



**Code of Ethics and Standards of Professional
Conduct for In-House Counsel**

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This Code is intended to be the general guide for In-House Counsel on the ethical and professional standards expected from the In-House Counsel community as a whole, so that it may be of help in all industries and whatever jurisdictions within which In-House Counsel may operate.

PREFACE

Singapore Corporate Counsel Association (SCCA)'s Mission is to promote professional standards and provide developmental opportunities to help in-house counsel in Singapore be Better Counsel.

SCCA believes that Better Counsel make Better Corporations, and, in turn, Better Corporations make Better Communities. It is our contribution to making the world a better place.

It is important that the rule of law is manifested in every legal activity in which in-house counsel engage, including those activities in which the corporate community engage in.

As participants in a justice system that advances the rule of law, the legal profession comprising lawyers, practicing attorneys, in-house counsel and state employed prosecutors, judges and magistrates hold a unique and privileged position in society.

Self-regulatory powers have been granted to the different professional groups on the understanding that each profession will exercise those powers in the public interest. Part of that responsibility is ensuring that the legal profession acts in an ethical and professional manner.

This Code of Conduct has been drafted as an International code for the in- house Community and is intended to serve as a general guide on the ethical and professional standards expected from the in house community as a whole.

This Code of Conduct sets out and illustrates the ethical duties and responsibilities which are expected from the in house community worldwide.

SCCA is a member of the global alliance of the In-house Counsel Worldwide which connects with many corporate counsel associations across the world. It is recognized that jurisdictional and geographical differences will exist in respect of certain applications of these ethical and professional standards. However, SCCA believes that the basic tenets of this Code of Conduct will serve any member of the SCCA or in-house counsel well in his/her profession.

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INTERPRETATION AND DEFINITION

This document must be read in conjunction with the SCCA Constitution and other policies and procedures that SCCA may adopt from time to time (collectively referred to as “SCCA Constitution and Policies”). Unless otherwise stated, or the context indicates to the contrary, terms, words and expressions defined and used under the SCCA Constitution and Policies used in this document shall have the same meanings and descriptions when used in this document as have been ascribed to them under the SCCA Constitution and other SCCA policies and procedures.

Definitions

Client – means the Employer’s employees, colleagues, representatives, agents and contractors that make use of the expertise and skill of an In-House Counsel.

Code – means the SCCA Code of Ethics and Standards of Professional Conduct for In-House Counsel.

Constitution – means the Constitution.

Conflict of interest – means a situation occurring when an individual or organisation, and in particular, In-House Counsel, is involved in multiple interests which are in conflict with each other and/or those of the Client or the Employer who he/she represents, one of which could possibly adversely influence his/ her decision making powers or ability to make an honest and ethical decision.

Employer – means the person or entity who/which employs and makes use of the expertise and skill of an In-House Counsel.

Ethical conduct – means acting in an honest, fair and circumspect manner which is transparent, objective, analytical, free of conflict and which complies with the general rule of law and where the actions are in the public interest.

Financial Interest – means an interest of a pecuniary nature including an interest in, or rights and obligations to acquire such an interest in, equity

or other security or debenture, loan or other debt instrument of an entity, or an interest in contractual relationships for goods and services which In-House Counsel may have in a matter in respect of which he/she is advising on.

Independence – means:

a) independence of mind - the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with Integrity and exercise Objectivity; and b)

independence in appearance - the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that an entity or a member of that entity has not been compromised.

Integrity – means an attitude of mind whereby one commits to certain standards of conduct and behaviour in a consistent manner. Behaving with integrity means taking an honest, fair, ethical and transparent approach to everything one does. It is essentially about doing the right thing, with due regard for the avoidance of conflicts between any personal Financial Interest and one’s responsibilities to one’s employer or client.

In-House Counsel – means a qualified lawyer who is employed by a Client or Employer for the purpose of providing that Client or Employer with a dedicated

source of Legal Services and Advice in exchange for a salary or remuneration, and phrases and names such as, but not limited to, “legal advisor”, “general counsel”, “legal counsel”, “in-house legal” and “corporate counsel” have the same meaning.

In-House Counsel Profession – means the profession made up of In-House Counsel who are employed by a Client or Employer for the purposes of providing that Client or Employer with a dedicated source of Legal Services and Advice.

Legal Profession – means the profession made up of persons holding a legal qualification and having specific legal skill and expertise, including, without detracting from the generality thereof, qualified lawyers, In-House Counsel, advocates, state counsel, public prosecutors, magistrates, legal advisors and/or legal compliance officers, who provide Legal Services and Advice to the public and/or the private sector, Clients and Employers.

Legal Services and Advice – means the services provided to a Client or Employer by In-House Counsel.

Member – means an SCCA Member.

Objectivity – means the quality of being able to maintain an impartial attitude, and requires one to be fair and not allow prejudice or bias to influence one’s judgment or override one’s impartiality and Objectivity, working in a manner that maintains the public interest.

Organisation – means company, firm, corporation, institution, establishment, consortium, agency, association, club, society, conglomerate, etc

Professional misconduct – means, without detracting from the generality thereof, or from similar professional services and related conduct by In-House Counsel:

- conduct occurring in connection with the provision of Legal Services and Advice that involves a substantial or persistent failure to reach or maintain a reasonable standard of competence or diligence;
- conduct that would justify a finding that a Member is not a fit and proper person to engage in the provision of Legal Services and Advice and includes, but is not limited to, acting dishonestly or providing misleading or deceptive Legal Services and Advice; and
- the wilful breaching, subversion or avoidance of any applicable law, directive or relevant requirements imposed under legislation, including subordinate standards and rules.

PURPOSE AND OBJECTIVE

The *purpose* of this Code is to set out a recommended level of Ethical Behaviour and Standards of Professional Conduct which may assist SCCA Members and the In-House Counsel Profession in general.

The *objective* of this Code is to:

- a. define and promote acceptable ethical behaviour for In-House Counsel based on appropriate values;
- b. promote desired standards of conduct for In-House Counsel and for the In-House Counsel Profession as a whole;
- c. develop and maintain a high standard of professionalism for In-House Counsel and the In-House Counsel Profession;
- d. provide a benchmark of expected behaviour and conduct for In-House Counsel and the In-House Counsel Profession;
- e. provide practices and standards for In-House Counsel so that they may evaluate their own practices and behaviours when providing Legal Services and Advice;
- f. provide guidance to In-House Counsel so that In-House Counsel may provide Legal Services and Advice to his/her Employer and where applicable, the public, with Integrity, sincerity and in accordance with the accepted standards;
- g. ensure that In-House Counsel respects the interests of their Employer, Client, the public, SCCA and the Legal profession in general;
- h. promote confidence in In-House Counsel employed by them and in the In-House Counsel Profession;
- i. promote the public's confidence in In-House Counsel and the In-House Counsel Profession and protect the interests of the public.

ETHICAL PRACTICES AND STANDARDS OF CONDUCT

In-House Counsel has a duty to carry on the practice of law and discharge all responsibilities to its Employer, the public and other members of the Legal profession in a responsible manner and with integrity.

Commentary

[1] Integrity is the fundamental quality of any person who seeks to practice as a member of the legal profession. If integrity is lacking, In-House Counsel's effectiveness for their employer/organisation will be lowered, together with his/her reputation, the integrity of the profession and the administration of justice through the rule of law.

[2] In-House Counsel's conduct should reflect positively on the legal profession, inspire confidence, respect and trust of its Employer and other stakeholders, and avoid actions that could bring the profession into disrepute.

[3] Public confidence in the rule of law, the administration of justice and in the legal profession may be eroded by irresponsible conduct of In-House Counsel.

What is Ethical behaviour

In-House Counsel must at all times act and discharge his/her duty :

- i. act in a fair, honest and transparent manner, with dignity and Integrity;
- ii. remain impartial and objective, avoiding the risk of his/her professional judgment being compromised or subject to undue influence by others;
- iii. give effect to legal requirements and treat any gap in a law, regulation, standard or code in an ethical and responsible manner;
- iv. respect and promote the Integrity of the In-House Counsel Profession, and not bring it into disrepute at any time;
- v. not engage in any act of dishonesty, corruption or bribery;
- vi. disclose to the relevant parties any personal, business and/or Financial Interest in his/her Employer/Client or any stakeholder, to avoid any perceived, real or potential Conflict of interest at all times;
- vii. not knowingly misrepresent or permit misrepresentation of one's qualifications or competency or those of others;
- viii. provide opinions, decisions, and/or Legal Service, Advice and recommendations that are honest, objective and based on facts.

PROFESSIONAL STANDARDS

In-House Counsel has a duty to uphold the standards and reputation of the In-House Counsel Profession and those of the legal profession where applicable, and to assist in the advancement of their relevant association or institution's goals.

Commentary

Collectively, In-House Counsel is encouraged to enhance the legal profession through activities such as:

- a. sharing knowledge and experience with colleagues and students in day-to-day practice as well as through contribution to professional journals and publications, participation in panel discussions, legal education and the general debate of the legal profession;
 - b. participating in community programs including providing legal services on a pro bono basis, if relevant.
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In-House Counsel must at all times act in a professional manner and, in discharge of this duty, should follow the below-mentioned standards of conduct:

- i. act with the required degree of skill, care and diligence which is expected from any In-House Counsel Professional;
- ii. liaise in an independent, open and transparent manner with the Employer and Client and stakeholders and not intentionally misleading anyone;
- iii. ensure that he/she is provided with an appropriate instructions, information and materials to make objective and impartial decisions based on thorough research and an assessment of the facts and the context of the situation;
- iv. execute the job functions with professionalism, good attitude and values, due care and diligence; adhere to acceptable practices and high quality standards when carrying out one's work; continuously improve one's skills and mentor and guide new entrants in one's field of expertise;
- v. act with Objectivity and Integrity under any circumstances or influences that the In-House Counsel may be subjected to, in the course of carrying out or discharging his/her professional duties;
- vi. maintain and improve one's professional skills, expertise and competence on an ongoing basis through Continuous Professional Development, as prescribed by the relevant In-House Counsel Association or Institute;
- vii. keep abreast of legal developments, applicable laws, regulations, legal theory and the common law,

particularly those which apply to the Client or Employer and/or the industry within which they operate;

- viii. conduct oneself professionally and responsibly, recognising the interests of the Client, Employer and stakeholders, even if their interests may not necessarily be the same, and encourage respect and fair behavior among them;
- ix. comply with and observe both the spirit and the letter of the law, especially those relevant to the industry where one operates, including codes, principles, and standards of conduct;
- x. not misrepresent one's competence, including one's qualifications and credentials, capabilities, characteristics, and experience;
- xi. observe and protect confidentiality where applicable and in particular, privacy of all and any information made available and received during the course of performing one's duties or in your wider professional, legal role outside your duties, as an officer of the court, unless a legal obligation to disclose the information exists or arises;
- xii. not perform work or conduct oneself in any manner that will compromise the standards of the In-House Counsel Profession or the Legal profession in general;
- xiii. generally act in a manner consistent with the good reputation of the Legal profession and the In-House Counsel Profession and refrain from conduct which may harm the public, the Legal profession, the In-House Counsel Profession or one's Client or Employer, or which may bring the In-House Counsel Profession, the Legal profession or the Employer or Client into disrepute.

CONNECTION WITH ORGANISATION

Competence

“Competent In-House Counsel” means In-House Counsel who has and applies relevant knowledge, skills and attributes in a manner appropriate to each matter undertaken on behalf of an Employer and Client and the nature and the terms of the engagement, including:

- a knowing general legal principles and procedures and the substantive law and procedure for the areas of law on which the In-House Counsel holds themselves out as being able to advise;
- b investigating facts, identifying issues, ascertaining Employer or Client objectives, considering possible legal options and developing and advising the Employee/Client on appropriate courses of action;
- c implementing as each matter requires, the chosen course of action through the application of appropriate legal skills, including:
 - (i) legal research;
 - (ii) analysis;
 - (iii) application of the law to the relevant facts;
 - (iv) writing and drafting;
 - (v) negotiation;
 - (vi) alternative dispute resolution;
 - (vii) advocacy; and
 - (viii) problem solving;
- d in a timely and effective manner:
 - (i) communicating at all relevant stages of a matter
 - (ii) performing all functions conscientiously, diligently and in a cost effective manner;
- e applying intellectual capacity, judgment and deliberation to all functions;
- f complying in letter and spirit with all rules pertaining to the appropriate professional conduct of the legal profession;
- g recognising limitations in one’s ability to handle a matter, or some aspect of it, and taking steps accordingly to ensure the employee/ organisation is appropriately served;
- h managing one’s office and legal department effectively;
- i pursuing appropriate professional development to maintain and enhance legal knowledge and skills; and
- j otherwise adapting to changing professional requirements, standards, techniques and practices.

In-House counsel must perform all legal services undertaken on an Employer/Client’s behalf to the standard of a competent In-House Counsel.

Commentary

[1] As a member of the legal profession, In-House Counsel must be knowledgeable, skilled and capable in the practice of law. Accordingly, the Employer and Client are entitled to assume that In-House Counsel has the ability and capacity to deal adequately with all legal matters to be undertaken on its behalf.

- [2] Competence is founded upon both ethical and legal principles. This rule addresses the ethical principles. Competence involves more than an understanding of legal principles: it involves an adequate knowledge of the practices and procedures by which such principles can be effectively applied. To accomplish this, In-House Counsel should keep abreast of developments in all areas of law and practices in the industry that the Employer may be related to.
- [3] In deciding whether In-House Counsel has employed the requisite degree of knowledge and skill in a particular matter, relevant factors will include:
- (a) the complexity and specialised nature of the matter;
 - (b) In-House Counsel's general experience;
 - (c) In-House Counsel's training and experience in the field and the training undertaken by the In-House Counsel;
 - (d) the preparation and study which In-House Counsel is able to give to the matter; and
 - (e) whether it is appropriate or feasible to refer the matter to, or associate or consult with, other professionals with established competence in the field in question.
- [4] In some circumstances, specialised expertise in a particular field of law may be required.
- [5] In-House Counsel should not undertake a matter personally if he/she does not have adequate confidence or competence to handle it, or being able to become competent without undue delay, risk or expense to the Employer.
- [6] In-House Counsel must recognise a task for which he or she lacks competence and sufficient capacity to provide sound advice on before undertaking that task. However, it is not always the case that the In-House Counsel can refuse to act on the Client's instruction. If consulted about such a task, In-House Counsel should obtain the Employer's instructions to retain, consult or collaborate with other professionals, including external lawyers who have specific expertise or competence in the subject in question. In-House Counsel should recognise that competence includes knowing when to seek advice from or to collaborate with experts areas he/she is not familiar with including, other scientific, accounting or non-legal fields.
- [7] The In-House Counsel must take steps to get him/herself equipped with enough knowledge or competence in that area of the law without undue delay or risk to the Employer.
- [8] When operating as an In-House Counsel in a multi-disciplinary practice, in addition to opinions on legal questions, In-House Counsel may be asked for, or may be expected to give, advice on non-legal matters such as the business, economic, policy or social complications relevant to the question or the course of action which the Employer may wish to choose. In many instances the In-House Counsel will be called upon to be the Employer's business advisor, drawing on the In-House Counsel's experience and views on non-legal matters. Care must be taken to avoid giving advice and views that cannot be substantiated.
- [9] The requirement of conscientious, diligent and efficient service means that In-House Counsel should make every effort to provide timely service to the Employer or Client. If In-House Counsel can reasonably foresee any undue delay in providing advice or services, the Employer or Client should be so informed.
- [10] In-House Counsel should refrain from conduct that may interfere with or compromise his or her capacity or motivation to provide competent legal services to the Employer or Client and should remain alert to any factor or circumstance that may have that effect.
- [11] In-House Counsel who is incompetent does the Employer or Client a disservice, brings discredit to the Legal profession and may bring the administration of justice into disrepute. In addition to damaging

In-House Counsel's own reputation, incompetence may also injure the Employer and Client.

QUALITY OF SERVICE

In-House Counsel has a duty to provide courteous, thorough and prompt service to the Employer and Client. The quality of service required of In-House Counsel shall be competent, timely, conscientious, diligent, efficient and civil.

Commentary

[1] In-House Counsel has a duty to communicate effectively with the Employer and Client. What is effective will vary depending on the nature of the services, the seriousness of the matter, the needs and sophistication of the Employer and Client and the need for the Employer and Client to make fully informed decisions and provide instructions.

[2] In-House Counsel should ensure that matters are attended to within a reasonable time frame. If In-House Counsel can reasonably foresee undue delay in providing advice or services, he or she has a duty to so inform the Employer and Client so that the Employer and Client can make an informed choice about their options.

[3] In order to maintain an acceptable quality of service to an Employer and Client, the In-House Counsel must undertake an appropriate level of Continuous Professional Development so as to be able to deliver advice to the competency standards required by an In-House Counsel. The In-House Counsel should not hesitate to seek the Employer's recognition that time and expense to undertake training programmes and continuing legal education is necessary to develop expertise in the dynamic industry in order to discharge the job functions efficiently and professionally.

[4] In-House Counsel should ensure that, where there are specific deadlines to be met, he has taken into account all relevant matters which must be considered on a risk based basis, before reaching his conclusions or providing his advice, even if this risk based assessment results in the deadlines being called into question. This approach will need to be flexible to allow for any unforeseen issues to be taken into account or where there is a reasonable explanation for altering the deadline. In any such need for flexibility, the

In-House Counsel must strive to mitigate any potential for prejudice to the Employer and Client. Whether or not a specific deadline applies, In-House Counsel should be prompt in attending to the matter, responding to communications and reporting developments to the Employer and/or Client.

Honesty and Candour

When advising an Employer and Client, In-House Counsel must be honest and candid and must inform the Employer and Client of all relevant information known to In-House Counsel that may affect the interests of the Employer and Client in the matter.

Commentary

[1] In-House Counsel should disclose any conflict of interest.

[2] In-House Counsel's duty to an Employer and Client who seeks legal advice is to give the Employer and Client a competent opinion, based on sufficient knowledge of the relevant facts, an adequate consideration of the applicable law and his/her own experience and expertise. The advice must be open and undisguised and must

clearly disclose what In-House Counsel thinks about the merits and probable results.

- [3] Occasionally, In-House Counsel may need to present an opinion which is contrary to the Employer's/ Client's own views. In the communication, In-House Counsel may disagree with the perspective taken by the Employer and Client, or may have concerns about the Employer and Client's position on a matter, or may give advice that will not be accepted by the Employer and Client. This may legitimately require clear and specific prior discussion with the Employer and Client and should include an assessment of the relevant risks and mitigations available.

Dishonesty, Fraud by Employer or Client

When acting for an Employer and Client, In-House Counsel must not knowingly assist in or encourage any dishonesty, fraud, crime or illegal conduct, or instruct the Employer and Client or Organisation on how to violate the law or avoid punishment.

In-House Counsel who is employed to act in a matter in which he or she knows that an employee of the Employer and Client has acted, is acting or intends to act dishonestly, fraudulently, criminally, or illegally, must do the following:

- advise the CEO, Head of Risk Management or Head of Internal Audit, that the proposed conduct is, was or would be dishonest, fraudulent, criminal, or illegal and should be stopped;
- alternatively advise progressively the next highest persons or groups, including ultimately, the board of directors or the board of trustees, that the proposed conduct was, is or would be dishonest, fraudulent, criminal, or illegal and should be ceased; and
- if, despite such advice, the Employer and/or Client continues with or intends to pursue the proposed wrongful conduct, withdraw from acting in the matter. In such instances, the In-House Counsel may wish to consider what whistle blowing arrangements are in place to address such concerns within the Organization.

Commentary

[1] This rule recognises that In-House Counsel, as the legal advisor to Employer and Client, are in a central position to encourage the Organisation to comply with the law and to advise that it is in the Organisation's and the public's interest that no law is violated. In-House Counsel acting for Organisations are often in a position to advise the executive officers of the organisation, not only about the technicalities of the law, but also about the public relations and public policy concerns that may have motivated the government or regulator to enact the law. Moreover, In-House Counsel for Organisations, must guide them to act in ways that are legal, ethical, reputable and consistent with the Organisation's responsibilities to its constituents and to the public.

[2] In-House Counsel should be alert to and avoid unwittingly becoming involved with an Employer and Client engaged in criminal activities.

[3] If In-House Counsel has suspicions or doubts about whether he or she might be inadvertently assisting an Employer and Client organisation in dishonesty, fraud, crime or illegal conduct, he or she should make reasonable inquiries to obtain information about the subject matter and objectives of the matter without accidentally tipping off relevant parties.

[4] In-House Counsel should be on guard against becoming the tool or instrument of an unscrupulous Employer and

CONFIDENTIALITY

Confidential Information

In-House Counsel at all times must hold in strict confidence all information concerning the business and affairs of an Employer, Client or Organisation, acquired in the course of the professional relationship and must not divulge any such information unless:

- a expressly or impliedly authorized by the Employer and Client;
- b required by law or a court to do so;

Commentary

- [1] In-House counsel rely heavily on an environment of trust and confidence in order to render effective professional service to an Employer and Client. At the same time, the Employer and Client must feel completely secure and entitled to proceed on the basis that, without any express request or stipulation on the Employer and Client's part, matters disclosed to, or discussed with, In-House Counsel will be held in strict confidence.
- [2] The ethical rule applies without regard to the nature or source of the information or the fact that others may share the knowledge. This rule must be distinguished from the narrower evidentiary rule of legal professional privilege, which may also be a constitutionally protected right, concerning oral or documentary communications passing between the Organisation and the In-House Counsel.
- [3] In-House Counsel owes a duty of confidentiality to every Employer and Client by whom it is employed. The duty may survive the professional relationship and can continue indefinitely after the In-House Counsel has ceased to be in the employment of the Employer and Organisation, whether or not differences have arisen between them.
- [4] In-House Counsel may also owe a duty of confidentiality to individuals such as an employee seeking advice or assistance on a matter invoking In-House Counsel's professional knowledge, although In-House Counsel may not render an account nor represent that person.
- [5] In-House Counsel should avoid indiscreet conversations and other communications about his or her Employer and Client's affairs and should shun any gossip about such things, whether or not the Employer and Client is named or otherwise identified. Similarly, In-House Counsel should not indulge in rumours or unverified information about the Organisation's business or affairs that is overheard or recounted to him or her. Ethical considerations and questions of appropriate behavior will apply and indiscreet conversation among In-House Counsel may result in prejudice to the Employer and Client if overheard by third parties who are able to identify the matter being discussed.

This rule does not apply to facts that are public knowledge, but In-House Counsel should guard against participating in or commenting on speculation concerning his or her Employer and Client organisation's affairs or business.

Confidential Information

In-House Counsel must not use or disclose an Employer and Client's or former Employer and Client's confidential information without the consent of the Employer and Client or former Employer and Client.

Commentary

The fiduciary relationship between In-House Counsel and his or her Employer and Client forbids the In-House Counsel or a third person from benefiting from the In-House Counsel's use of his or her Employer and Client's confidential information. If In-House Counsel engages in literary works, such as a memoir or autobiography, he or she is required to obtain the Employer and Client's or former Employer and Client's consent before disclosing confidential information.

CONFLICTS

Duty to Avoid Conflicts of Interest

In-House Counsel must not act or continue to act where there is a conflict of interest. The overall impact of a conflict of interest is that an In-House Counsel's judgment and objectivity may be impaired.

Commentary

- [1] In-House Counsel has an ethical duty to avoid conflicts of interest
 - [2] The In-House Counsel-client relationship is based on trust. In-House Counsel has a duty of loyalty to the Organisation in which he or she works. To maintain public confidence in the integrity of the Legal profession and the administration of justice, in which lawyers and In-House Counsel play a key role, it is essential that In-House Counsel respect the duty of loyalty. Arising from the duty of loyalty are other duties, such as the duty of confidentiality, the duty of candour and the duty to avoid conflicting interests.
 - [3] An Employer and Client must be assured of their In-House Counsel's undivided loyalty. The relationship may be irreparably damaged where In-House Counsel's representation of his/her Organisation is directly adverse to a third party's immediate legal interests.
 - [4] In-House Counsel should be mindful that a conflict of interest may exist not only from the outset, but throughout the duration of a matter, as new circumstances or information may establish or reveal a conflict of interest. Factors to consider, when assessing whether a conflict of interest exists include:
 - (a) the likelihood that the legal interests will be impacted immediately or within a reasonably short space of time;
 - (b) whether the legal interests of each party are completely opposed;
 - (c) whether the issue has practical importance or is procedural;
 - (d) whether the relationship between the matters is temporary or of a longer term nature;
 - (e) the significance of the issue to the immediate and long-term interests of the Employer and Client involved.
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Examples of areas where conflicts of interest may occur

Conflicts of interest can arise in many different circumstances. The following non exhaustive examples are intended to provide illustrations of circumstances that may give rise to conflicts of interest:

- An In-House Counsel or a family member may have a personal financial interest in an Organisation's affairs or in a matter in which In-House Counsel is requested to act for an Employer and Client.
- In-House Counsel may have a family, intimate or sexual relationship with an employee of the Organisation.

In-House Counsel must at all times act in a manner that is free from Conflict of Interest, Financial Interest and self-interest and in discharge of this duty, should follow the below-mentioned standards of conduct:

- be, and appear to be, free of any undue influence or self-interest, whether direct or indirect, which may be regarded as being incompatible with one's Integrity or Objectivity;
- constantly assess each particular situation for possible Conflicts of Interest and/or Financial Interest and be alert to the possibility of any Conflict of Interest;
- consider the facts and circumstances before deciding whether or not one's Integrity and Objectivity could be impaired by accepting an engagement, consideration or offer;
- immediately declare any Conflict of Interest or Financial Interest in a matter and recuse oneself from the situation, especially where it involves any consideration, deliberation or decision and/or ensure that one at all times acts in an appropriate manner so as to eliminate the conflict;
- be aware of and discourage potential relationships which could give rise to the possibility of a Conflict of Interest situation and which could potentially or actually adversely influence, impair or threaten one's Integrity, judgment and/or impartiality;
- ensure that the correct balance between one's loyalty to the Organisation and the required professional and legal standards are achieved and realised at all times, without them compromising or conflicting with each other;
- not accept any gift, benefit, consideration or compensation that may be perceived as compromising one's independence of judgment;
- not personally, or through any other person, improperly seek to obtain work by way of commission or otherwise, or make or offer to make payment for a client or prospective client for obtaining such work.

CONSENT

In-House Counsel at all times must hold in strict confidence all information concerning the business and affairs of the Organisation, acquired in the course of the professional relationship and must not divulge any such information unless:

- It has express consent, which must be fully informed and voluntary, and is given after disclosure, but before the In-house Counsel accepts the instructions required by law or a court to do so;
- Consent may be inferred and need not be in writing, but at all times, the In-house Counsel should take steps to ensure that he is able to demonstrate transparency in each of his actions to resolve potential Conflicts of Interest.

Commentary

[1] Disclosure is an essential requirement to obtaining an Employer and Client's consent and arises from the duty of Candour owed to the Employer and Client.

[2] Disclosure means full and fair disclosure of all information relevant to a person's decision in sufficient time for the person to make a genuine and independent decision, and the taking of reasonable steps to ensure understanding of the matters disclosed. In-House Counsel therefore should inform the Employer or Client of the relevant circumstances and the reasonably foreseeable ways that the Conflict of Interest could adversely affect the Organisation's interests. This would include any relations to the parties and any interest in or connection with the matter.

RELATIONSHIP BUILDING

Courtesy and Good Faith

In-House Counsel must be courteous and civil and always act in good faith with persons he or she has dealings.

Commentary

- [1] In-House Counsel should guard against allowing ill feelings that may exist or be engendered between various organisations and individuals who are dealing with each other (particularly during litigation), to influence In-House Counsel, and their conduct and demeanour toward each other or to the parties. The presence of personal animosity between In-House Counsel and external or other professional consultants involved in a matter may cause the judgment of each party to be clouded by emotional factors, so hindering the proper resolution of the matter. In-House Counsel is expected to maintain professional behavior at all times, and this includes avoiding making personal or abusive remarks or tactics which may interfere with the orderly administration of the job assigned.
- [2] In-House Counsel should avoid ill-considered or uninformed criticism of the competence, conduct, advice or charges of others.
- [3] In-House Counsel should assist external lawyers to conduct legal proceedings in a responsible and professional manner, using a collaborative approach that will assist the court in addressing the matter in dispute without adversely impacting on the rights of each party.
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Respectful Behaviour

In-House Counsel must at all times respect the objectives, values and mission of their colleagues and their respective Employers and Clients and seek to maintain good relations with them. In discharge of this duty, they should follow the below-mentioned standards of behaviour:

- at all times respect their colleagues in general;
- treat all parties with respect and dignity;
- refrain from deprecating and/or maligning other persons, including those who make up the Legal Profession;
- where the In-House Counsel believes a complaint may be merited, the In-House Counsel should refer the complaint to the disciplinary panel of the human resource department or professional body who represents and governs that person, making use of any formal disciplinary and/or complaints procedure;
- avoid unprofessional or unfair practices, avoid taking advantage of or acting without fair warning upon slips, irregularities or mistakes on the part of others. Care must be taken to avoid taking action which may have no merit or involves the sacrifice of an Employer and Client's rights.

Communications

In-House Counsel must not, in the course of a professional practice, send correspondence or otherwise communicate with an Organisation, another lawyer or any other person in a manner that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

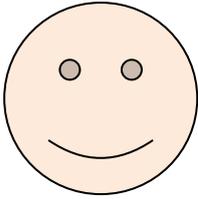
In-House Counsel must answer with reasonable promptness all professional letters and communications from other lawyers that require an answer and In-House Counsel must be punctual in fulfilling all commitments.

Inadvertent Communications

In-House Counsel who receive a document and know or reasonably should know that the document was inadvertently sent must promptly notify the sender.

Commentary

- [1] In-House Counsel sometimes receive documents that were mistakenly sent or produced by other or their lawyers. If In-House Counsel knows or reasonably should know that such a document was sent inadvertently, then this rule requires In-House Counsel to notify the sender promptly in order to permit that person to take protective measures.
 - [2] Whether In-House Counsel is required to take additional steps, such as returning the original document, is a matter of law beyond the scope of these rules, as is the question of whether the privileged status of a document has been lost.
 - [3] This section does not address the legal duties of In-House Counsel who receives a document that he or she knows or reasonably should know may have been wrongfully obtained by the sending person.
 - [4] For the purpose of this section, “document” includes correspondence, email or other electronic or digital modes of transmission, subject to being read or put into readable form. Unless In-House Counsel is required by applicable law to do so, the decision to voluntarily return such a document is a matter of professional judgment.
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NOTES & REFLECTIONS