

## DIFC Courts' Order No. 2 of 2025 Mandatory Code of Conduct for Legal Practitioners in the DIFC Courts

I, **Wayne Stewart Martin**, Chief Justice of the DIFC Courts

After having reviewed:

- Dubai Law No. 5 of 2021, concerning the DIFC which repealed Dubai Law No. 9 of 2004
- DIFC Courts Law No. 2 of 2025

Hereby, pursuant to the powers vested in me by Article 10(B)(9) of DIFC Courts Law No. 2 of 2025 issue the following Order:

- This Order may be cited as DIFC Courts' Order No. 2 of 2025 in respect of the Mandatory Code of Conduct for Practitioners in the DIFC Courts ('the **Code**').
- The revised Code shall come into effect from the date of signing.
- This Code repeals and replaces the DIFC Courts' Order No. 4 of 2019 in respect of the Mandatory Code of Conduct for Legal Practitioners in the DIFC Courts.

### Part A - Governing Principles

The DIFC Courts ("**the Courts**") were established to uphold the laws of the DIFC and to advance the rule of law by ensuring the just and effective resolution of disputes within the Courts' jurisdiction. By registering with the DIFC Courts to practise in the Courts, each individual registered Practitioner ("**Practitioner**") undertakes to act with integrity and independence in support of the Courts and the wider community that it serves.

The right of any Practitioner to practise in the Courts is conditional upon:

1. Observance of this Code issued periodically by the Chief Justice.
2. Recognition of the Courts' power to refuse to permit a specific Practitioner to represent a party (or continue to represent a party) where, in the opinion of the judge hearing the matter, the integrity of the process would be threatened by that Practitioner's representation of the party or the fair administration of justice in accordance with the Overriding Objective in Part 1.6 of the Rules of the DIFC Courts ("**the Rules**") would be put in peril;
3. Recognition of the Courts' power to suspend, terminate or place conditions on a Practitioner's registration in the circumstances set out at Part F below;
4. Recognition of the Courts' power to sanction any breach of the Code as provided for at Part F below; and

5. For the purposes of the Code, practice in the Courts includes the issue and conduct of proceedings as well as advocacy.
6. All Part I and Part II Practitioners are expected to adhere to the Code, failure of which may initiate a review by the DIFC Courts' Professional & Disciplinary Ethics Committee, as established on 30 July 2025.

#### **Part B - Duties Owed to the Courts**

1. Practitioners shall deal with the Courts and its staff honestly, co-operatively, with integrity and with civility.
2. Practitioners shall ensure that they are familiar with the Rules and in particular with the provisions of the Overriding Objective.
3. Practitioners shall ensure that they are familiar with such DIFC laws and Dubai laws establishing the DIFC as may be relevant to the matter before the Courts.
4. (i) Practitioners shall never knowingly or recklessly make any incorrect or misleading statement of fact or law to the Courts and shall correct any material incorrect or misleading statement of fact or law at the earliest opportunity.  
  
(ii) A Practitioner who knows of facts which would assist their opponent is not under any duty to voluntarily inform their opponent or the Courts of this to the detriment of their own client.
5. (i) Practitioners shall inform the Courts of all relevant decisions and legislative provisions of which they are aware, regardless of whether the effect is favourable or unfavourable to the contention for which they argue.  
  
(ii) The Courts must be informed of all relevant decided cases ("**Decisions**") and legislative provisions of which the Practitioners appearing in the matter are aware. If one of them omits a relevant Decision or provision or makes an incorrect reference to a Decision or provision, it is the duty of the other to draw attention to it even if it assists their opponent's case.  
  
(iii) Where, after a hearing, judgment is reserved and a relevant point of law is subsequently discovered, a Practitioner who intends to bring it to the judge's attention should inform their opponent. The other Practitioner should not oppose the introduction of a new decision which affects the authority of any decision previously cited by either party, but will be entitled to object to the introduction of any point of law that has not previously been pleaded or argued. This Rule does not apply to hearings held to consider applications properly made without notice.

6. (i) Practitioners shall not appear as advocates or otherwise conduct proceedings before the Courts in any matter in which they have reason to believe they may be a witness, save where any evidence they may give is likely to be purely formal or uncontroversial.

(ii) A Practitioner who, after being engaged by a client, realises that they are or will be in breach of Part B(6)(i) and/or Part C(1), Part C(5), Part C(11) or any other provision of the Code if they continue to act for that client, shall discharge themselves from the representation of that client without prejudice to the representation being taken over by another member of their firm to whom Part B(6)(i) is inapplicable. In discharging themselves, the Practitioner shall take all reasonable steps to ensure that their client's interests are not in any way jeopardised.

### **Part C – Duties Owed to Clients**

1. (i) Practitioners shall fearlessly advance, defend and protect the interests of their client before the Courts without regard to any consequences to themselves or any other person.

(ii) It is an implied term of each Practitioner's retainer that they are free to present their client's case at the trial or hearing in such a way as they consider appropriate. If the client's express instructions do not permit a Practitioner to present the case in what the Practitioner considers to be the most appropriate manner, they may withdraw from the case after seeking the approval of the Courts, but without disclosing matters which are protected by the client's privilege of confidentiality.

(iii) In general, there is no duty upon a Practitioner to enquire in every case where they are instructed as to whether the client is telling the truth. However, where the client's instructions are such (whether because of their inherent implausibility or of other information coming to the Practitioner's knowledge) as should put a Practitioner on enquiry, the Practitioner must, where practicable, check the truth of what the client tells them to the extent that such statements will be relied on before the Courts or in pleadings or affidavits.

(iv) If, either before or during the course of proceedings, the client makes statements to the Practitioner representing them which are inconsistent, this is not of itself a ground for the Practitioner to refuse to act further on behalf of the client. Only where it is clear that the client is attempting to put forward false evidence to the Courts should the Practitioner cease to act. In other circumstances, it would be for the Courts, and not the Practitioner, to assess the veracity of the client's statement.

(v) For the avoidance of doubt, the Practitioner shall not be swayed from their duties to the client by any conflicts between the instructions or interests of the client and the instructions or interests of any involved funder (as defined in Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC), unless the client has authorised the Practitioners in writing to take instructions from the funder rather than the client.

2. (i) Practitioners shall not agree to act for a client in any matter before the Courts if the Practitioner owes a separate duty to act in the best interests of another client, and:
  - a. those clients are competing with each other for the same objective and;
  - b. the Practitioner does not have the written consent of each client to act for the other client.
- (ii) Before a Practitioner obtains the written consent of each client to act for the other client they must:
  - a. satisfy themselves that it is reasonable for them to act for all the clients and that it is in the best interests of each of the clients;
  - b. satisfy themselves that the benefits to the clients of them doing so outweigh the risks, and
  - c. satisfy themselves that, after they have explained the relevant issues and risks to the clients, those clients have a reasonable belief that they understand those issues and risks.
3. Practitioners shall not agree to act for a client in any matter before the Courts if the Practitioner's duty to act in the best interests of a client conflicts, or there is a significant risk that it may conflict, with the Practitioner's or the law firm's own interests in the same or related asset, liability or matter.
4. Part C(2) and Part C(3) shall also apply to any law firm to which the Practitioner belongs.
5. (i) Practitioners shall only agree to act in proceedings before the Courts if they can handle them promptly, with competence and without undue interference from the pressure of other work.  
  
(ii) A Practitioner shall not be precluded from agreeing to act in proceedings before the Courts merely because to represent their client competently they will have to undertake study and research in a given field or associate themselves with another Practitioner of established competence in that field. However, if the Practitioner cannot undertake the necessary study and research without undue delay and cost to the client, the Practitioner shall inform the client of the likely delay and cost in acquiring the requisite knowledge and skill and thereafter obtain the client's voluntary consent to their acting in the matter.
6. Practitioners shall not seek to provoke or prolong Courts proceedings unnecessarily, nor shall they undertake work in a manner which improperly increases the fees payable to them.
7. Practitioners shall at the earliest opportunity advise their client of any appropriate alternative means of dispute resolution.



8. (i) Practitioners shall at the time of their engagement advise their client of the Courts' discretion as to costs and in particular the general rule at Part 38.7(1) of the Rules that the unsuccessful party will be ordered to pay the reasonable legal costs and expenses of the successful party.  
  
(ii) Where a client proposes to enter into a litigation funding agreement (as defined in Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC), or is already a party to such agreement, Practitioners shall advise the client as to the effect of such agreement, if any, on the client's potential responsibility to pay legal costs and expenses as described in Part C(8)(i) which will remain the clients' responsibility unless otherwise agreed between the client and the third party funder.
9. (i) Practitioners shall at the time of their engagement enter into a clear and transparent fee agreement with their client and thereafter ensure that sufficient records are kept of work done to enable the Courts to properly assess any legal costs and expenses claimed during, or at the conclusion of, proceedings.  
  
(ii) When entering into a fee agreement with a client, a Practitioner must explain to the client that:
  - a. the client shall be personally responsible for payment of the Practitioner's legal fees and expenses in full, regardless of any order for costs made against the opposing party, and
  - b. that even if the client wins, the opposing party may not be ordered to pay the full amount of the client's own legal fees and expenses, and may not be capable of paying what has been ordered.  
(iii) When entering into a fee agreement with a client, a Practitioner must inform the client in writing of the basis upon which fees for their professional services will be charged and the manner in which it is expected that those fees and disbursements, if any, shall be paid by the client.  
  
(iv) As part of a clear and transparent fee agreement, Practitioners must not collect or receive any referral fee or benefit in kind from a third party funder arising from the referral of a client to that third party funder, without disclosing the collection of the benefit to the client in writing. Clients must be fully informed of any financial or other interest which the Practitioner or the law firm to which the Practitioner belongs has in referring the client to any specific third party. Furthermore, where a Practitioner decides to recommend the use of a specific third party to a client, such recommendation must be deemed by the Practitioner to be in the best interest of the client.

10. Practitioners shall keep information communicated to them by their client confidential unless such disclosure is authorised by the client, ordered by the Courts or required by law. This duty continues even after the Practitioner has ceased to act for the client.
11. (i) Practitioners that have acted for a client in a matter shall not thereafter act against the client (or against persons who were involved in or associated with the client in that matter) in the same or any related matter before the Courts.  
  
(ii) Any knowledge acquired by a Practitioner whilst acting for a former client is confidential and cannot be disclosed without that client's consent. However, a Practitioner is under a duty to their present client to inform them of all matters which are material to their case. Consequently, a Practitioner in possession of knowledge concerning their former client which is, or might be relevant, is put in an impossible position and so cannot act against that client.

#### **Part D – Duties Owed to Other Practitioners**

1. Practitioners shall deal with each other honestly, co-operatively and with civility.

#### **Part E – General Duties**

1. (i) Practitioners shall not engage in conduct that undermines the Overriding Objective or which may otherwise result in procedural unfairness.  
  
(ii) Except when making a formal application to the Courts, a Practitioner must not discuss a case with a judge save in the presence of the Practitioner for the other party.  
  
(iii) If a written communication is to be made to the judge at any time, the Practitioner should at the same time deliver a copy of it to the opposing Practitioner or to the opposing party if it is not legally represented.  
  
(iv) A Practitioner must not make or offer to make payments to a witness which are contingent upon the nature of the evidence given or upon the outcome of a case. However:
  - a. payment of reasonable expenses and reasonable compensation for loss of time attending Courts may be paid to witnesses. In the case of an expert witness, there is an implied obligation to pay a reasonable fee;
  - b. a Practitioner, on their client's instructions, may insert advertisements for witnesses to come forward to testify as to a particular occurrence.  
(v) A Practitioner shall not interview or discuss with a witness, whom the Practitioner has called, their evidence or the evidence of the other witnesses while such witness is under

cross-examination. This shall not prevent the Practitioner from communicating with their client or principal client representative (while the latter is giving evidence) for any purpose necessary for the proper management of the matter.

- (vi) A Practitioner may interview and take statements from any witness or prospective witness at any stage in the proceedings, whether or not that witness has been interviewed or called as a witness by another party to the proceedings except that, if the Practitioner is aware that the witness has been called or issued a subpoena to appear in Courts by the other party to the proceedings, they shall inform the Practitioner of the other party of their intention to interview or take statements from the witness. If such awareness only occurs during the witness interview, the Practitioner shall immediately after such interview inform the Practitioner for the other party of such interview.
- (vii) A Practitioner who gives a statement to the press must ensure that they do not become in contempt of Courts by publishing any statement which is calculated to interfere with a fair trial of a case which has not been concluded.
- (viii) A Practitioner shall not call a witness whose evidence he knows to be untrue.
- (ix) A practitioner must, in any proceedings before the Courts, conduct the case in a manner which maintains the fairness, integrity, efficiency and orderly conduct of those proceedings.
- (x) A Practitioner shall not engage in conduct involving dishonesty, fraud, deceit, or deliberate misrepresentation.
- (xi) A Practitioner shall not knowingly assist their client to disobey an order or direction of the Courts.
- (xii) A Practitioner must comply with any order of the Courts requiring them to do or refrain from doing something; equally, a Practitioner is bound to honour their undertakings given to the Courts.
- (xiii) When conducting proceedings in the Courts a Practitioner:
  - a. shall be personally responsible for the conduct and presentation of their case and shall exercise personal judgment upon the substance and purpose of statements made and questions asked;
  - b. shall not express their personal opinion of their client's rights or liabilities or allow their personal feelings to affect their professional assessment of the facts or the law or to affect their duty to the Courts;

- c. shall bring any procedural irregularity to the attention of the Courts during the hearing and not reserve such matter to be raised on appeal or in setting aside proceedings; or
  - d. shall not suggest that a witness or other person is guilty of any crime, fraud or misconduct or attribute to another person the conduct of which their client is accused unless such allegations go to a matter in issue (including the credibility of the witness) which is material to their client's case and which appear to them to be supported by reasonable grounds.
- (xiv) A Practitioner shall not contrive facts which will assist their client's case or draft any originating process, pleading, affidavit, witness statement or notice or grounds of appeal containing:
- a. any statement of fact or contention (as the case may be) which is not supported by their client's instructions or by other reasonably credible material;
  - b. any allegation of fraud or criminal behaviour unless they have clear instructions to make such allegation and has before them reasonably credible material which as it stands establishes a *prima facie* case of fraud or criminal behaviour; or
  - c. in the case of an affidavit or witness statement, any statement of fact other than the evidence which (in substance according to their instructions) the Practitioner reasonably believes the witness would give if the evidence contained in the affidavit or witness statement were being given orally.
- (xv) When conducting proceedings in the Courts, a Practitioner shall not by assertion in a speech or written submission make an allegation against a witness whom they had an opportunity to cross-examine unless in cross-examination they have given the witness an opportunity to answer the allegation. However, a Practitioner may make a submission concerning (1) a witness' credibility based on observations of the witness' conduct and demeanour in Courts as well as (2) contradictions between testimony given and/or documents authored by the witness without having put such observations to the witness for comment.
2. (i) Practitioners shall not act in any matter before the Courts unless satisfied of their continuing adherence to the DIFC Courts' registration criteria as set out in DIFC Courts Order No. 1 of 2025 in Respect of Issuing and Conducting Proceedings, Rights of Audience and Registration in Part I and Part II of the DIFC Courts.
- (ii) By acting in any matter before the Courts, a Practitioner represents that to the best of their knowledge none of the matters identified at Part F(1) apply to them. Part F(1)(i)(d) shall not



prevent a Part II registered Practitioner from undertaking advocacy so long as they do not also have charge of their client's moneys.

3. Practitioners shall abstain from any behaviour which may tend to discredit the Courts and the reputation of its Practitioners.
4. Practitioners shall never withdraw from any matter before the Courts in order to confer a tactical advantage upon a party.
5. Practitioners instructed in respect of a matter before the Courts shall not initiate any communication about that matter directly with a party who is known to have retained another Practitioner to represent them in the matter. The only exceptions to this duty arise where:
  - a. the Practitioner has obtained the consent of the other Practitioner,
  - b. the relevant communication is a notice which by law or contract must be personally served on the other Practitioner's client, or
  - c. the interests of the party with which it is intended to communicate will be prejudiced if the communication is delayed. In the latter case the other Practitioner must be informed as soon as possible.
6. Practitioners shall not agree to act in any matter before the Courts other than at the direct request of the client party concerned, or their clearly authorised agent. For the purposes of this Code an insurer acting in the name of an insured shall be deemed a client party.
7. (i) Subject to any relevant provisions of the Rules, Practitioners shall not disclose to the Courts prior to judgment, the content of any settlement offers or settlement negotiations, regardless of whether these have expressly been stated to be "Without Prejudice", unless the communication containing the settlement offer or negotiations has been expressly marked or otherwise identified as sent on an open basis.  
  
(ii) Where it is disputed that a settlement has been concluded, the content of any settlement offers or negotiations shall be disclosed to the Courts prior to judgment only with the leave of the Courts.  
  
(iii) **Note:** Practitioners are reminded that the label "Without Prejudice" attached to a communication does not necessarily confer privilege on that communication unless that communication may reasonably be considered to be a settlement offer or a step in the negotiations process.

## Part F – Matters Affecting Registration

1. (i) Where a Practitioner:

- a. Has been sentenced to a term of imprisonment in respect of any civil or criminal proceedings in Dubai or elsewhere;
- b. Has been convicted of an offence involving dishonesty or fraud in Dubai or elsewhere;
- c. Has been convicted of an offence in relation to their conduct in their practice of law in Dubai or elsewhere;
- d. As a result of a bankruptcy order made against them, is prohibited by the relevant bankruptcy law from having charge of clients' moneys;
- e. Has been found guilty by any Courts or Tribunal outside the DIFC having jurisdiction over their conduct as a practising lawyer (whether in Dubai or elsewhere) of a violation of a code of professional ethics applicable to them;
- f. Is incapacitated by illness or accident, or by the Practitioner's physical or mental condition, to such extent as to be unable to attend to their practice;
- g. Is incapable of conducting cases in Courts as advocate either because of difficulties with the English language or by reason of a lack of appropriate litigation expertise;
- h. Has stolen or otherwise improperly dealt with clients' moneys:

(ii) the Chief Justice of the Courts, if satisfied that any of the above conditions mentioned in Part F (1)(i) have been met, may on the application of an officer of the Courts make an order:

- a. Suspending the Practitioner from exercising their rights as a registered Practitioner for an appropriate period; or
- b. Imposing conditions with which the Practitioner must comply on a continuing basis in order to remain enrolled on the Register of Practitioners; or
- c. Terminating the right of the Practitioner to remain enrolled on the Register of Practitioners.

(iii) An application made by an officer of the Courts pursuant to Part F(1)(i) and Part F(1)(ii) shall be made using the procedure set out at Part 8 of the Rules.

- (iv) The Part 8 claim form shall identify the claimant as “The Registrar of the DIFC Courts” and state that it is an application for an order pursuant to Part F(1)(i) and Part F(1)(ii) of the Code.
2. The Part 8 claim form shall identify the specific order sought and be filed with any written evidence to be relied on.
3. Upon the issue of a Part 8 claim form, a Judge of the Courts shall issue directions for the service, management and determination of the application.
4. (i) An order made under Part F(1)(i) and Part F(1)(ii) may be reviewed or the application for the order may be re-heard, by the Court of Appeal, at its discretion, on the application of the Practitioner.
- (ii) An application to the Court of Appeal shall be made by the filing of an appellant’s notice in accordance with Parts 44.32 to 44.35 of the Rules. Permission to appeal shall not be required. Service of the appellant’s notice on the respondent shall be dispensed with.
- (iii) Save with the permission of a Judge of the Courts or the permission of the Court of Appeal, any application to the Court of Appeal shall be made no more than thirty (30) working days after the order appealed against was issued.
- (iv) Within fourteen (14) working days of the filing of an appellant’s notice a Judge of the Courts shall issue directions for the management and determination of the application, including any directions for the filing of a respondent’s notice.
- (v) An application to the Court of Appeal made pursuant to Part F shall not operate as a stay of any order appealed against.
- (vi) On hearing an appeal, the powers of the Court of Appeal shall be as provided for at Part 44.134 of the Rules. Reference to the Court of First Instance at Part 44.134(1) of the Rules shall be read as a reference to the Courts acting pursuant to Part F(1)(i) and Part F(1)(ii) of the Code.
- (vii) Save where the Court of Appeal orders otherwise, the Courts may stay the implementation of its order and/or direct that its order shall be kept confidential, for a period not exceeding sixty (60) working days from the date it was issued.

## Part G – Saving Clause

1. Except where otherwise provided in this Code, anything done or omitted to be done pursuant to or for the purposes of the previous Code is deemed to be done or omitted to be done pursuant to or for the purposes of this Code.
2. Such repeal and replacement shall not affect:
  - a. any right, privilege, remedy, obligation or liability accrued to or incurred by any person or legal practitioner; or
  - b. any investigation or legal or administrative proceedings commenced, or to be commenced, in respect of any such right, remedy, privilege, obligation or liability, under this Code, and any such investigation or legal or administrative proceedings may be instituted, continued or enforced, including any penalty, fine or forfeiture, under this Code.

This Order shall come into force with effect from the date of issue.

**Wayne Stewart Martin**  
Chief Justice of the DIFC Courts  
Issued: 30 July 2025