**Maintaining trust and acting fairly**

This element explores the concepts of maintaining trust and acting fairly.

**Maintaining trust and acting fairly**

In this element we will consider how:

• many of the Solicitors Regulation Authority (‘SRA’) Principles (each a ‘Principle’) require legal professionals to maintain trust and act fairly

• maintaining trust and acting fairly can conflict with the Principle to act in the best interests of each client

• acting with integrity differs from acting with honesty; and

• Code of Conduct for Solicitors, Registered European Lawyers and Registered Foreign Lawyers (‘CCS’)​ 1 requires individuals to maintain trust and act fairly, including:

• CCS 1.1: you do not unfairly discriminate

• CCS 1.2: you do not abuse your position by taking unfair advantage of clients or others

• CCS 1.4: you do not mislead your clients, the courts or others.

**Maintaining trust and acting fairly**

Many of the Principles require legal professionals to maintain trust and act fairly:

Principle 1: acting in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice.

Principle 2: acting in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons

Principle 3: acting with independence

Principle 4: acting with honesty

Principle 5: acting with integrity

Principle 7: acting in the best interests of each client

**Principle 7: acting in the best interests of each client.**

**Although you must act in the best interests of each client, you must also act with independence, honesty and integrity. If the client wants to do something dishonest or illegal, you cannot help them do it.**

For example, if your client wants you to lie to a court or other person or body, you must refuse to do so.

**What’s the difference between acting with honesty and acting with integrity?**

**Integrity is broader than honesty.**

For example, if you mislead a client or the court, you have not breached Principle 4 (honesty), but you have breached Principle 5 (integrity).

**What’s the difference between acting with honesty and acting with integrity?**

Integrity is about being scrupulous, careful and accurate.

The SRA might take action against an individual for lack of integrity where they have:

Taken unfair advantage of a client or a member of the public

Allowed another person to take unfair advantage of someone else

Misled another person or stood by and allowed another person to be misled

**CCS: maintaining trust and acting fairly**

The first section of CCS relates to maintaining trust and acting fairly. It is about upholding the trust that the public needs to have in the legal profession. The following paragraphs of CCS are relevant:

CCS 1.1 'You do not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.'

CCS 1.2 'You do not abuse your position by taking unfair advantage of clients or others.'

CCS 1.4 'You do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).'

**CCS 1.1**

**'You do not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.'**

To comply with this standard you must ensure that your personal views do not affect the way you provide legal services. For example, a solicitor with strong religious or political views should not allow those views to stop them from complying with Principle 7, acting in the best interests of their client.

**CCS 1.2**

**'You do not abuse your position by taking unfair advantage of clients or others.’**

For example, you could be instructed on a matter and find yourself opposite a party with no legal representation. You should not take advantage of the other party’s lack of legal knowledge.

Dealing with an unrepresented client can be challenging.

If the unrepresented party produces a badly drafted document, you should suggest they find a lawyer. If they do not, you need to maintain a balance between acting in your client’s best interest and not taking advantage of the opponent’s lack of legal knowledge and drafting skills.

**CCS 1.4**

**'You do not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).'**

Misleading a client:

• Telling a prospective client they have a strong case in order to get the work, when they don’t.

• Telling them the case is going well when it is going badly.

Misleading the court:

• Not disclosing a case or statutory provision to the court which goes against the argument you are presenting for your client.

Misleading others:

Making false representations on behalf of a client to a third party. For example, telling prospective purchasers of your client’s company that it is a good or bad deal. You should not give your personal opinion on the value of a deal to anyone involved.

ü Principles 1, 2, 3, 4, 5 and 7 are connected to the requirement to maintain trust and act fairly.

ü Although you must act in the best interests of each client, you must also act with independence, honesty and integrity. If the client wants to do something dishonest or illegal, you cannot help them do it.

ü Acting with integrity is broader than acting honestly.

ü Integrity is about being scrupulous, careful and accurate.

ü CCS 1 requires individuals to maintain trust and act fairly, for example:

ü CCS 1.1: you do not unfairly discriminate

ü CCS 1.2: you do not abuse your position by taking unfair advantage of clients or others

ü CCS 1.4: you do not mislead your clients, the court or others.