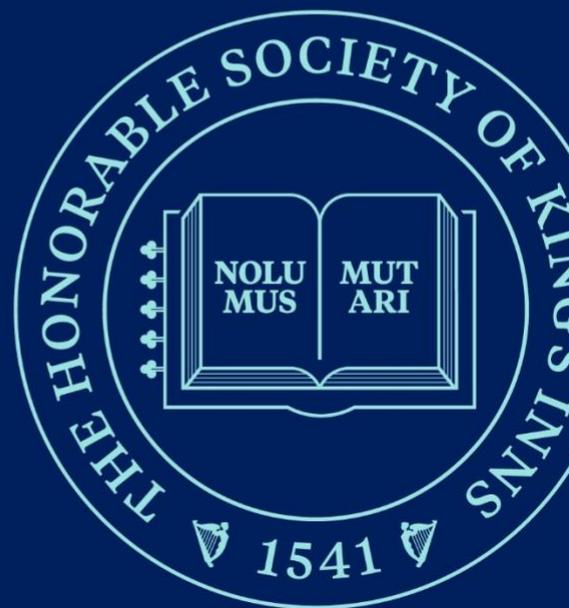


# PROFESSIONAL CODE OF CONDUCT

## FOR BARRISTERS ON THE REGISTER OF MEMBERS OF THE SOCIETY

COUNCIL OF THE HONORABLE SOCIETY OF KING'S INNS  
UPDATED ON 9 APRIL 2018

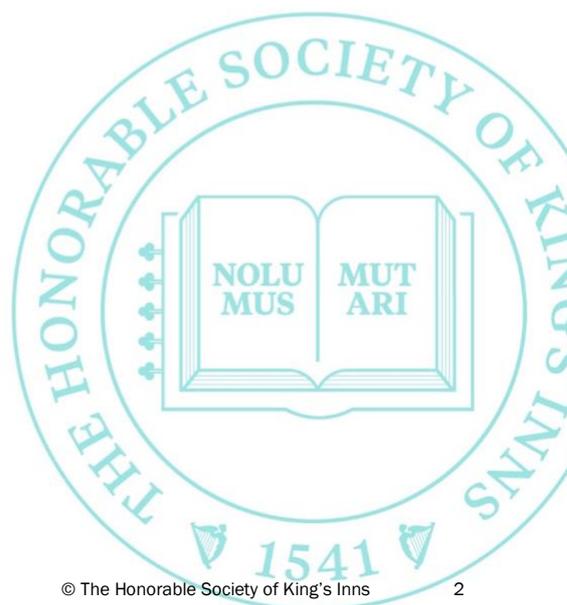
**KINGS**  
**INNS**<sup>15</sup><sub>41</sub>



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*Unless otherwise specified, the provisions of the Code have effect from 9<sup>th</sup> April 2018 and continue to have effect until amended or revoked by Council of The Honorable Society of King's Inns.*



# GENERAL PROVISIONS

1. The Professional Code of The Honorable Society of King's Inns ("the Code") applies to all barristers.
2. Registered lawyers are subject to the Code in respect of professional activities pursued by them in the State, and for this purpose references to a barrister herein are to be construed as including references to a registered lawyer, save where the context otherwise requires.
3. Unless otherwise specified, the provisions of the Code have effect from 9<sup>th</sup> April 2018 and continue to have effect until amended or revoked by Council of The Honorable Society of King's Inns.
4. The following words used in the Code shall have the meanings set out below, save where the context otherwise requires:
  - a. "Client" means a person on whose behalf a barrister has been instructed by a solicitor or, where the context so admits, a person authorised to avail of the direct professional access scheme of a relevant professional body or, where the context so admits, a person who instructs a barrister directly in a matter other than a contentious matter;
  - b. "Court or other body" means any court of law, arbitrator, tribunal, statutory or other body, board or person exercising judicial or quasi-judicial functions;
  - c. "Practising barrister" has the same meaning given to that term by the Legal Services Regulation Act, 2015 ("the Act of 2015");
  - d. "Registered lawyer" means a lawyer in respect of whom a registration certificate is in force issued by the Bar Council in accordance with regulation 6(3)(b) of the European Communities (Lawyers' Establishment) Regulations 2003;
  - e. "Relevant professional body" means the General Council of The Bar of Ireland ("the Bar Council") or such other body of practising barristers as the Legal Services Regulatory Authority ("the Authority") may prescribe.
5. In respect of anything done or omitted to be done by a barrister or otherwise arising before the date on which the Code takes effect:
  - a. The Code shall not apply;
  - b. The professional code(s) applicable to that barrister in force at the relevant time shall apply as if the Code had not been adopted.
6. In the event of any conflict between, of the one part, the Code and, of the other part, the Act of 2015 or any relevant code of practice issued by the Authority, the provisions of the latter shall prevail.

# DUTIES

7. The duties contained in paragraphs 8 to 18 apply to all barristers.
8. Every person who has been admitted to the degree of Barrister-at-Law and/or called to The Bar of Ireland and who intends to provide legal services as a barrister shall apply to the Authority to have his or her name, and any additional information as may be required by the Authority, entered on the roll of practising barristers maintained by the Authority (“the Roll”). No person shall provide, or hold himself or herself out as providing, legal services as a barrister without his or her name having been entered on, and remaining on, the Roll.
9. Barristers must act at all times with honesty and integrity.
10. Barristers must not engage in conduct which is prejudicial to the administration of justice.
11. Barristers must not engage in conduct (whether in pursuit of their profession or otherwise) which may bring the barristers' profession or The Honorable Society of King's Inns (“the Society”) into disrepute, which may injure the dignity and high standing of the profession, or which is likely to diminish the trust and confidence placed in them or in the profession.
12. It is the duty of barristers to be individually responsible for their own conduct.
13. It is the duty of barristers to observe the ethics and etiquette of their profession.
14. It is the duty of barristers to comply with the provisions of the Act of 2015 and of any relevant code of practice issued by the Authority.
15. It is the duty of barristers to comply with the provisions of the professional code(s) issued by any relevant professional body of which they are a member.
16. Barristers must co-operate with reviews and investigations conducted by the Authority, the Society or a relevant professional body, as the case may be.
17. Barristers must forthwith report to the Society and any relevant professional body of which they are a member the fact that they have been convicted of a criminal offence involving dishonesty or of a criminal offence which might bring the profession into disrepute. If barristers are in doubt as to their duty under this rule, the conviction should be reported forthwith.
18. Barristers shall not discriminate in favour of or against any person availing, or seeking to avail, of the services of the barrister on the grounds of race, colour, sex, sexual orientation, language, politics, religion, nationality, national or social origin, national minority, birth or other status and it shall be the professional duty of barristers to comply with all laws intended to prevent any discrimination on any grounds.
19. Without prejudice to the duty of all barristers to comply, where applicable, with every provision of the Code, the duties contained in paragraphs 20 to 61 shall apply to practising barristers.
20. Barristers have an overriding duty to the court to ensure in the public interest that the proper and efficient administration of justice is achieved and they must assist the court in the administration of justice and must not deceive or knowingly mislead the court.

21. Barristers must maintain due respect and courtesy towards the court before which they appear.
22. It is the duty of barristers to be independent and free from influence, especially such as may arise from their personal interests or external pressure, in the discharge of their professional duties. Barristers must avoid any impairment of their independence and be careful not to compromise their professional standards in order to please their client, the court, third parties, or, as the case may be, their employer(s) or partner(s).
23. It is the duty of barristers to act in the best interests of each client. Barristers must promote and protect fearlessly and by all proper and lawful means their client's best interests and do so without regard to their own interest or to any consequences for themselves or to any other person including fellow members of the legal profession.
24. Barristers must maintain the confidentiality of each client's affairs. This duty shall not prevent barristers from:
  - a. Imparting information for the purpose of properly discharging duties as a pupil master, or to other barristers for the purpose of enabling them to carry out research or opinion work for that barrister; the duty of confidentiality then applies equally to the barristers to whom the confidential information has been imparted;
  - b. Disclosing information where the client has given informed consent;
  - c. Notifying and co-operating with their professional indemnifiers in relation to any matters;
  - d. Communicating information that is necessary to enable the barrister to answer accusations or complaints made by the client against the barrister, the instructing solicitor, or another barrister or solicitor, to co-operate with an investigation, or to seek a ruling from a relevant professional body;
  - e. Making disclosures required by law.
25. It is the duty of barristers to provide a competent and professional standard of work and service to each client.
26. It is the duty of barristers at all times to ensure that their practice is efficiently and properly administered and, in particular, they must take all reasonable and practicable steps to ensure that their court engagements are properly fulfilled.
27. Barristers shall be insured at all times against claims based on professional negligence. Barristers shall so insure to an extent which is reasonable having regard to the nature and extent of the risks which those barristers may incur in their practice and in any event at a level not less than the minimum level of professional indemnity insurance as prescribed by the Authority. Barristers may enter into an arrangement with a solicitor and/or a client that the extent of their legal liability for any act or default shall not exceed a stipulated sum provided however that such sum shall not be less than the minimum level of professional indemnity as prescribed by the Authority.
28. Barristers are prohibited from directly or indirectly administering or handling the funds or assets of any client and barristers shall not give any financial advice or assistance to a client or their solicitor on the investment of such funds or assets.

# INSTRUCTIONS

29. Save for the purpose of acting in proceedings in accordance with paragraph 30, barristers should not take instructions directly from a client in contentious matters.
30. Barristers shall be attended in court by their instructing solicitors or their clerks or assistants, but subject to the following exceptions:
  - a. When moving an application for an adjournment or a consent order;
  - b. When appearing in the District Court, or on District Court Appeals, on the instructions of a solicitor.
31. A barrister may accept instructions directly from a client in matters other than contentious matters. However, where the matter becomes contentious, the barrister must not draft any formal document, engage in correspondence or make direct contact with third parties and he/she must direct that a solicitor be retained in order for him/her to continue to act in the matter.
32. Save insofar as legal services as a barrister are being provided under a contract of service, having regard to the anticipated length and complexity of a case and having regard to their other professional commitments and the provisions of the Code, barristers are bound to accept instructions in any case in the field in which they profess to practise (having regard to their experience and seniority) subject to the payment of a proper professional fee. A barrister may be justified in refusing to accept instructions where a conflict of interest arises or is likely to arise or where he/she possesses relevant or confidential information or where there are other special circumstances.

# CONDUCTING CASES

33. Paragraphs 34 to 54 shall apply to the conduct of practising barristers before any court or other body.
34. A barrister shall not knowingly make, procure or countenance the making of any false or misleading statement of fact, whether express or implied, written or parol, with regard to any matter in which that barrister is engaged.
35. Nothing in the foregoing rule shall preclude a barrister from drafting or settling pleadings or other documents which merely deny allegations of fact made against their clients, save in any document that is required by law to be true.
36. While engaged in any matter before a court or other body, barristers shall not mislead nor knowingly permit the court or other body to mislead itself in relation to the law applicable to that matter save that barristers defending in criminal matters shall be under no duty to correct errors by the court which may favour their clients.

37. Where a barrister becomes aware that any false or misleading statement of fact has been made by or on behalf of that barrister's client to any court or other body in relation to the matter in which that barrister is engaged, or that any court or other body may reasonably be continuing to rely on any statement of fact made by or on behalf of that barrister's client which, though true when made, has become false or misleading, the barrister shall:
  - a. Be satisfied that any such statement of fact has been corrected before any further step be taken by any party in the matter, whether in any proceedings or by way of negotiation, discontinuance or otherwise; or
  - b. Withdraw from the matter before any such step be taken by any party without such correction having been made.
38. A barrister must not devise facts which will assist in advancing the client's case and must not draft any pleading, witness statement, affidavit, notice of appeal or any other document containing any statement of fact or contention which is not supported by the client's instructions.
39. Barristers shall not draft a witness statement or affidavit containing any statement of fact other than evidence which the barrister reasonably believes the witness would give if the witness were giving evidence orally.
40. Nothing in the foregoing rules shall prevent a barrister from drafting a document containing statements as to formal matters or uncontroversial facts, included by the barrister subject to confirmation of their accuracy by the client or witness.
41. A barrister shall not settle a pleading claiming fraud without express instructions and without having satisfied himself or herself that there is or will be available at the trial of the action evidence to support such a claim.
42. Barristers shall not settle a pleading claiming professional negligence without express instructions. Save in a case of alleged professional negligence on the part of a barrister or solicitor, barristers ought not to settle a pleading claiming professional negligence unless they have satisfied themselves that expert evidence is or will be available to support such claim. In certain circumstances, such as when the time for issuing proceedings is in danger of expiring, barristers may settle pleadings without such expert evidence, but should advise that proceedings should issue without being served until the required expert evidence is available.
43. Barristers may not coach a witness in regard to the evidence to be given.
44. Barristers shall not confer with a witness while such witness is under cross-examination without prior leave of the other parties or the court or other body.
45. Barristers who have undertaken to defend a person charged with a criminal offence should not undertake any commitment which conflicts with their duty to that person.
46. In accordance with the provisions of section 215 of the Act of 2015, a barrister who has accepted instructions to appear in court on behalf of a client who is in custody may not withdraw from the client's case without obtaining permission from the court before which that client is next scheduled to appear.
47. Barristers shall not attend at a Garda Station for any professional purposes including but not limited to identification parades or at interviews of suspects.
48. Barristers to whom a confession of guilt is made by their client must observe the following rules:

- a. If the confession is made before the proceedings have started, they may continue to act only if the accused pleads guilty or where the accused pleads not guilty then they may continue to act subject to the limitations referred to in the following sub-paragraphs;
  - b. If the accused is not pleading guilty the barrister must explain to the accused that the conduct of their defence will be limited in the manner as set out in the sub-paragraph below;
  - c. Barristers must emphasise to the accused that no substantive defence involving an assertion or suggestion of innocence will be put forward on their behalf and that, if they are not satisfied with this approach to the conduct of the trial, then the accused should seek other advice. Barristers should in such situations advise their solicitor to keep an attendance note in writing of the fact that the accused has been so advised by the barrister and in the presence of the instructing solicitor;
  - d. If the confession is made during the proceedings or in such circumstances that a barrister cannot withdraw without compromising the position of the accused the barrister should continue to act but subject to the limitations on the conduct of the defence being that the barrister may not set up an affirmative case inconsistent with the confession such as by asserting or suggesting that some other person committed the offence charged or by calling evidence in support of an alibi or by calling the accused to give evidence to deny the charges or support an alibi.
49. Barristers are under a duty to defend any accused person on whose behalf they are instructed irrespective of any belief or opinion they may have formed as to the guilt or innocence of that person.
  50. If after a finding of guilty the prosecution is asked if there are any previous convictions and informs the court that there are none and defence barristers know that there are previous convictions, they are under no duty to so inform the court.
  51. It is not the duty of prosecuting barristers to obtain a conviction by all means at their command but rather they shall lay before the jury fairly and impartially the whole of the facts which comprise the case for the prosecution and shall assist the court with adequate submissions of law to enable the law to be properly applied to the facts.
  52. It is not the duty of prosecuting barristers to obtain the imposition of the maximum possible penalty by all means at their command but rather they shall fairly and impartially lay before the court the evidence which comprises the case for the prosecution and shall assist the court with adequate submissions of law to enable the law to be properly applied to the evidence.
  53. There is nothing improper in a barrister for the prosecution or defence agreeing to exclude evidence in a case but a barrister should not involve the judge in such exclusion of evidence other than in the course of a hearing in open court.
  54. Barristers shall not habitually practice in any court of which their parent, spouse or near blood relative is a presiding judge. When a barrister appears before a court of which their parent, spouse or near blood relative is the judge or one of the judges, appropriate steps should be taken to ensure that such fact is made known to the opposing party.

# RELATIONS WITH THE PUBLIC

55. In advertising their legal services, barristers shall comply with section 218 of the Act of 2015 and any regulations made pursuant to subsection (2) thereof.
56. Barristers, when speaking, writing or broadcasting for the public at large on a matter relating to practices of the Bar, the courts or the administration of justice shall be under a duty to ensure, as far as possible, that their statements are legally and factually correct.
57. Barristers may not contact or engage with the press or other media on behalf of their clients.

# EMPLOYED BARRISTERS

58. Barristers in employment may only provide legal services to their employer in accordance with the terms of section 212 of the Act of 2015.

# BARRISTERS IN PARTNERSHIP

59. Subject to the provisions of the Act of 2015, barristers are prohibited from providing legal services as a partner in a partnership.

# PUPILLAGE

60. Barristers shall not, unless exempted by the Society or a relevant professional body, represent clients before courts without undertaking a continuous period of not less than nine months' pupillage with a barrister of at least seven years' standing whose practice involves regular appearances before the courts representing clients.

# CONTINUING PROFESSIONAL DEVELOPMENT

61. Barristers shall comply with any rules, regulations, guidelines or directions concerning continuing professional development as may be prescribed by the Authority, the Society or a relevant professional body of which they are a member.

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