acting for more than one party to a transaction must treat all clients equally.
- 6.7 A member should not pay referral fees to agents or other parties for

conveyancing work.

- 6.8 Whilst it is not the AIC Vic preferred practice, a member may accept remuneration from a person or corporation for placing business with or otherwise securing business for that person or corporation provided that the member previously disclosed to their client that remuneration will be paid and the amount of that remuneration.

7. PERSONAL CONDUCT

- 7.1 A member shall comply with the AIC Vic Code of Conduct and is responsible for ensuring that all their staff also complies with this code.
- 7.2 A member will at all times treat other conveyancers with courtesy and fairness.
- 7.3 A member has an obligation to co-operate with and assist, wherever possible, others involved in the conveyancing process such as other professionals, experts, finance providers, government offices and land agents.
- 7.4 A member has a duty to co-operate with another conveyancer or legal practitioner to bring a transaction to a satisfactory conclusion and in particular:
- i. to reply promptly to correspondence and telephone calls;
 - ii. to prepare documents and forward them to the other conveyancer or legal practitioner in sufficient time for the other conveyancer or legal practitioner to have them signed and stamped as necessary;
 - iii. to prepare settlement statements and forward them to the other conveyancer or legal practitioner in sufficient time for the other conveyancer or legal practitioner to deal with them and arrange cheques for settlement.
- 7.5 A member should not engage in any behaviour that will bring the profession into disrepute, such as advertising, language or behaviour that is illegal, unfair, offensive, misleading, deceptive, false, disreputable or disparaging.

8. BUSINESS CONDUCT

- 8.1 A member will be responsible for the actions of their employees in their business dealings with clients, their colleagues, the public and others

and will ensure that they comply with this Code.

- 8.2 Employed members are subject to the same rules of conduct as apply to members in private practice.
- 8.3 A member will respond promptly to complaints received by AIC Vic management and its complaint handling procedure and assist AIC Vic management with the prompt resolution of such complaints.
- 8.4 A member will keep adequate files for each matter handled for a client including electronic records, notes of all telephone conversations and copies of all documents and correspondence as required under relevant legislation.
- 8.5 Fees should be fair and reasonable, with a complete and accurate breakdown available to the client.
- 8.6 If a member requests an expert to provide advice or services in connection with a transaction, the member is responsible for payment of the expert's fee unless some other express prior arrangement has been made with the expert.
- 8.7 Any amounts held in a member's trust account at the time of settlement will be properly accounted for and disbursed within a reasonable time after settlement or after the resolution of the matter for which the money is being held.