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# Code of Professional Conduct

Guidance to members

Institute of Ecology and Environmental Management

*Promoting and Supporting Professionalism in the Environment*

Professional Issues Series

5

# Institute of Ecology and Environmental Management

## Code of Professional Conduct

### 1. Introduction

#### 1.1

Members of the Institute of Ecology and Environmental Management are bound by this Code of Professional Conduct. Acceptance of and adherence to this Code is a duty of every member and is a condition of membership.

### 2. Definitions

Throughout this Code:

#### 2.1

“Institute” shall mean the Institute of Ecology and Environmental Management;

#### 2.2

“Employers” shall mean both the employers of members of the Institute under a formal contract of employment and any third party to whom members provide consultancy services;

#### 2.3

“Members” shall mean the members of the Institute as defined in the bye-laws of the Institute;

#### 2.4

“Council” shall mean the Council of the Institute as defined in the Articles of Association of the Institute;

#### 2.5

“Consultancy services” means the provision of advice or other services under a contract for the provision of such services or voluntarily by members in their capacity as ecologists and environmental managers;

#### 2.6

“Continuing Professional Development” means the members’ obligation so to undertake as defined in the guidance to Members and as amended and updated from time to time;

#### 2.7

“Professional duties” means members’ duties and obligations as ecologists or environmental managers;

#### 2.8

“Disciplinary Regulations” means the procedures laid out in the regulations promulgated by the Institute from time to time and so described.

### 3. Objects of the Institute

#### 3.1

Members are expected to conform to the objects of the Institute. These are to:

##### 3.1.1

Advance the science and practice of ecology and environmental management for the public benefit in the United Kingdom and internationally;

##### 3.1.2

Further the conservation and enhancement of biodiversity and maintenance of ecological processes and life support systems essential to a fully functional biosphere;

##### 3.1.3

Further environmentally sustainable management and development;

##### 3.1.4

Promote and encourage education, training, study and research in the science and practice of ecology, environmental management and sustainable development;

##### 3.1.5

Establish, uphold and advance the standards of education, qualification and conduct of those who practice ecology and environmental management as a profession and for the benefit of the public.

### 4. General Professional Obligations

Members shall:

#### 4.1

Ensure that no action on their part is inconsistent with or harmful to the objects of the Institute in the Memorandum of Association of the Institute and listed in Section 3.1 above or brings the Institute into disrepute;

#### 4.2

Maintain high standards of awareness of new developments in ecology and environmental management. Members are required to conform to the Institute’s requirements for Continuing Professional Development;

#### 4.3

Not claim a class of membership other than that approved by the Council;

#### **4.4**

Not represent themselves as speaking or acting with the authority of the Institute unless they have been expressly authorised by the Council to do so;

#### **4.5**

Act honestly in their dealings with others during the discharge of their professional duties.

### **5. Advice and Reports**

When preparing advice and reports members shall:

#### **5.1**

Report correctly, truthfully, clearly and so far as is possible in the circumstances, fully and convey their findings objectively. No member shall fabricate or falsify data or information or commit fraud and members shall use their best endeavours to prevent fabrication, falsification or fraud by others;

#### **5.2**

Identify the limitations to the interpretation of information which is utilised in reports or advice;

#### **5.3**

Not plagiarise or misrepresent the work of others and give full and proper credit for information used and acknowledge fairly the contributions of others;

#### **5.4**

Not use information supplied by a third party without taking reasonable steps to establish its provenance or validity if it is appropriate so to do;

#### **5.5**

Avoid and discourage the dissemination of false, erroneous, biased, unwarranted or exaggerated statements concerning ecology and environmental management;

#### **5.6**

Use their best endeavours to ensure that their advice, assessments or other forms of appraisal have regard to local, regional, national and global implications for natural resources and ecosystems;

#### **5.7**

Wherever possible, make scientific data collected during the course of their professional duties available to others such as records centres.

### **6. Employment Obligations**

Members shall:

#### **6.1**

When in full or part time employment make their employers aware that they have subscribed to this Code and will be subject to disciplinary proceedings by the Institute if they contravene it;

#### **6.2**

Use their best endeavours to agree with their employer at the outset the terms and conditions under which their services are to be provided, including fees, the ownership of copyright and their obligations of confidentiality in respect of the provision of services;

#### **6.3**

Inform a prospective or current employer of all other professional, financial or personal interests in relation to a project;

#### **6.4**

Not solicit or accept financial inducement, favours or preferential treatment that might affect the discharge of their professional duties;

#### **6.5**

Ensure that they have effected professional indemnity insurance appropriate to their professional duties.

### **7. Compliance with the Code**

#### **7.1**

Members shall notify the Executive Director of the Institute of any failure by themselves or any other member to comply with this Code.

#### **7.2**

Any such notification will be considered in accordance with the Disciplinary Regulations.

### **8. Defence of Members**

#### **8.1**

Any member who claims to have been victimised, abused or subject to professional discrimination as a result of compliance with the Code may apply to the Institute for assistance. The Institute may at its sole discretion provide such assistance, as it considers appropriate for as long as appropriate.

### **9. Interpretation of this Code**

#### **9.1**

This Code applies to all members regardless of the country in which work is being carried out. Where local standards of professional conduct are undefined or inadequate, members shall comply with UK practice or where that is not possible, identify and justify any departures and assess their significance.

IEEM

43 Southgate Street, Winchester, Hampshire SO23 9EH

T: 01962 868626

F: 01962 868625

e: [enquiries@ieem.net](mailto:enquiries@ieem.net)

[www.ieem.net](http://www.ieem.net)

**Note:** This revised Code was approved by the AGM on 10th November 2004 and replaces earlier versions.



# Landscape Institute

**ENGAGING A LANDSCAPE CONSULTANT  
GUIDANCE FOR CLIENTS ON FEES  
SEPTEMBER 2002**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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First produced in draft form in June 1995 and based on "Engaging an Architect, Guidance for Clients on Professional Fees" as published by RIBA Publications Limited, and with their permission.

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Engaging a Landscape Consultant, Guidance for Clients on Fees

First Published August 1996

Revised September 2002

Appendix added June 2003

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**ISBN 1 873071 08 6**

## **FOREWORD**

The Landscape Institute withdrew its mandatory Scale of Professional Charges in 1986 and up to the first publication of this guidance in June 1995, had no formal basis on which to advise clients and landscape consultants on fees. This guidance acknowledges that fee competition is part of a free market but in order to secure comparable fee offers the client needs a baseline on which to evaluate fee proposals.

This guidance will also help when reading fee agreements, if professional services do not have to be tendered, or where they may be a partnering agreement or a framework agreement.

Value for money flows from landscape consultants who can maintain quality of service through adequate resources, design flair, appropriate experience, a cooperative attitude, and who can invest in people, training and technology through proper levels of remuneration. Experience has now shown that clients who choose on price alone frequently find that this is a recipe for second rate schemes born of a 'adversarial' stance where as little as possible is offered for cut price fees.

In contributing to the Construction Industry Council's (CIC) Guidelines for the Value Assessment of Competitive Tenders, The Landscape Institute is in the main stream of professions that seek to promote the principle of quality balanced with price in providing the best value for money. Government has acknowledged the emphasis on quality as well as price in the procurement of professional services, while still adhering to the principle of competition.

This Guidance for Clients on Fees is as much a fair basis for achieving an appropriate fee as it is a test to identify those who seek to provide the minimum for the cheapest possible fee. I hope that clients and their landscape consultants alike will use it as the main means of evaluating or preparing fee proposals; that clients will consider all that their landscape consultants are offering; and not merely price; and that this Guidance will foster a satisfactory standard of service for fair remuneration.

***Roderick I S Edwards***

**President, The Landscape Institute**

## 1. INTRODUCTION

- 1.1 This booklet has been compiled in response to requests both from clients and members of The Landscape Institute. Its purpose is to improve the working relationship between clients and landscape consultants by providing information and guidance specifically addressed to clients that will lead to a better understanding of how landscape consultants' fees for a professional appointment may be calculated, charged and paid.
- 1.2 To assist clients The Landscape Institute publishes a Register of Practices that includes information on firms that meet the professional qualification, and financial and professional indemnity insurance criteria required by The Landscape Institute. The Director General also operates a nominations procedure to assist clients in selecting a landscape consultant.
- 1.3 *The fee scale graphs included in this booklet are indicative and are intended to act as a guide to help clients and landscape consultants evaluate appropriate offers and agree fees by negotiation.*
- 1.4 Any questions concerning the information contained within this Guide should be referred to the Director General of The Landscape Institute by letter at:

**The Landscape Institute**  
33 Great Portland Street  
London W1W 8QG

*Or by telephone on 020 72994500 or facsimile 020 7299 4501 or email on [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)*

- 1.5 Publications referred to in this Guide that are available from The Landscape Institute are:

The Landscape Consultant's Appointment  
Guide to Procedure for Competitive Tendering  
Directory of Registered Landscape Practices  
Appointing a Chartered Landscape Architect: Guidelines for Best Value

## 2. THE CLIENT AND THE LANDSCAPE CONSULTANT'S APPOINTMENT

- 2.1 Generally.** A sound working relationship between the client and the landscape consultant can contribute significantly to the success of a project. Time spent in preliminary discussion with the landscape consultant is time well spent. The client should talk through the project requirements and discuss whether they can be realised within a budget and to a required programme. The Landscape Institute recommends that clients should have a clear understanding of the total cost of consultancy services including what expenses and disbursements are likely. As the project progresses, clients may wish to be actively involved, with their consultants retained to explain and advise.
- 2.2 Form of Agreement.** The agreement between client and landscape consultant may take the form of an exchange of letters in the case of small or simple projects, but for anything larger or more complex it is advisable to use the standard Memorandum of Agreement of The Landscape Institute. Under The Landscape Institute Code of Conduct it is the duty of the landscape consultant to write to the client setting down the terms of a commission.
- 2.3 The Landscape Consultant's Appointment.** This is a standard form that consists of a number of parts designed to enable the client and the landscape consultant to define the most appropriate range of services and conditions of appointment for a project. It should assist the parties to express formally the agreement reached between them.
- 2.4 Standard Form of Appointment.** This standard form of appointment covers the four parts set out below, a Memorandum of Agreement and a schedule Table 2 lists the work stages that form part of "Preliminary" and "Standard Services."
- 2.4.1 Part 1. *The Landscape Consultant's Services* lists and describes the "Preliminary" and "Standard Services" that are normally provided, and are common to most commissions.
- 2.4.2 Part 2. *Other Services* lists and describes a range of activities that can be agreed as independent elements of work, or as a supplement to "Preliminary" and "Standard Services."
- 2.4.3 Part 3. *Conditions of Appointment* describes the conditions that normally apply.
- 2.4.4 Part 4. *Professional Fees*, incorporates and expands on this Guidance.
- 2.4.5 *The Memorandum of Agreement* is a format for recording the parties to the agreement, the name and nature of the commission and the location where works are to be carried out.
- 2.4.6 *The Schedule of Services and Fees* is a format for setting out the consultancy services in detail and the agreed basis for calculating fees specifically related to the commission, forming an essential part of an agreement between client and landscape consultant.
- 2.5 Design and Build Projects.** In the Design and Build approach to construction, clients may wish to appoint a landscape consultant to help define requirements, and the contractor may also wish to appoint a landscape consultant to help develop the design. In either situation, the appointment of a landscape consultant can be properly formalised using the Memorandum of Agreement.

### 3. LANDSCAPE CONSULTANT'S FEES AND EXPENSES

- 3.1 Generally.** The landscape consultant's fees are commonly calculated on a time-charge, lump sum or percentage basis, although some work may be dealt with on a retainer or term commission basis. Expenses are generally charged separately in addition to fees.
- 3.2 Time Charged Fee Basis.** This basis is best used where services cannot be related to the construction cost of landscape works. Where the landscape consultant's appointment is for consultancy and advisory work or for preliminary or other additional services to an otherwise "Standard Service," fees should be on a time charged basis. The agreed hour/daily/weekly rates for each grade or individual member of staff, including principals working directly on the commission, should be stated in an agreement. Review dates for these rates should also be stated.
- 3.3 Lump Sum Fee Basis.** Lump sums are best used where the scope of the work can be clearly defined from the outset for any of the services described in Parts 1 and 2 of the Landscape Consultants Appointment, but where there is no firm project cost. It is necessary to define the services required and the project size and complexity, so that if these are varied by more than an agreed amount the lump sum itself may be varied. Alternatively, time charges may be agreed as the basis for payment for making variations.
- 3.4 Percentage Fee Basis.** This is best used for straightforward landscape projects where the "Standard Services" as described in Part 1 of the Landscape Consultant's Appointment Work Stages C to L are to be carried out. Fees can be expressed as a percentage of the total construction costs of a landscape contract or subcontract for which the landscape consultant is responsible. Subcontract costs should include an apportionment of main contractor's attendance, preliminaries, profit allowances and fluctuations. Separate fee calculations are appropriate for each separate landscape commission within a major construction contract. These contracts may be made up of phased development of one site over time or be a number of physically separated development sites in one main commission, which are implemented as separate contracts.
- 3.4.1 The Fee Graph indicates the fee costs that may be incurred by the client for landscape consultants' "Standard Services," expressed as percentages of the contract sum. The four graph curves show the range of percentage fees at differing complexity ratings for works of £22,500 and above. Lower fee percentages may be normally expected with higher contract sums and vice versa. Projects below the £22,500 threshold should be agreed on a time-charge or lump sum fee basis.
- 3.4.2 Landscape work varies in complexity and fees therefore vary to reflect the amount and level of service required to undertake schemes satisfactorily. In the experience of members of The Landscape Institute some projects, such as environmental improvements, involve substantially more input at all stages than other projects. To reflect this difference in complexity, Table 1 shows four different classifications of landscape work.
- 3.4.3 The four curves on the Fee Graph correspond to these four classifications and show the normal percentage fee curve (complexity rating 1), and three other curves (complexity ratings 2, 3, 4), that cater for work that is more demanding of professional time, office resources, skills and experience. The consultant can advise on the complexity rating of projects not listed in Table 1.

3.4.4 A series of worked examples of percentage fee calculations is shown on the final page of this booklet.

**3.5 Retainer Fee Basis.** This basis may be used where the client wants to retain the services of a landscape consultant on an “as needed” basis over the extended period of time, during which all work arising is required to be carried out by the landscape consultant. This basis is also applicable to term commissions.

3.5.1 Retainer or term commission fees may be calculated either as a sum additional to any fees calculated by other methods or as a payment based on an estimated time commitment when the landscape consultants retains resources constantly ready to fulfil the client’s requirements if so requested.

3.5.2 The retainer or term commission fee may, by prior arrangement, be allowed to stand in full, irrespective of the amount of work involved or it may be recalculated on a monthly, quarterly or yearly basis according to the actual commitments.

**3.6 Apportionment of the different methods of fee calculation:**

3.6.1 Part 1 – “Preliminary Services,” Inception and Feasibility, Stages A and B are normally carried out on a time charged basis. Outline and Sketch scheme proposals, Work Stages C and D, may also be carried out on a time charge basis where several scheme options are being considered or complex approvals are being sought from planning authorities. Once the scope of a scheme is agreed and approved, and there is a commitment to construct the project, a percentage fee may be agreed in relation to the construction cost. This should reflect the degree of work already executed under a time charge agreement. Where extensive inspections of site works, or inspections over an extended maintenance period are required, an additional time charge would again usually be appropriate.

3.6.2 Part 1 – “Standard Services,” Stages C to L are normally carried out on a percentage fee basis or lump sum.

3.6.3 Part 2 – “Other Services,” are normally carried out on a time-charged or lump sum basis.

**3.7 Payment of Fees.** Timely settlement of accounts is an essential part of a good working relationship. Clients may prefer to pay fees according to a plan of programmed installments. The certainty of this arrangement allows payments to be budgeted for over a period. Alternatively, fees may be paid at the completion of each work stage. Where this arrangement is agreed, the apportionment in Table 2 is offered as a guide.

**3.8 Expenses and Disbursements.** In addition to appropriate fees the landscape consultant can agree with the client the reimbursement of expenses and disbursements properly incurred in connection with the appointment. If the client requests a budget estimate of expenses, the consultant should clearly state what has been included.

3.8.1 Expenses might include, for example, the cost of printing, reproduction or purchase of documents, drawings, maps, models, photographs, hotel and travelling expenses, the cost of postage, telephone, fax and any other agreed items. The management of

suppliers and the settlement of bills on behalf of a client may be subject to a management charge.

3.8.2 Disbursements such as planning application fees, land survey and soil testing charges, are costs that may be necessarily incurred by the landscape consultant but should be properly borne by the client. Furthermore, where the landscape consultant is required to manage the work of other specialist suppliers or consultants and settle the account of a specialist appointed by agreement with the client, a handling charge may be added. Alternatively, the client may appoint the supplier or specialist separately and settle their accounts directly.

**3.9 Construction Design and Management (CDM) Regulations.** Through the Construction Industry Council Health and Safety Task Force, The Landscape Institute maintains a dialogue with the Health and Safety Executive on the applicability of the regulations to landscape works. Consultant's fees for services under the CDM Regulations should be agreed and expressed separately.

**3.10 Community Group and Grant Aid schemes.** Where materials or labour are offered to a scheme at less than market rates the client and landscape consultant should be aware of any distortion in the basis of a percentage fee based on the contract value.

**3.11 Design Competitions.** This is a way of discovering the range of design options that may be available for major projects. A number of practices may be invited to compete in offering design solutions. Unless entirely open competition is required, it is not advisable to ask too many practices to spend extended amounts of time working speculatively. Drawing up a select list of say 3-5 competitors is an efficient way of developing participants' enthusiasm for producing a satisfactory outcome of quality. Further, clients who agree to cover the costs of each competing practice's output, recognise that this is a fair and reasonable compensation for valuable creative work. The Landscape Institute has an established procedure for initiating and regulating competitions which may be held on a local or national scale and the Director General will be happy to advise.

**3.12 Contingency Fees.** Where all, or part, of a fee is contingent upon the outcome of a decision such as the success of a competitive bid or a grant application, the terms of any fee should be stated particularly clearly.

**TABLE 1**

Classification of Landscape Work according to complexity

WORK TYPE	COMPLEXITY RATING			
	1	2	3	4
<i>Planting Design and Implementation Services for -</i>				
Golf Courses and Rural Sports Projects	3			
Rural Roads and Parking	3			
Country Parks and Estates	3			
Rural Recreational Areas	3			
Afforestation/Shelter Belt Planting/Hedgerow renewal	3			
Rural Amenity Schemes	3			
<i>Comprehensive Design and Implementation Services for -</i>				
Agricultural Improvement and Estate Enhancements		3		
Coastal Defence and River Catchment Schemes		3		
Camping and Caravan Sites, Tourist Facilities		3		
Cemeteries, Crematoria and Gardens of Remembrance		3		
Industrial, Commercial & Research & Development Sites		3		
Roads and Roadside Facilities and Parking Schemes		3		
Coastal Marinas and Water Recreation and Sports Schemes		3		
Inland Marinas, Canal, River and Lakeside Schemes		3		
Rural Recreational and Pursuits Centres		3		
Infrastructure, Parking & Access for Major Projects			3	
College & University Campuses			3	
Defence Establishments			3	
Hospital Grounds			3	
New Housing			3	
School Grounds and Playing Fields			3	
Sports Stadia & Multi Sports Facilities			3	
Golf Courses & Recreational Properties			3	
Urban Offices and Commercial Properties			3	
Public Parks, Exhibition Sites and Urban Recreation Areas			3	
Mineral Workings and Landfill Sites			3	
Reclamation of Contaminated or Derelict Land				3
Urban Rehabilitation, Pedestrianisation, Renewal				3
Urban Environmental Improvements				3
Garden Design Historic, Restoration or Conservation				3

1. Work in Column 1 is classified as normal, whereas columns 2, 3 and 4 list work of increasing complexity. These classifications are shown on the graph.
2. Where the landscape work is not listed above but falls within or between complexity ratings, the client and landscape consultant may decide to interpolate an appropriate complexity rating and graph curve.
3. Environmental Assessments, Landscape Appraisals, Siting Studies and Development, Conservation and other Environmental Strategy Planning Studies are normally remunerated on a time or lump sum basis.

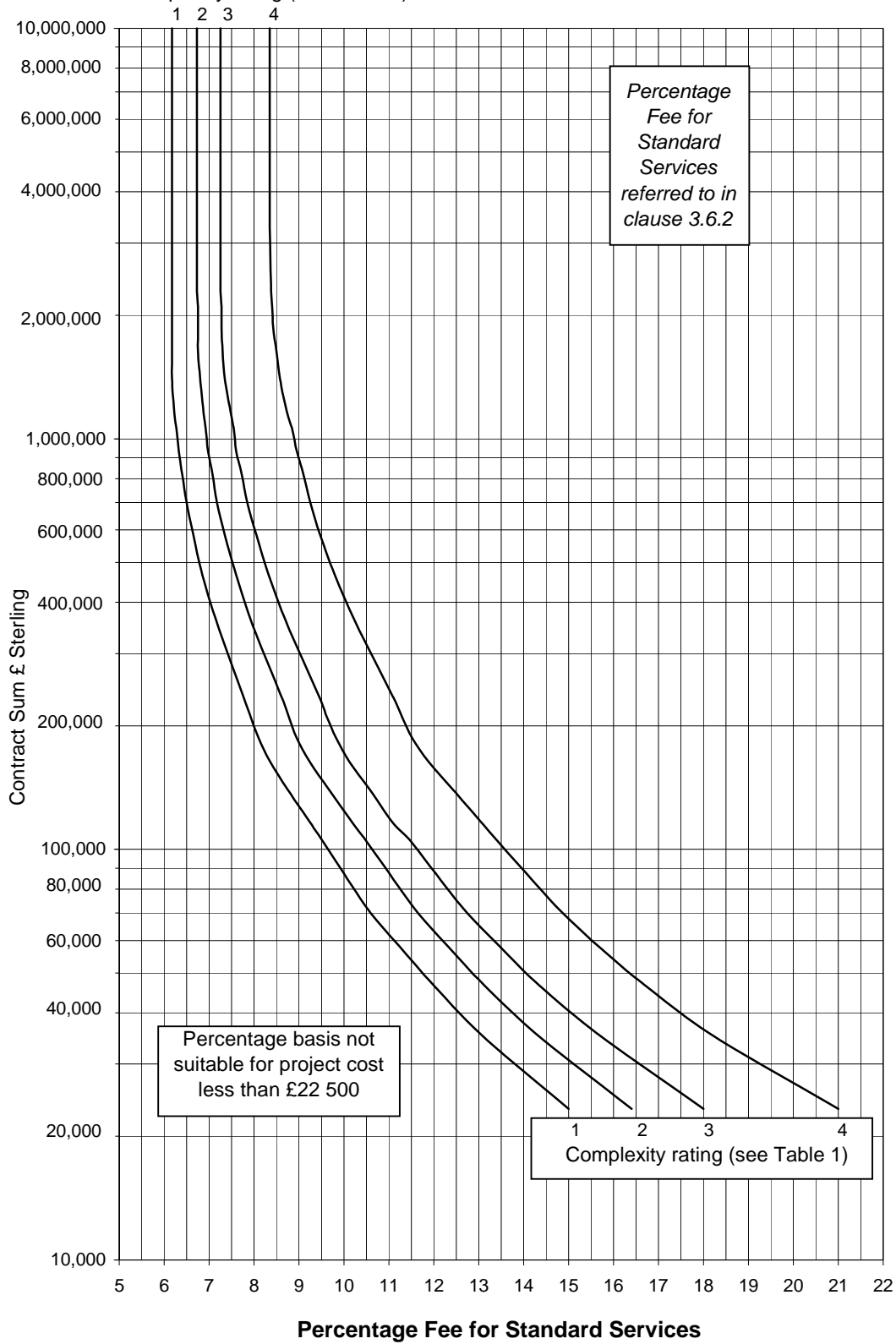
**TABLE 2**

Guide to Stage Payments of Fees, Relevant Fee Basis and Proportion of Fee Applicable to Lump Sum and Percentage Fee Basis. Details of Preliminary, Standard and Other Services are set out in detail in the Landscape Consultant's Appointment.

WORK STAGE	RELEVANT FEE BASIS			PROPORTION OF FEE	
	Time	Lump	%age	Proportion of fee	Total
<b>Preliminary Services</b>					
A Inception	3	3	N/A	N/A	N/A
B Feasibility	3	3	N/A	N/A	N/A
<b>Standard Services</b>					
C Outline Proposals	3	3	3	15%	15%
D Sketch Scheme Proposals	3	3	3	15%	30%
E Detailed Proposals	3	3	3	15%	45%
FG Production Information	3	3	3	20%	65%
HJ Tender Action & Contract Preparation	3	3	3	5%	70%
K Operations on Site				25%	95%
L Completion	3	3	3	5%	100%
	3	3	3		
<b>Other Services</b>	3	3	<b>N/A</b>		
<b>Timing of Fee Payments</b>					
<p>Percentage fees are normally paid at the end of each work stage. Time based fees are normally paid at monthly intervals. Lump sum fees are normally paid at intervals by agreement. Retainer or term commission fees are normally paid in advance, for predetermined periods of service.</p>					

# PERCENTAGE FEE GRAPH FOR STANDARD SERVICES - APRIL 2002

Complexity rating (see Table 1)



Percentage Fee for Standard Services referred to in clause 3.6.2

Percentage basis not suitable for project cost less than £22 500

1 2 3 4  
Complexity rating (see Table 1)

## WORKED EXAMPLES OF PERCENTAGE FEE CALCULATIONS

### WORKED EXAMPLE 1

Project Type                      Caravan Site  
Services Required                To Detailed Proposals – Work Stages C to E  
Budget                                £120,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 2  
**Step 2** Decide on Services required and Proportion of Fee                      - To Detailed Proposals, 45%  
**Step 3** Read off Graph, Complexity Rating 2, the % fee of £120,000                      - Graph Fee 9.9%  
**Step 4** Multiply the Proportion of Fee (45%) by the Graph Fee (9.9%)- Adjusted Fee – 4.46%  
**Step 5** Calculate the Guide Fee (4.46% of £120,000)                      - Guide Fee - £5,352  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 2

Project Type                      New Housing  
Services Required                Full Standard Services – Work Stages C to L  
Budget                                £350,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 3  
**Step 2** Decide on Services required and Proportion of Fee                      - To Completion, 100%  
**Step 3** Read off Graph, Complexity Rating 3 the % fee of £350,000                      -Graph Fee 8.8%  
**Step 4** Multiply the Proportion of Fee (100%) by the Graph Fee (8.8%)- Adjusted Fee – 8.8%  
**Step 5** Calculate the Guide Fee (8.8% of £350,000)                      - Guide Fee - £30,800  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 3

Project Type                      Urban Environmental Improvements  
Services Required                To Production Information – Work Stages C to G  
Budget                                £1,250,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 4  
**Step 2** Decide on Services required and Proportion of Fee                      - To Production Information, 65%  
**Step 3** Read off Graph, Complexity Rating 4 the % fee of £1,250,000                      - Graph Fee 8.6%  
**Step 4** Multiply the Proportion of Fee (65%) by the Graph Fee (8.6%)- Adjusted Fee – 5.59%  
**Step 5** Calculate the Guide Fee (5.59% of £1,250,000)                      - Guide Fee - £69,875  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

## APPENDIX

### FEE GUIDANCE FOR PLANNING SUPERVISORS

The Association of Planning Supervisors has published a leaflet for clients. 'Ensuring Adequate Resources – Guidance for Clients'\* discusses the services that a Planning Supervisor will provide for the client, and the resource implications of those services. The leaflet stresses that the client has a legal duty under the CDM Regulations to be reasonably satisfied that the appointed Planning Supervisor has "allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations.."

Guidance on the Planning Supervisor's fee will be of interest to landscape architects, whether commissioning a project team or acting as Planning Supervisor themselves.

The APS has examined the fees from more than 10,000 projects of different types, sizes and complexity to compile indicators which clients can refer to. Complexity in this case refers to health and safety issues such as the number of personnel on site, the number of separate contractors and operations on site, and the nature and hazards associated with the work type. The fee indicator in relation to project value and complexity is presented on graphs, as a recommended percentage of the project value.

As an indication, the following points have been taken from those graphs:

	Fee percentage		
Project value	Low complexity	Medium complexity	High complexity
£35,000	2.0	3.6	5.25
£250,000	0.8	1.3	1.8
£2,500,000	0.32	0.64	0.96

The full guide may be ordered in packs of 10 from the APS. Contact details and publication prices are at [www.aps.org.uk](http://www.aps.org.uk) or 16 Rutland Square, Edinburgh EH1 2BB.

\*Published 17 April 2003 by the Association of Planning Supervisors.

# Landscape Institute

## Appointing a Chartered Landscape Architect **GUIDELINES FOR BEST VALUE**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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### **Guidelines for Best Value**

1. Introduction: Best Value in selection and appointment
2. Developing the Project
3. Preparing the Brief
4. Methods of Selection
5. Selection Procedures
6. Three Stage Selection Process
7. Feedback

Figure I: Summary of Selection Process

Published by the Landscape Institute.

Published in this version March 2003.

Whilst every effort is made by the Landscape Institute to ensure the accuracy of the information contained herein the Landscape Institute does not accept any responsibility for any errors or misinterpretation or for any loss or damage arising from or related to its use.

# FOREWORD: 'COMMISSIONING A LANDSCAPE CONSULTANT'

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- 1.1 Landscape consultants are able to offer a wide range of general and specialist services, sometimes working as members of multidisciplinary teams, but commonly acting as the sole advisor to their client.
- 1.2 The commissioning process involves identifying a practice able to satisfy the client's requirements, or making a selection from a number of such practices, determining a fee or remuneration basis agreeable to both parties, and finally completing a formal agreement or contract for the work. There are various ways in which a Landscape Consultant may be selected and commissioned and the following are examples, each suited to particular circumstances.
- **Direct Appointment** with a known practice
  - **Negotiation** with one or more practices to agree on a fee basis
  - **Quality – based selection** between a number of practices
  - **'Two-envelope'** system
  - **Competitive Fee Tendering** to select on the basis of fee alone
  - **Design Competition** to produce design ideas from which to select a practice.
- Additionally, The Public Services Contracts Regulations 1993 which implement European Union rules for projects exceeding a threshold value must be observed.

## GUIDANCE FROM THE LANDSCAPE INSTITUTE

The Landscape Institute has produced a series of publications dealing with the various aspects of appointing a Chartered Landscape Architect, listed below.

**Engaging a Landscape Consultant: Guidance for Clients on Fees** is a guide designed to improve the working relationship between Clients and Chartered Landscape Architects by providing information about how fees may be calculated, charged and paid. An invaluable guide to agreeing fees by negotiation that are fair to both parties. There are no standard fee scales, although methods of calculating fees on a time basis, on a percentage of the project value basis, or as a lump sum are common. Practices are able to describe the fairest means of achieving a fee agreement and can estimate the sums involved in order to give the client an order of cost.

**Directory of Registered Landscape Practices** lists practices meeting particular professional criteria. If guidance is required in selecting practices from the Directory, the Landscape Institute is always happy to assist and a procedure for nominating a short list of practices for interview is operated by the Director-General through the Nomination Panel.

**The Landscape Consultant's Appointment** is a booklet intended to help clients to identify the landscape services which they require. Included in it are a description of the work of landscape consultants, a specimen Memorandum of Agreement and specimen Schedules of Services and Fees. It is strongly recommended that clients read this booklet and use it as the basis of the Agreement with their chosen consultant whichever method of selection is used because any agreement between client and consultant must clearly set out the full scope of the commission in respect of the services to be provided, the division of responsibilities and any limitation of liability, the payment of fees including rates and methods of calculation, and the provision for termination. The most successful relationships between Client and Consultant are those that proceed in an atmosphere of trust and goodwill. Consequently the sharing of salient information at the outset is an important aspect of achieving a successful commission.

**Guide to Procedure for Competitive Tendering** gives advice on using competitive fee tendering to select a landscape practice, including Form of Tender, Schedule of Services and Fees and Memorandum of Agreement.

# 1. Introduction: Best Value in selection and appointment

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1.1 Landscape Architecture is a specialist and often complex task requiring a proper understanding of the site and the Client's needs. This document sets out 'Best Practice' guidelines to assist public and private sector Client bodies to prepare selection procedures which are **open, fair, efficient, economical to implement**, and which **achieve best value** for the Client. The guidelines can also be used to review existing procedures and, where necessary, to revise them to ensure best value. It is vital to choose a suitable professional for the job **at the outset** if best value for money is to be achieved. Although professional fees form only a small part of the whole-life cost of a project, the results of the professional's services can be far more significant, altering the construction/ running costs by far more than the fees charged.

1.2 Good selection procedures - whether or not they lie within a Best Value<sup>1</sup> framework - should define the project and services required, and lead to the appointment of the Chartered Landscape Architect best able to meet those requirements. Where a competitive tender process is chosen (or is required by Standing Orders) the process should achieve that aim with the minimum cost and effort both by the Client and by competing Chartered Landscape Architects, so that the complexity of the tendering procedure is matched to the scale of the potential commission. Best Value requires that the transaction costs associated with procurement should form part of the assessment of procedure options. Thus, the costs of preparing for tendering should not outweigh any potential savings achieved by this method of procurement. It should be remembered that design services are not a commodity with a measured 'Bill of Quantities' from which the work can be revalued on completion.

## **Direct appointment**

1.3 Generally, consultants are willing to discuss a potential appointment with a prospective client without obligation. Effort is concentrated on making progress with the project, and both parties benefit from considering the location and type of project that might be involved, the budget for the proposed works and the involvement of other professional advisers that may be working on the client's behalf.

1.4 Contact can be made simply by a telephone discussion followed by a written description and a meeting. There is some merit in approaching local consultancies if the project is within easy reach of their offices. The comprehensive skills of a national practice can also often be available locally.

1.5 The client may examine examples of previous work and/or the individuality of design approaches shown by practices in order to consider their suitability. Many clients build an established working relationship with one or more practices to their mutual benefit.

## **Negotiation**

1.6 For large or extended commissions, clients may wish to negotiate with one or more practices to obtain the most favourable fee agreement appropriate to the commission. Discussion of the client's particular requirements will enable consultants to tailor the brief and fee basis to mutual advantage.

## **Term Appointments, Framework Agreements and Partnering Arrangements**

1.7 These arrangements offer benefits including reduced administration, improved efficiency and economy, established communication, flexibility and consistency of service. Government and industry initiatives encourage the use of these longer term

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<sup>1</sup> See DETR Best Value website [www.local-regions.detr.gov.uk/bestvalue/htm](http://www.local-regions.detr.gov.uk/bestvalue/htm) and [www.wales-bestvalue.org](http://www.wales-bestvalue.org)

arrangements as an alternative to single project tendering, particularly where a series of smaller and/or similar projects is anticipated.

### **Design competitions**

- 1.8 Design competitions operated in accordance with the Landscape Institute's guidance<sup>2</sup> are an effective way for the Client to obtain a wide range of initial ideas for a project at a conceptual stage.

### **Design and build contracts**

- 1.9 Design and Build Contracts encourage co-operation between designers and contractors, and allow the skills of both to be integrated in the design and implementation phases. However, such contracts will only achieve a good quality environmental or landscape outcome if the relevant component is clearly defined in the brief and forms part of the assessment of tenders.

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<sup>2</sup> See the LI's Landscape Competitions: Guidance Notes for Promoters

## 2. Developing the project

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- 2.1 The initial development of a project is a vital stage. It is helpful to engage a Chartered Landscape Architect at this early stage, to formulate and appraise options, consider the project's feasibility and advise on implementation. An **outline programme** for the conceptual stages, design process, procurement and implementation should then be developed **before** the selection process is decided. It is essential to consider matters such as the project's objectives, timescale, complexity, broad budget, need for EIA and planning permission, physical resources available and also whether a Client will participate directly in the design process or will use in-house expertise.
- 2.2 Clients often assemble or have access to useful background information on the site and on the project requirements. It is recommended that this information be collated and reviewed as the project is developed. It should then be provided, in a summarised form, to each potential project team to assist the Chartered Landscape Architects and so save time and money.
- 2.3 Clients must allow themselves adequate time to select the right Chartered Landscape Architect. The selection procedures should identify the **key qualities** of the service required and **clearly present the selection criteria**. Procedural guidelines for preparing a draft, project-specific, selection process are given in Section 4. Where appropriate, this process should be approved by the authorising body (e.g. Senior Officer, Council Committee, grant-aiding body) before the full brief is drafted. Any constraints such as fixed Standing Orders for the selection process or selection criteria (e.g. lowest price must be selected) should be made clear from the outset.

### 3. Preparing the brief

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- 3.1 The brief is the key document that sets out the Client's intentions for the commission, the services to be provided by the Chartered Landscape Architect and the contractual basis for the commission<sup>3</sup>. The brief provides the basis against which the consultant's services will be judged and should explain clearly what they are expected to do. A clear and comprehensive brief helps avoid qualified bids or unexpected claims for extra fees as the work progresses, and will reduce time spent dealing with queries from competing consultants during the selection process. The brief should avoid open-ended and unquantifiable requirements unless the remuneration is also open-ended.
- 3.2 The Landscape Institute<sup>4</sup> recommends that the brief should cover a description of the proposed project (including location and programme); all relevant information (including previous studies, survey information etc) and the Client's requirements with regard to:
- ◆ the project (objectives and output from the commission)
  - ◆ consultancy services within the commission
  - ◆ relationship with separately appointed members of the team.
- 3.3 For large or complex projects it may be advisable to seek professional assistance with the drafting of the brief, particularly where a number of disciplines are to be appointed or the work includes research/site investigation. When inviting expressions of interest in tendering, informal comments on a draft brief and indicative budget can be sought from potential consultants, to identify any ambiguity, impractical requirements or open-ended items.

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<sup>3</sup> The Landscape Institute recommends the use of The Landscape Consultant's Appointment.

<sup>4</sup> 'Guide to Procedure for Competitive Tendering' published by the Landscape Institute.

## 4. Methods of Selection

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There are various alternative methods of selecting a Chartered Landscape Architect:

### **Direct Appointment**

- 4.1 Appropriate following a discussion about the project and the appropriate fee. Such discussion maximises each party's understanding and can lead to an established working relationship to mutual benefit. Direct appointment is often the least costly method of appointment.

### **Design competitions and technical proposal competitions**

- 4.2 These assist the Client to discover the range of options that may be available for major projects. The Landscape Institute recommends its own established procedure which covers the preparation, judging and remuneration of competitions.

### **Quality Based Selection**

- 4.3 This overcomes the difficulty of specifying the project and services, and avoids the negative influence that price tendering has on the quality of the work undertaken. A Chartered Landscape Architect is selected on the basis of relevant qualities and the experience required for the project. The project and services are then defined jointly, drawing on the Consultant's expertise, and finally the fees for the agreed services are concluded by negotiation with reference to published guidance<sup>5</sup> and other benchmarks<sup>6</sup>.

### **Two-envelope system**

- 4.4 This system combines quality selection with price competition. Each shortlisted tenderer submits a technical (or design) proposal and a separate sealed fee tender based on a full brief. Once all the technical proposals have been evaluated and ranked, the fee envelopes are endorsed with the ranking. The fee envelope of the first choice tenderer is opened and the commission is awarded unless the fee exceeds the acceptable limit, in which case the second-ranked fee envelope is opened. When the commission is awarded, remaining fee envelopes are returned unopened.

### **Competitive fee tendering**

- 4.5 This relies on the Client's ability to select a number of appropriate Consultants to tender, and to specify the project and services required exactly, so that all tenderers price the same work. The Landscape Institute's guide sets out the recommended process in detail. As detailed information must be provided to tenderers, and the service provided must be carefully monitored, this method is not suited to projects with small budgets or where the Client cannot devote sufficient professional staff time to the process.

### **Tendering**

- 4.6 All tendering requires the investment of time and resources, both for the Client and competing Chartered Landscape Architects. Unless the process selects the best Consultant for the project with the least effort from all parties, it will not give the best value for money. If the consultant is selected on the basis of quality as in section 4.3 then best value can be achieved in a more straightforward way.

Inefficient tendering:

- ◆ wastes the Client's staff time and money
- ◆ adds to tenderers' operating costs, increasing overall prices
- ◆ wastes all parties' effort and time which could better be spent working on the project
- ◆ may deter well-qualified Chartered Landscape Architects from bidding for the project.

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<sup>5</sup> Appointing a Landscape Consultant: Guidance for Clients on Fees

<sup>6</sup> This method is explained in detail in the Construction Industry Council's publication 'A Guide to Quality Based Selection of Consultants: A Key to Design Quality'.

## 5. Selection procedures

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### Required Knowledge

- 5.1 To select the most suitable Chartered Landscape Architect for a project, the Client needs to know:
- ◆ the nature and size of the project
  - ◆ the professional services required
  - ◆ the skills, resources and qualities which will contribute to the project's success
  - ◆ the degree to which interested Chartered Landscape Architects possess those skills, resources and qualities.
- 5.2 Before commencing a potentially expensive selection process, tenderers need to know:
- ◆ the nature and size of the project
  - ◆ the stages and requirements of the selection process
  - ◆ the criteria for selection
  - ◆ the probability of success.

Where the Client does not have in-house landscape expertise, it is advisable to engage independent professional assistance for the preparation of the background information and brief. A feasibility study is often a valuable initial step, well worth the time charge or lump sum fee.

### Key principles

- 5.3 The Landscape Institute recommends that the selection procedure embody the following principles, to ensure that selection procedures are logical and fair, and that the effort involved does not outweigh the benefits to either party. Each stage in the process should aid the selection of the most suitable Consultant.

### Scoring systems

- 5.4 Scoring systems which give due weight to each selection criterion should be established at the outset and made available to all Chartered Landscape Architects expressing interest. This may be a difficult process for some clients, but guidance has been published by the Landscape Institute.
- The marks available under each category should be stated, and the Client should ensure that the necessary assessment skills are available either in-house or externally. Marks for price should be awarded relative to a realistic estimate of the financial resources required for the project, rather than relative to the lowest tender received as this can distort the scoring mechanism.
- The Institute has available a publication 'Engaging a Landscape Consultant: Guidance for Clients on Fees' which may help the Client assess a realistic fee structure in relation to the scale and complexity of the project and the staff resources required.

### Price

- 5.5 Price is commonly a significant factor in the selection of a Chartered Landscape Architect even though it is very difficult to reach an acceptable 'trade off' between quality and price. It is simplistic and misleading to assume that all Chartered Landscape Architects passing the initial quality selection will then produce an equal quality of service if forced to compete on price.

### Number of stages

- 5.6 The number of stages in the selection process should be kept to the minimum necessary to select the best Chartered Landscape Architect for the project. In many cases it is sufficient to present a detailed brief to three local landscape practices chosen from those considered capable of providing the services required, and to request each to respond, as a single stage. A three stage selection process could be more appropriate for a major or very complex project and this is examined in more detail in Section 6.

## 6. Three stage selection process

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### 6.1 Stage one – Compilation of the Select List

The **first notification** of a project inviting expressions of interest should

- i. give an outline of the project
- ii. state key criteria for selection, such as the timetable and special roles to be fulfilled. This is needed only where the project exceeds size/value thresholds<sup>7</sup> requiring advertisement (e.g. a notice in the EU Official Journal), or the work is specialised and existing approved lists of consultants are not adequate
- iii. describe the project and selection process in sufficient detail to show the bidding effort required, so that tenderers may determine their suitability, and to prevent an excessive number of expressions of interest being submitted for processing
- iv. state the precise information required from interested Chartered Landscape Architects. This information should be only that which is needed to select those fully suited to the project, such as directly related project experience and staff information. At this stage Chartered Landscape Architects should not be asked to provide general practice information such as method, cost information or estimates of the resources needed.
- v. A shortlist of Chartered Landscape Architects should be selected, on the basis of their skills and experience, from those considered capable of providing the services required. All Landscape Architects on the select list should be competent to undertake the work and the Client must be satisfied to appoint any of those on the compiled list. The number chosen to proceed to the second stage should be limited to three or four, to minimise the Client's efforts in giving all proposals due consideration.

### 6.2 Stage two – Preparation and Evaluation of the Tender Submissions

- vi. The selected Chartered Landscape Architects should be provided with the finalised (or more detailed) brief and invited to respond with further information, for example by setting out their approach to the project, their proposed staff team and a working method. Only information which the Client can evaluate and use to select between the bidders should be requested.
- vii. The Client should always be available during this stage to answer questions and provide clarification of the brief, in order to avoid qualified tenders which cannot be compared one with another.
- viii. If price is also a criterion for selection, the 'two envelope' method of tendering (see 4.4) is recommended, or the price should be negotiated with the favoured Chartered Landscape Architect.
- ix. Where the Client requires clarification of a bid, or wishes to obtain further information from tenderers, this should be requested in a letter to all tenderers, stating a date for the return of replies.

### 6.3 Stage three – Final Selection by Interview

- x. Where it is necessary to select between two, or at most three, Chartered Landscape Architects on the basis of personality or potential working relationship, the cost of arranging, attending and evaluating interviews may be justified. Each bidder's Project Landscape Architect should be present. In all cases tenderers should only be invited to interview where there is a reasonable expectation of their being appointed. Where the project budget is

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<sup>7</sup> The EC Directive is implemented in the UK by The Public Services Contracts Regulations 1993. Related guidance from the Treasury Procurement Group is available through the website [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)

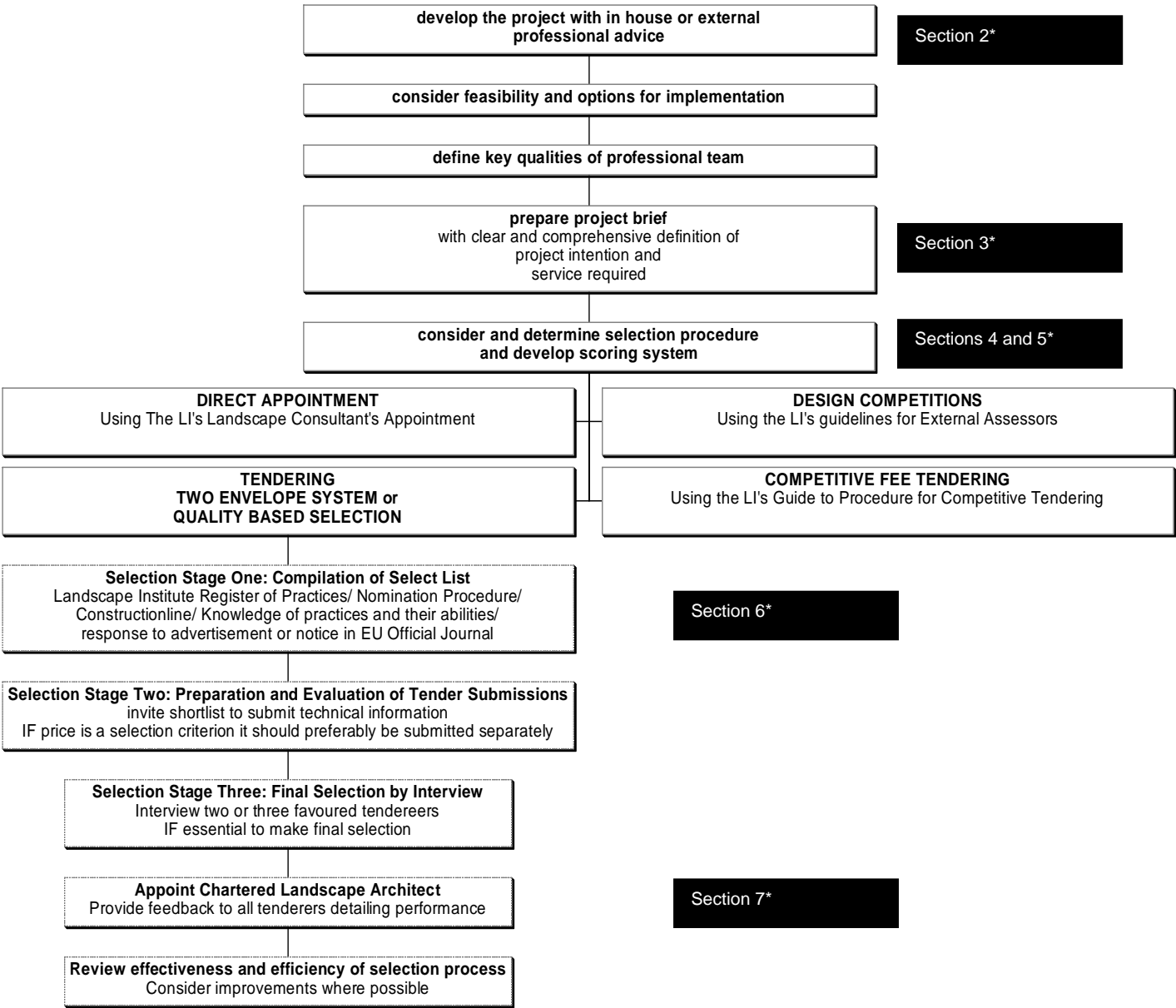
- fixed, only those whose prices fall within the budget should be invited to interview unless negotiation of the project content and cost is possible.
- xi. Interviewees should be given clear instructions as to the scope of the interview, its format and duration, so that they may prepare properly. Time should be allowed to set up a presentation, which may involve projectors, screens and other equipment. The Client should make clear to interviewees what facilities will be available. The names and roles of the interviewers should be provided.
  - xii. Interviews should not be conducted until the written submissions have been fully studied and relevant questions prepared, and should not involve merely going over information given in written tenders. Time should be allowed for additional questions, and for the interviewees to ask questions.
  - xiii. Where the Client wishes the Chartered Landscape Architect to prepare outline proposals or to produce initial design ideas for discussion at an interview, the Client should consider offering each a payment towards the time and effort involved. This will allow the Chartered Landscape Architect to expend greater effort on the Client's behalf and to produce more valuable material for discussion. Tenders should be treated as confidential and not discussed with other bidders, especially where original ideas or novel methods have been presented.

## **7. Feedback**

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It is essential, to maintain openness and to assist unsuccessful tenderers in future bidding, that all tenderers are given the maximum feedback on their bids. As a minimum, each tenderer should be given their own score for each main selection criterion, and the totals scored by all the other tenderers, together with the name of the successful tenderer. Where price is the main criterion, the tenderers' names in alphabetical order and the prices in ascending order should be given. It is good practice also to offer a "debriefing" to each tenderer, confined to a discussion of that tenderer's submission.

**Figure 1. Summary of Selection Process**



\* Cross references to full document text.

# **Landscape Institute**

## **THE LANDSCAPE INSTITUTE CODE OF STANDARDS OF CONDUCT AND PRACTICE FOR LANDSCAPE ARCHITECTS**

**September 2000**

**The Landscape Institute,  
33 Great Portland Street  
London  
W1W8QG**

**Telephone : 020 7299 4500  
Facsimile : 020 7299 4501  
e-mail : [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)**

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## FOREWORD

Landscape Architects have responsibilities to the character and quality of the environment; they should seek to manage change in the landscape for the benefit of both this and future generations, and they should seek to enhance the diversity of the natural environment, to enrich the human environment and to improve them both in a sustainable manner.

Landscape Architects must therefore act in accordance with the requirements of The Landscape Institute Charter of Incorporation. Paragraphs 5(1) and 5(2) are particularly relevant here:

*5 (1) The objects and purposes for which the Institute is hereby constituted are to protect, conserve and enhance the natural and built environment for the benefit of the public by promoting the arts and sciences of Landscape Architecture (as such expression is hereinafter defined) and its several applications and for that purpose to foster and encourage the dissemination of knowledge relating to Landscape Architecture and the promotion of research and education therein, and in particular to establish, uphold and advance the standards of education, qualification, competence and conduct of those who practise Landscape Architecture as a profession, and to determine standards and criteria for education, training and experience.*

5 (2) *In this Our Charter the expression "Landscape Architecture" shall mean all aspects of the science, planning, design, implementation and management of landscapes and their environment in urban and rural areas and the assessment, conservation, development, creation and sustainability of landscapes with a view to promoting landscapes which are aesthetically pleasing, functional and ecologically and biologically healthy and which when required are able to accommodate the built environment in all its forms, and without prejudice to the generality of the foregoing shall include:*

- a. the application of intellectual and analytical skills to the assessment and evaluation of the landscape and its character and the resolution of existing and potential conflicts through the organisation of landscape elements, spaces and activities based on sound principles of ecology, horticulture, design, planning, construction and management;*
- b. The planning and design of all types of outdoor and enclosed spaces;*
- c. the determination of policies and planning for existing and future landscapes;*
- d. the appraisal and harmonious integration of development and the built environment into landscapes;*
- e. the conservation, modification and continuing management of the landscapes of town and countryside and sustaining their characteristic features and habitats;*
- f. the promotion of a greater knowledge and understanding of materials and technology to enhance the appreciation of and resolution of practical landscape issues and problems; and*
- g. the promotion of a better understanding of the principles and purposes of natural, biological and physical systems affecting or relating to the landscape.*

Landscape Architects deservedly enjoy a high standing within the construction and design industry, but with that comes an obligation to deliver standards and services which both demonstrate and reinforce that status.

The Code should be central to the professional life of a Landscape Architect not only as a source of ethical guidance but also as a commonsense indicator to the principles of good practice. It is only through the maintenance of high standards by individuals that landscape architecture as a whole will be served, the public will be protected and the profession as a whole will thrive.

Achieving an appropriate Code is a continuing and developing process.

The Code will be reviewed regularly and The Director General therefore welcomes any feedback which will enable The Landscape Institute to build constructively on the standards and guidance given .

In preparing this code The Landscape Institute gratefully acknowledges the help and assistance of The Architect's Registration Board.

## **INTRODUCTION**

### **1 The Scope of the Code**

The overriding obligations below mainly apply to all Landscape Architects but other members of the Landscape Institute, such as Students or Associates are also expected to pay due regard to, and conform with, this Code.

This Code lays down standards of professional conduct and practice expected of Landscape Architects.

Standards 1, 6, 7, 10 and 11 apply to all Landscape Architects. Standards 2, 3, 4, 5, 8, 9 and 12 apply only to a Landscape Architect practising or carrying on business as such and not, for example, to a Landscape Architect writing or lecturing on landscape architectural subjects.

The fact that a course of conduct is not specifically referred to in this Code does not mean that it cannot form the basis of disciplinary proceedings. Landscape Architects are expected to be guided in their professional conduct and professional work as much by the spirit of the Code as by its express terms.

Disciplinary proceedings may be brought in respect of the professional conduct or competence of a Landscape Architect whether or not practising or carrying on business under any name, style or title containing the words 'Landscape Architect'.

Disciplinary orders may be made if a Landscape Architect has been *convicted* of a criminal offence other than an offence which has no material relevance to their fitness to practise as a Landscape Architect. Such proceedings are outside the scope of this Code.

### **2 The limits of the Code**

Not every shortcoming on the part of a Landscape Architect, nor non-compliance with a provision in the Code will necessarily constitute grounds for disciplinary proceedings, but a failure to follow the guidance of this Code will be taken into account should it be necessary to examine the conduct or competence of a Landscape Architect.

First, the private life of a Landscape Architect cannot be the subject of disciplinary action unless it affects their professional work or unless it results in a conviction for an offence.

Second, a minor transgression of this Code is unlikely to give rise to grounds for disciplinary proceedings unless it forms part of a pattern of

unacceptable professional conduct or professional incompetence.

## **THE STANDARDS**

**Standard 1: Landscape Architects should at all times act with integrity and avoid any action or situations which are inconsistent with their professional obligations.**

- 1.1 Landscape Architects should not make, support or collaborate in any statement, written or otherwise, which is contrary to their professional opinion, or which they know to be misleading, or unfair to others, or otherwise discreditable to the profession.
- 1.2 Personal insolvency is an exception to the rule that a Landscape Architect's private life cannot give rise to disciplinary proceedings, since it may affect professional solvency.
- 1.3 Landscape Architects should, when finding that their personal or professional interests conflict with those of the client or of other relevant parties, (thereby risking a breach of this Standard) either withdraw from the situation, or remove the source of conflict or obtain the agreement of the parties concerned to the continuance of the engagement.
- 1.4 The Director General of The Landscape Institute will provide advice to members regarding disciplinary matters and procedures.

**Standard 2 : Landscape Architects should only undertake professional work for which they are able to provide proper professional and technical competence, and resources.**

- 2.1 For the purposes of this Standard, undertaking work refers to the duty arising when a contract is entered into and continues throughout the term of the contract. No contract normally exists when engaging in speculative work, or taking part in a competition.
- 2.2 Where Landscape Architects have work carried out on their behalf by employees, or by anyone else acting under their instructions, such Landscape Architects are responsible for ensuring that they are competent to perform the task and are adequately supervised.
- 2.3 A sole practitioner should have arrangements in place for the conduct of their business in the event of their death, incapacity or other absence from work.

**Standard 3 : Landscape Architects should only promote their professional services in a truthful and responsible manner and such promotion shall not be an attempt to subvert professional work from another Landscape Architect.**

- 3.1 In advertising services Landscape Architects should not make untruthful or misleading statements, nor claim to be better than

other professional members. Special expertise, however, may be properly claimed and referred to.

- 3.2 Advertisements should conform as appropriate, to the British Code of Advertising Practice and ITC and Radio Code of Advertising Standards.
- 3.3 The business style of a Practice should not be misleading nor be capable of being confused with another Practice or service.
- 3.4 In the knowledge that a client already has a contract for services provided by another member, Landscape Architects shall not attempt to gain that contract.

**Standard 4 : Landscape Architects shall carry out their professional work with care and conscientiously and with proper regard to relevant technical and professional standards.**

- 4.1 Landscape Architects, when acting between parties or giving advice, should exercise impartial and independent professional judgement to the best of their ability and understanding
- 4.2 Landscape Architects shall perform their work with due skill, care and diligence, and so far as is reasonably practicable, in accordance with an agreed time scale and to cost limits agreed with the client. The client shall be kept informed of the progress of the work undertaken on his behalf and any issue which may affect the quality of the work, or the cost, shall be brought to the client's attention by the Landscape Architect.
- 4.3 Landscape Architects shall observe the confidentiality of their clients' affairs and should only disclose confidential information with prior consent of the client or other lawful authority.

**Standard 5 : In agreeing to carry out professional work and in the execution of that work, Landscape Architects shall have regard to the interests of those who may be reasonably expected to use or enjoy the products of their work.**

- 5.1 Landscape Architects have responsibilities to the character and quality of the environment; they should seek to manage change in the landscape for the benefit of both this and future generations, and they should seek to enhance the diversity of the natural environment, to enrich the human environment and to improve them both in a sustainable manner.
- 5.2 In meeting this obligation under this Code, Landscape Architects shall also have due regard to the Objects as set out in the Charter of The Landscape Institute.

**Standard 6 : Landscape Architects should maintain their professional competence in areas relevant to their professional work and shall provide such educational and training support to less experienced members or students of the profession over which they have a professional or employment responsibility.**

6.1 The fact that a Landscape Architect has not maintained such professional competence may count against them in the event of that competence having to be investigated.

**Standard 7 : Landscape Architects should ensure that their personal and professional finances are managed prudently and shall preserve the security of monies entrusted to their care in the course of practice or business.**

7.1 The following are examples of acts which may be examined in order to ascertain whether they disclose a wilful disregard by Landscape Architects of their responsibilities or a lack of integrity, namely:

- an order of bankruptcy;
- the placing into liquidation of a company of which they were a director; (other than for amalgamation or reconstruction purposes)
- an accommodation with creditors; (including a voluntary arrangement) and
- failure to pay a judgement debt.

7.2 When Landscape Architects hold monies belonging to a client or third party, they should arrange for its receipt to be carefully recorded and for it to be kept (where possible) in an interest-bearing account in a bank or similar institution separate from any personal or business account.

7.3 Such an account should be designated a 'client account' and the bank, or similar institution, should be given written instructions that all money held in it is held as client's money and that the bank, or similar institution, is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim.

7.4 Money may only be withdrawn from a client account to make a payment:

7.4.1 to or on behalf of a client; or

7.4.2 on the client's specific written instructions (for example, in order to defray the Landscape Architect's fees).

7.5 Unless otherwise agreed by the client, any interest (or other benefit) accruing to a client account should be paid to the client.

7.6 In the light of legislation requiring the timely payment of accounts, the Landscape Architect shall deal with creditors and debtors in conformity with best practice.

**Standard 8 : Landscape Architects shall not undertake professional work without adequate and appropriate Professional Indemnity Insurance.**

8.1 The need for cover extends to professional work undertaken outside a Landscape Architect's main professional practice or employment and to work undertaken by employees of a Landscape Architect.

8.2 Employed Landscape Architects, shall as far as possible ensure that Professional Indemnity Insurance cover, or other appropriate cover, is provided by their employer.

**Standard 9 : Landscape Architects shall organise and manage their professional work responsibly and with integrity and with regard to the interests of their clients.**

9.1 Landscape Architects shall not undertake professional work unless the terms of the contract have been recorded in writing as to:

- the scope of the work;
- the allocation of responsibilities;
- any limitation of responsibilities;
- the fee or method of calculating it; and
- any provisions for termination;
- any special provisions for dispute resolution.

9.2 Landscape Architects should not accept or continue work if they have a business, financial or personal interest that is or may be in conflict with an interest of the client. In a borderline case the Landscape Architect should make full disclosure of an interest and leave it to the client to judge. However, some conflicts of interest are so extreme as to prevent a Landscape Architect entering into or continuing work, even with the client's knowledge or consent. Particular care is needed with respect to the business and commercial interests of any partners or co-directors of the Landscape Architect, which in this context are to be treated as their own.

9.3 Where two or more clients whose interests may be in conflict require the services of the same Landscape Architect, the work of the firm shall be managed in a manner that avoids the interests of one client adversely affecting another.

9.4 Clients' papers, plans or other property, to which they are legally entitled, shall be returned to them directly, upon demand.

9.5 Landscape Architects shall ensure that their firm has appropriate and effective internal procedures, including monitoring and review procedures, and has sufficient suitably qualified and supervised staff to enable it to function efficiently.

9.6 Landscape Architects shall not take as a partner and should not act as a co-director with an unsuitable person. For example, a person who has been disqualified or suspended from membership of The Landscape Institute for disciplinary reasons, or has been disqualified from membership of another recognised professional organisation.

**Standard 10 : A Landscape Architect is expected actively and positively to promote the standards set out in these Standards of Conduct and Practice.**

10.1 It is not enough that Landscape Architects order their own professional lives according to the Standards in this Code: they should also do whatever can reasonably be done to ensure their observance generally by Landscape Architects. For this reason Landscape Architects should report to the Director General any serious falling short of these Standards on the part of any Landscape Architect of which they are aware. (It is not necessary to report facts that have been widely reported in the media.)

10.2 Landscape Architects should report to the Director General without delay if they:

- Are convicted of an indictable offence or sentenced to imprisonment in respect of any offence; or
- Are made the subject of an order of a court disqualifying them from acting as a company director; or
- Are made the subject of a bankruptcy order; or
- If a company of which they are a director is wound up otherwise than for the purposes of amalgamation or reconstruction.

10.3 The fact that a Landscape Architect has failed to make prompt report may count against them in the event of disciplinary proceedings.

10.4 Landscape Architects should not enter into contracts the terms of which would prevent any party from reporting to The Landscape Institute the conduct of a Landscape Architect.

10.5 Landscape Architects are expected to co-operate with the Director General or any other representative appointed by The Landscape Institute in their conduct of investigations into the professional conduct or competence of Landscape Architects, including themselves.

10.6 A failure by a Landscape Architect to co-operate promptly and fully with inquiries by the Director General or other representative, may result in adverse inferences being drawn against them in the event of disciplinary proceedings, and in any consequential costs to The Landscape Institute being reflected in the orders of the Professional Conduct Committee, should they be found guilty. It may also itself constitute grounds for disciplinary proceedings.

**Standard 11 : A Landscape Architect is also expected actively and positively to promote and further the aims and objectives of The Landscape Institute, as set down in its Charter and to contribute to the work and activities of the Institute.**

**Standard 12 : Complaints concerning professional work of Landscape Architects or their Practice or business should be dealt with promptly and appropriately by them.**

- 12.1 In the case of a firm or company, a director of the company or a partner of the firm shall be designated as being responsible for dealing with complaints. In the case of a sole practitioner, complaints should be referred directly to that practitioner.
- 12.2 Where the designated person is unable to resolve a complaint to the satisfaction of the complainant they should refer it promptly to the senior partner or managing director.
- 12.3 If, after reviewing the complaint, the senior partner or managing director is unable to resolve the complaint to the satisfaction of the complainant they should inform the complainant that Landscape Architects are subject to the disciplinary supervision of the Landscape Institute and that, if the complainant can demonstrate that a Landscape Architect has been guilty of unacceptable professional conduct or serious professional incompetence, disciplinary proceedings may follow.
- 12.4 If a complainant wants more than an explanation and an expression of regret for whatever difficulties he has experienced, some more formal means of dispute resolution, such as arbitration or adjudication, should be offered for consideration.
- 12.5 Complaints should at every stage be handled courteously, sympathetically and in accordance with the following time scale:
  - 12.5.1 not later than 10 working days from the receipt of a complaint an acknowledgement should be sent;
  - 12.5.2 not later than 30 working days from the receipt of a complaint a response addressing the issues raised in the initial letter should be sent.
- 12.6 All correspondence from The Landscape Institute concerning complaints and/or compliance with the Code shall be handled within the same time limits as shown above unless otherwise instructed by The Landscape Institute.

## **GENERAL GUIDANCE**

### **1 INTERPRETATION**

### **2 LEGAL PROCEEDINGS**

### **3 EMPLOYEES**

### **4 FURTHER ADVICE**

#### **1 INTERPRETATION**

This Code is issued by The Landscape Institute in accordance with the requirements of its Charter. It consists of an Introduction and the Standards, which are intended to be read together.

The Code has not been drafted in legal language and is not intended to be construed like an Act of Parliament.

Throughout this Code:

- "Landscape Architect" has the meaning ascribed to it by the Charter.
- "Client" means the person or body corporate or incorporate with whom the Landscape Architect makes an agreement or contract for the provision of services or the supply of goods.
- "Body corporate or unincorporate" includes a central government department, a local authority, public board or corporation, and any society, firm or company.
- "Institute" means The Landscape Institute.
- "Director General" means the Director General of The Landscape Institute.
- "Professional Conduct Committee" means the Professional Conduct Committee of The Landscape Institute.
- "Unacceptable professional conduct" is defined as: 'conduct which falls short of the standard required of a registered person'.
- "Serious professional incompetence" is defined as: 'a professional service which falls well below what the public requires and the landscape architectural profession expects of registered persons'.

- The text shall be interpreted in accordance with the terms of the Interpretation Act 1978 (c30). A word in the singular as including the plural; and a word in the plural as including the singular.

## **2 LEGAL PROCEEDINGS**

The following notes are intended to clarify the relationship between the Landscape Institute's disciplinary proceedings and proceedings in a court of law.

### **Civil Proceedings**

The successful bringing of civil proceedings against a Landscape Architect does not automatically constitute grounds for disciplinary proceedings. However, the facts giving rise to a civil suit can result in disciplinary proceedings if they disclose serious professional incompetence or unacceptable professional conduct, for example by way of a wilful disregard of the Landscape Architect's contractual obligations.

### **Criminal Proceedings**

If it is *alleged* that a Landscape Architect has committed a criminal offence the courts are the appropriate forum for deciding guilt or innocence and such an allegation will not, of itself, normally be the subject of investigation.

The fact that a Landscape Architect has been *acquitted* in the courts of a criminal charge does not mean that they may not be disciplined for acts or omissions connected with that charge if those acts or omissions constitute unacceptable professional conduct.

### **Criminal Convictions**

A criminal conviction may be materially relevant to a Landscape Architect's fitness to practise, if, for example:-

- it constitutes an offence under legislation directly affecting Landscape Architects; or
- it arises directly out of their professional activities; or
- it results in a sentence of imprisonment, whether suspended or not; or
- it constitutes an offence of dishonesty; or
- it is otherwise of a nature which calls into question the Landscape Architect's integrity

This list may not be exhaustive of the offences materially relevant to a Landscape Architect's fitness to practise.

### **3 EMPLOYEES**

In taking on a Landscape Architect as an employee the employer must be taken to know that the conduct of a Landscape Architect will be governed by this Code in addition to any duties as an employee. If the two sets of obligations should conflict the Landscape Architect should in the last resort follow this code or resign their employment.

In the case of an employed Landscape Architect, the more senior the position held, the greater the responsibility to ensure conformity by the employer with the Standards in this Code.

### **4 FURTHER ADVICE**

Landscape Architects in doubt as to how they should act in a particular situation may benefit from impartial advice.

The Landscape Institute is able to provide guidance on the interpretation of the Code.

The fact that a Landscape Architect has consulted The Landscape Institute, or, if the problem has a legal dimension, a lawyer, and acted upon their clear advice, may be of assistance should conduct or competence subsequently be called into question.

Landscape Architects are expected to observe this Code wherever they work, except and only to the extent that to do so would be inconsistent with local law or, in countries where the standards of professional work are governed by a reputable body, with local practice.



**ENGAGING A LANDSCAPE CONSULTANT  
GUIDANCE FOR CLIENTS ON FEES  
SEPTEMBER 2002**

**The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG**

**Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)**

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First produced in draft form in June 1995 and based on "Engaging an Architect, Guidance for Clients on Professional Fees" as published by RIBA Publications Limited, and with their permission.

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## **FOREWORD**

The Landscape Institute withdrew its mandatory Scale of Professional Charges in 1986 and up to the first publication of this guidance in June 1995, had no formal basis on which to advise clients and landscape consultants on fees. This guidance acknowledges that fee competition is part of a free market but in order to secure comparable fee offers the client needs a baseline on which to evaluate fee proposals.

This guidance will also help when reading fee agreements, if professional services do not have to be tendered, or where they may be a partnering agreement or a framework agreement.

Value for money flows from landscape consultants who can maintain quality of service through adequate resources, design flair, appropriate experience, a cooperative attitude, and who can invest in people, training and technology through proper levels of remuneration. Experience has now shown that clients who choose on price alone frequently find that this is a recipe for second rate schemes born of a 'adversarial' stance where as little as possible is offered for cut price fees.

In contributing to the Construction Industry Council's (CIC) Guidelines for the Value Assessment of Competitive Tenders, The Landscape Institute is in the main stream of professions that seek to promote the principle of quality balanced with price in providing the best value for money. Government has acknowledged the emphasis on quality as well as price in the procurement of professional services, while still adhering to the principle of competition.

This Guidance for Clients on Fees is as much a fair basis for achieving an appropriate fee as it is a test to identify those who seek to provide the minimum for the cheapest possible fee. I hope that clients and their landscape consultants alike will use it as the main means of evaluating or preparing fee proposals; that clients will consider all that their landscape consultants are offering; and not merely price; and that this Guidance will foster a satisfactory standard of service for fair remuneration.

***Roderick I S Edwards***

**President, The Landscape Institute**

## 1. INTRODUCTION

- 1.1 This booklet has been compiled in response to requests both from clients and members of The Landscape Institute. Its purpose is to improve the working relationship between clients and landscape consultants by providing information and guidance specifically addressed to clients that will lead to a better understanding of how landscape consultants' fees for a professional appointment may be calculated, charged and paid.
- 1.2 To assist clients The Landscape Institute publishes a Register of Practices that includes information on firms that meet the professional qualification, and financial and professional indemnity insurance criteria required by The Landscape Institute. The Director General also operates a nominations procedure to assist clients in selecting a landscape consultant.
- 1.3 *The fee scale graphs included in this booklet are indicative and are intended to act as a guide to help clients and landscape consultants evaluate appropriate offers and agree fees by negotiation.*
- 1.4 Any questions concerning the information contained within this Guide should be referred to the Director General of The Landscape Institute by letter at:

**The Landscape Institute**  
33 Great Portland Street  
London W1W 8QG

*Or by telephone on 020 72994500 or facsimile 020 7299 4501 or email on [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)*

- 1.5 Publications referred to in this Guide that are available from The Landscape Institute are:

The Landscape Consultant's Appointment  
Guide to Procedure for Competitive Tendering  
Directory of Registered Landscape Practices  
Appointing a Chartered Landscape Architect: Guidelines for Best Value

## 2. THE CLIENT AND THE LANDSCAPE CONSULTANT'S APPOINTMENT

- 2.1 Generally.** A sound working relationship between the client and the landscape consultant can contribute significantly to the success of a project. Time spent in preliminary discussion with the landscape consultant is time well spent. The client should talk through the project requirements and discuss whether they can be realised within a budget and to a required programme. The Landscape Institute recommends that clients should have a clear understanding of the total cost of consultancy services including what expenses and disbursements are likely. As the project progresses, clients may wish to be actively involved, with their consultants retained to explain and advise.
- 2.2 Form of Agreement.** The agreement between client and landscape consultant may take the form of an exchange of letters in the case of small or simple projects, but for anything larger or more complex it is advisable to use the standard Memorandum of Agreement of The Landscape Institute. Under The Landscape Institute Code of Conduct it is the duty of the landscape consultant to write to the client setting down the terms of a commission.
- 2.3 The Landscape Consultant's Appointment.** This is a standard form that consists of a number of parts designed to enable the client and the landscape consultant to define the most appropriate range of services and conditions of appointment for a project. It should assist the parties to express formally the agreement reached between them.
- 2.4 Standard Form of Appointment.** This standard form of appointment covers the four parts set out below, a Memorandum of Agreement and a schedule Table 2 lists the work stages that form part of "Preliminary" and "Standard Services."
- 2.4.1 Part 1. *The Landscape Consultant's Services* lists and describes the "Preliminary" and "Standard Services" that are normally provided, and are common to most commissions.
- 2.4.2 Part 2. *Other Services* lists and describes a range of activities that can be agreed as independent elements of work, or as a supplement to "Preliminary" and "Standard Services."
- 2.4.3 Part 3. *Conditions of Appointment* describes the conditions that normally apply.
- 2.4.4 Part 4. *Professional Fees*, incorporates and expands on this Guidance.
- 2.4.5 *The Memorandum of Agreement* is a format for recording the parties to the agreement, the name and nature of the commission and the location where works are to be carried out.
- 2.4.6 *The Schedule of Services and Fees* is a format for setting out the consultancy services in detail and the agreed basis for calculating fees specifically related to the commission, forming an essential part of an agreement between client and landscape consultant.
- 2.5 Design and Build Projects.** In the Design and Build approach to construction, clients may wish to appoint a landscape consultant to help define requirements, and the contractor may also wish to appoint a landscape consultant to help develop the design. In either situation, the appointment of a landscape consultant can be properly formalised using the Memorandum of Agreement.

### 3. LANDSCAPE CONSULTANT'S FEES AND EXPENSES

- 3.1 Generally.** The landscape consultant's fees are commonly calculated on a time-charge, lump sum or percentage basis, although some work may be dealt with on a retainer or term commission basis. Expenses are generally charged separately in addition to fees.
- 3.2 Time Charged Fee Basis.** This basis is best used where services cannot be related to the construction cost of landscape works. Where the landscape consultant's appointment is for consultancy and advisory work or for preliminary or other additional services to an otherwise "Standard Service," fees should be on a time charged basis. The agreed hour/daily/weekly rates for each grade or individual member of staff, including principals working directly on the commission, should be stated in an agreement. Review dates for these rates should also be stated.
- 3.3 Lump Sum Fee Basis.** Lump sums are best used where the scope of the work can be clearly defined from the outset for any of the services described in Parts 1 and 2 of the Landscape Consultants Appointment, but where there is no firm project cost. It is necessary to define the services required and the project size and complexity, so that if these are varied by more than an agreed amount the lump sum itself may be varied. Alternatively, time charges may be agreed as the basis for payment for making variations.
- 3.4 Percentage Fee Basis.** This is best used for straightforward landscape projects where the "Standard Services" as described in Part 1 of the Landscape Consultant's Appointment Work Stages C to L are to be carried out. Fees can be expressed as a percentage of the total construction costs of a landscape contract or subcontract for which the landscape consultant is responsible. Subcontract costs should include an apportionment of main contractor's attendance, preliminaries, profit allowances and fluctuations. Separate fee calculations are appropriate for each separate landscape commission within a major construction contract. These contracts may be made up of phased development of one site over time or be a number of physically separated development sites in one main commission, which are implemented as separate contracts.
- 3.4.1 The Fee Graph indicates the fee costs that may be incurred by the client for landscape consultants' "Standard Services," expressed as percentages of the contract sum. The four graph curves show the range of percentage fees at differing complexity ratings for works of £22,500 and above. Lower fee percentages may be normally expected with higher contract sums and vice versa. Projects below the £22,500 threshold should be agreed on a time-charge or lump sum fee basis.
- 3.4.2 Landscape work varies in complexity and fees therefore vary to reflect the amount and level of service required to undertake schemes satisfactorily. In the experience of members of The Landscape Institute some projects, such as environmental improvements, involve substantially more input at all stages than other projects. To reflect this difference in complexity, Table 1 shows four different classifications of landscape work.
- 3.4.3 The four curves on the Fee Graph correspond to these four classifications and show the normal percentage fee curve (complexity rating 1), and three other curves (complexity ratings 2, 3, 4), that cater for work that is more demanding of professional time, office resources, skills and experience. The consultant can advise on the complexity rating of projects not listed in Table 1.

3.4.4 A series of worked examples of percentage fee calculations is shown on the final page of this booklet.

**3.5 Retainer Fee Basis.** This basis may be used where the client wants to retain the services of a landscape consultant on an “as needed” basis over the extended period of time, during which all work arising is required to be carried out by the landscape consultant. This basis is also applicable to term commissions.

3.5.1 Retainer or term commission fees may be calculated either as a sum additional to any fees calculated by other methods or as a payment based on an estimated time commitment when the landscape consultants retains resources constantly ready to fulfil the client’s requirements if so requested.

3.5.2 The retainer or term commission fee may, by prior arrangement, be allowed to stand in full, irrespective of the amount of work involved or it may be recalculated on a monthly, quarterly or yearly basis according to the actual commitments.

**3.6 Apportionment of the different methods of fee calculation:**

3.6.1 Part 1 – “Preliminary Services,” Inception and Feasibility, Stages A and B are normally carried out on a time charged basis. Outline and Sketch scheme proposals, Work Stages C and D, may also be carried out on a time charge basis where several scheme options are being considered or complex approvals are being sought from planning authorities. Once the scope of a scheme is agreed and approved, and there is a commitment to construct the project, a percentage fee may be agreed in relation to the construction cost. This should reflect the degree of work already executed under a time charge agreement. Where extensive inspections of site works, or inspections over an extended maintenance period are required, an additional time charge would again usually be appropriate.

3.6.2 Part 1 – “Standard Services,” Stages C to L are normally carried out on a percentage fee basis or lump sum.

3.6.3 Part 2 – “Other Services,” are normally carried out on a time-charged or lump sum basis.

**3.7 Payment of Fees.** Timely settlement of accounts is an essential part of a good working relationship. Clients may prefer to pay fees according to a plan of programmed installments. The certainty of this arrangement allows payments to be budgeted for over a period. Alternatively, fees may be paid at the completion of each work stage. Where this arrangement is agreed, the apportionment in Table 2 is offered as a guide.

**3.8 Expenses and Disbursements.** In addition to appropriate fees the landscape consultant can agree with the client the reimbursement of expenses and disbursements properly incurred in connection with the appointment. If the client requests a budget estimate of expenses, the consultant should clearly state what has been included.

3.8.1 Expenses might include, for example, the cost of printing, reproduction or purchase of documents, drawings, maps, models, photographs, hotel and travelling expenses, the cost of postage, telephone, fax and any other agreed items. The management of

suppliers and the settlement of bills on behalf of a client may be subject to a management charge.

3.8.2 Disbursements such as planning application fees, land survey and soil testing charges, are costs that may be necessarily incurred by the landscape consultant but should be properly borne by the client. Furthermore, where the landscape consultant is required to manage the work of other specialist suppliers or consultants and settle the account of a specialist appointed by agreement with the client, a handling charge may be added. Alternatively, the client may appoint the supplier or specialist separately and settle their accounts directly.

**3.9 Construction Design and Management (CDM) Regulations.** Through the Construction Industry Council Health and Safety Task Force, The Landscape Institute maintains a dialogue with the Health and Safety Executive on the applicability of the regulations to landscape works. Consultant's fees for services under the CDM Regulations should be agreed and expressed separately.

**3.10 Community Group and Grant Aid schemes.** Where materials or labour are offered to a scheme at less than market rates the client and landscape consultant should be aware of any distortion in the basis of a percentage fee based on the contract value.

**3.11 Design Competitions.** This is a way of discovering the range of design options that may be available for major projects. A number of practices may be invited to compete in offering design solutions. Unless entirely open competition is required, it is not advisable to ask too many practices to spend extended amounts of time working speculatively. Drawing up a select list of say 3-5 competitors is an efficient way of developing participants' enthusiasm for producing a satisfactory outcome of quality. Further, clients who agree to cover the costs of each competing practice's output, recognise that this is a fair and reasonable compensation for valuable creative work. The Landscape Institute has an established procedure for initiating and regulating competitions which may be held on a local or national scale and the Director General will be happy to advise.

**3.12 Contingency Fees.** Where all, or part, of a fee is contingent upon the outcome of a decision such as the success of a competitive bid or a grant application, the terms of any fee should be stated particularly clearly.

**TABLE 1**

Classification of Landscape Work according to complexity

WORK TYPE	COMPLEXITY RATING			
	1	2	3	4
<i>Planting Design and Implementation Services for -</i>				
Golf Courses and Rural Sports Projects	3			
Rural Roads and Parking	3			
Country Parks and Estates	3			
Rural Recreational Areas	3			
Afforestation/Shelter Belt Planting/Hedgerow renewal	3			
Rural Amenity Schemes	3			
<i>Comprehensive Design and Implementation Services for -</i>				
Agricultural Improvement and Estate Enhancements		3		
Coastal Defence and River Catchment Schemes		3		
Camping and Caravan Sites, Tourist Facilities		3		
Cemeteries, Crematoria and Gardens of Remembrance		3		
Industrial, Commercial & Research & Development Sites		3		
Roads and Roadside Facilities and Parking Schemes		3		
Coastal Marinas and Water Recreation and Sports Schemes		3		
Inland Marinas, Canal, River and Lakeside Schemes		3		
Rural Recreational and Pursuits Centres		3		
Infrastructure, Parking & Access for Major Projects			3	
College & University Campuses			3	
Defence Establishments			3	
Hospital Grounds			3	
New Housing			3	
School Grounds and Playing Fields			3	
Sports Stadia & Multi Sports Facilities			3	
Golf Courses & Recreational Properties			3	
Urban Offices and Commercial Properties			3	
Public Parks, Exhibition Sites and Urban Recreation Areas			3	
Mineral Workings and Landfill Sites			3	
Reclamation of Contaminated or Derelict Land				3
Urban Rehabilitation, Pedestrianisation, Renewal				3
Urban Environmental Improvements				3
Garden Design Historic, Restoration or Conservation				3

1. Work in Column 1 is classified as normal, whereas columns 2, 3 and 4 list work of increasing complexity. These classifications are shown on the graph.
2. Where the landscape work is not listed above but falls within or between complexity ratings, the client and landscape consultant may decide to interpolate an appropriate complexity rating and graph curve.
3. Environmental Assessments, Landscape Appraisals, Siting Studies and Development, Conservation and other Environmental Strategy Planning Studies are normally remunerated on a time or lump sum basis.

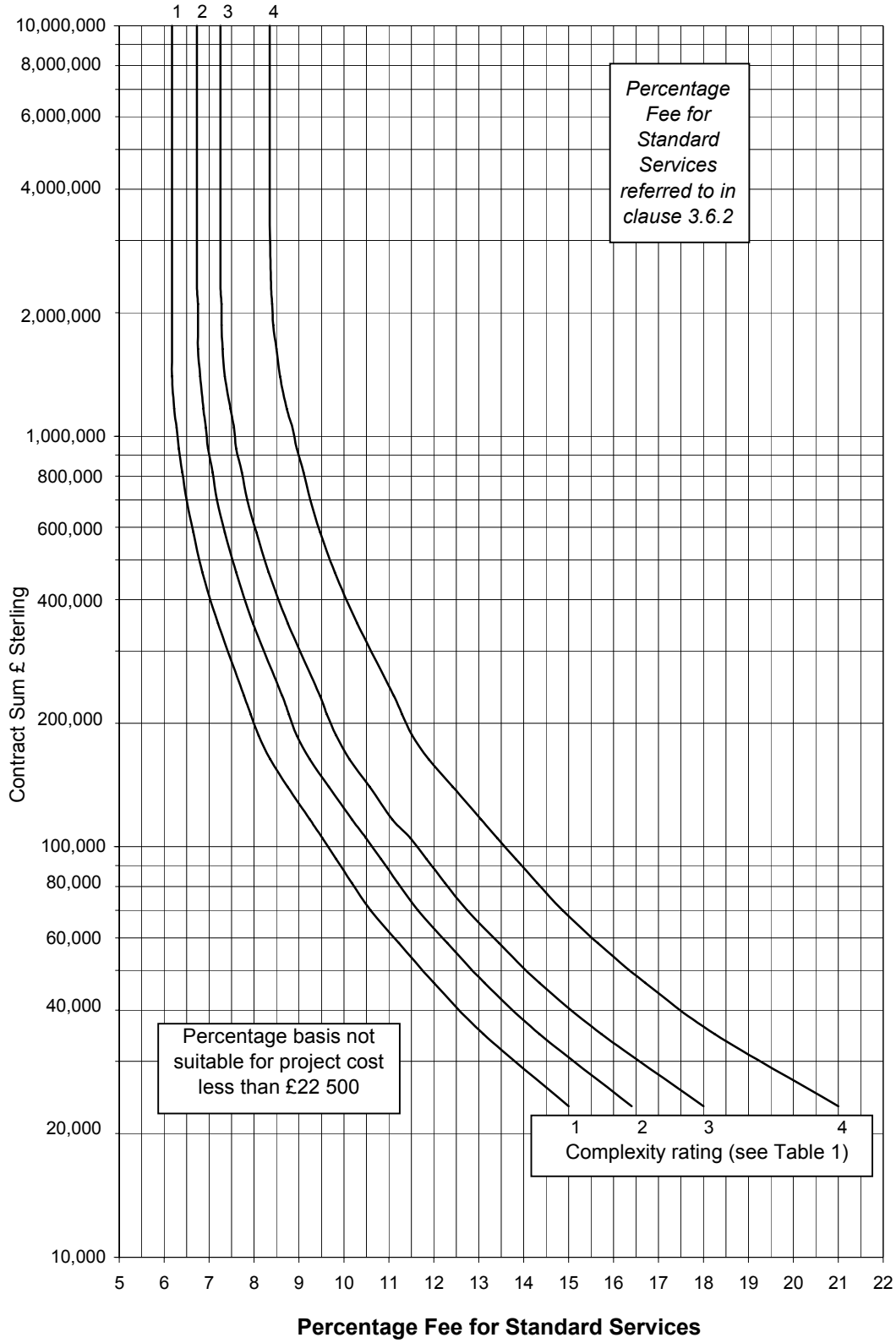
**TABLE 2**

Guide to Stage Payments of Fees, Relevant Fee Basis and Proportion of Fee Applicable to Lump Sum and Percentage Fee Basis. Details of Preliminary, Standard and Other Services are set out in detail in the Landscape Consultant's Appointment.

WORK STAGE	RELEVANT FEE BASIS			PROPORTION OF FEE	
	Time	Lump	%age	Proportion of fee	Total
<b>Preliminary Services</b>					
A Inception	3	3	N/A	N/A	N/A
B Feasibility	3	3	N/A	N/A	N/A
<b>Standard Services</b>					
C Outline Proposals	3	3	3	15%	15%
D Sketch Scheme Proposals	3	3	3	15%	30%
E Detailed Proposals	3	3	3	15%	45%
FG Production Information	3	3	3	20%	65%
HJ Tender Action & Contract Preparation	3	3	3	5%	70%
K Operations on Site				25%	95%
L Completion	3	3	3	5%	100%
	3	3	3		
<b>Other Services</b>	3	3	<b>N/A</b>		
<b>Timing of Fee Payments</b>					
<p>Percentage fees are normally paid at the end of each work stage. Time based fees are normally paid at monthly intervals. Lump sum fees are normally paid at intervals by agreement. Retainer or term commission fees are normally paid in advance, for predetermined periods of service.</p>					

**PERCENTAGE FEE GRAPH FOR STANDARD SERVICES - APRIL 2002**

Complexity rating (see Table 1)



## WORKED EXAMPLES OF PERCENTAGE FEE CALCULATIONS

### WORKED EXAMPLE 1

Project Type                      Caravan Site  
Services Required                To Detailed Proposals – Work Stages C to E  
Budget                                £120,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 2  
**Step 2** Decide on Services required and Proportion of Fee                      - To Detailed Proposals, 45%  
**Step 3** Read off Graph, Complexity Rating 2, the % fee of £120,000                      - Graph Fee 9.9%  
**Step 4** Multiply the Proportion of Fee (45%) by the Graph Fee (9.9%)- Adjusted Fee – 4.46%  
**Step 5** Calculate the Guide Fee (4.46% of £120,000)                      - Guide Fee - £5,352  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 2

Project Type                      New Housing  
Services Required                Full Standard Services – Work Stages C to L  
Budget                                £350,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 3  
**Step 2** Decide on Services required and Proportion of Fee                      - To Completion, 100%  
**Step 3** Read off Graph, Complexity Rating 3 the % fee of £350,000                      -Graph Fee 8.8%  
**Step 4** Multiply the Proportion of Fee (100%) by the Graph Fee (8.8%)- Adjusted Fee – 8.8%  
**Step 5** Calculate the Guide Fee (8.8% of £350,000)                      - Guide Fee - £30,800  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 3

Project Type                      Urban Environmental Improvements  
Services Required                To Production Information – Work Stages C to G  
Budget                                £1,250,000

- Step 1** Decide on Work Type and therefore Complexity Rating                      - Complexity Rating 4  
**Step 2** Decide on Services required and Proportion of Fee                      - To Production Information, 65%  
**Step 3** Read off Graph, Complexity Rating 4 the % fee of £1,250,000                      - Graph Fee 8.6%  
**Step 4** Multiply the Proportion of Fee (65%) by the Graph Fee (8.6%)- Adjusted Fee – 5.59%  
**Step 5** Calculate the Guide Fee (5.59% of £1,250,000)                      - Guide Fee - £69,875  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

## APPENDIX

### FEE GUIDANCE FOR PLANNING SUPERVISORS

The Association of Planning Supervisors has published a leaflet for clients. 'Ensuring Adequate Resources – Guidance for Clients'\* discusses the services that a Planning Supervisor will provide for the client, and the resource implications of those services. The leaflet stresses that the client has a legal duty under the CDM Regulations to be reasonably satisfied that the appointed Planning Supervisor has "allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations.."

Guidance on the Planning Supervisor's fee will be of interest to landscape architects, whether commissioning a project team or acting as Planning Supervisor themselves.

The APS has examined the fees from more than 10,000 projects of different types, sizes and complexity to compile indicators which clients can refer to. Complexity in this case refers to health and safety issues such as the number of personnel on site, the number of separate contractors and operations on site, and the nature and hazards associated with the work type. The fee indicator in relation to project value and complexity is presented on graphs, as a recommended percentage of the project value.

As an indication, the following points have been taken from those graphs:

	Fee percentage		
Project value	Low complexity	Medium complexity	High complexity
£35,000	2.0	3.6	5.25
£250,000	0.8	1.3	1.8
£2,500,000	0.32	0.64	0.96

The full guide may be ordered in packs of 10 from the APS. Contact details and publication prices are at [www.aps.org.uk](http://www.aps.org.uk) or 16 Rutland Square, Edinburgh EH1 2BB.

\*Published 17 April 2003 by the Association of Planning Supervisors.

# Landscape Institute

## Appointing a Chartered Landscape Architect **GUIDELINES FOR BEST VALUE**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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Figure I: Summary of Selection Process

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# FOREWORD: 'COMMISSIONING A LANDSCAPE CONSULTANT'

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- 1.1 Landscape consultants are able to offer a wide range of general and specialist services, sometimes working as members of multidisciplinary teams, but commonly acting as the sole advisor to their client.
- 1.2 The commissioning process involves identifying a practice able to satisfy the client's requirements, or making a selection from a number of such practices, determining a fee or remuneration basis agreeable to both parties, and finally completing a formal agreement or contract for the work. There are various ways in which a Landscape Consultant may be selected and commissioned and the following are examples, each suited to particular circumstances.
- **Direct Appointment** with a known practice
  - **Negotiation** with one or more practices to agree on a fee basis
  - **Quality – based selection** between a number of practices
  - **'Two-envelope'** system
  - **Competitive Fee Tendering** to select on the basis of fee alone
  - **Design Competition** to produce design ideas from which to select a practice.
- Additionally, The Public Services Contracts Regulations 1993 which implement European Union rules for projects exceeding a threshold value must be observed.

## GUIDANCE FROM THE LANDSCAPE INSTITUTE

The Landscape Institute has produced a series of publications dealing with the various aspects of appointing a Chartered Landscape Architect, listed below.

**Engaging a Landscape Consultant: Guidance for Clients on Fees** is a guide designed to improve the working relationship between Clients and Chartered Landscape Architects by providing information about how fees may be calculated, charged and paid. An invaluable guide to agreeing fees by negotiation that are fair to both parties. There are no standard fee scales, although methods of calculating fees on a time basis, on a percentage of the project value basis, or as a lump sum are common. Practices are able to describe the fairest means of achieving a fee agreement and can estimate the sums involved in order to give the client an order of cost.

**Directory of Registered Landscape Practices** lists practices meeting particular professional criteria. If guidance is required in selecting practices from the Directory, the Landscape Institute is always happy to assist and a procedure for nominating a short list of practices for interview is operated by the Director-General through the Nomination Panel.

**The Landscape Consultant's Appointment** is a booklet intended to help clients to identify the landscape services which they require. Included in it are a description of the work of landscape consultants, a specimen Memorandum of Agreement and specimen Schedules of Services and Fees. It is strongly recommended that clients read this booklet and use it as the basis of the Agreement with their chosen consultant whichever method of selection is used because any agreement between client and consultant must clearly set out the full scope of the commission in respect of the services to be provided, the division of responsibilities and any limitation of liability, the payment of fees including rates and methods of calculation, and the provision for termination. The most successful relationships between Client and Consultant are those that proceed in an atmosphere of trust and goodwill. Consequently the sharing of salient information at the outset is an important aspect of achieving a successful commission.

**Guide to Procedure for Competitive Tendering** gives advice on using competitive fee tendering to select a landscape practice, including Form of Tender, Schedule of Services and Fees and Memorandum of Agreement.

# 1. Introduction: Best Value in selection and appointment

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1.1 Landscape Architecture is a specialist and often complex task requiring a proper understanding of the site and the Client's needs. This document sets out 'Best Practice' guidelines to assist public and private sector Client bodies to prepare selection procedures which are **open, fair, efficient, economical to implement**, and which **achieve best value** for the Client. The guidelines can also be used to review existing procedures and, where necessary, to revise them to ensure best value. It is vital to choose a suitable professional for the job **at the outset** if best value for money is to be achieved. Although professional fees form only a small part of the whole-life cost of a project, the results of the professional's services can be far more significant, altering the construction/ running costs by far more than the fees charged.

1.2 Good selection procedures - whether or not they lie within a Best Value<sup>1</sup> framework - should define the project and services required, and lead to the appointment of the Chartered Landscape Architect best able to meet those requirements. Where a competitive tender process is chosen (or is required by Standing Orders) the process should achieve that aim with the minimum cost and effort both by the Client and by competing Chartered Landscape Architects, so that the complexity of the tendering procedure is matched to the scale of the potential commission. Best Value requires that the transaction costs associated with procurement should form part of the assessment of procedure options. Thus, the costs of preparing for tendering should not outweigh any potential savings achieved by this method of procurement. It should be remembered that design services are not a commodity with a measured 'Bill of Quantities' from which the work can be revalued on completion.

## **Direct appointment**

1.3 Generally, consultants are willing to discuss a potential appointment with a prospective client without obligation. Effort is concentrated on making progress with the project, and both parties benefit from considering the location and type of project that might be involved, the budget for the proposed works and the involvement of other professional advisers that may be working on the client's behalf.

1.4 Contact can be made simply by a telephone discussion followed by a written description and a meeting. There is some merit in approaching local consultancies if the project is within easy reach of their offices. The comprehensive skills of a national practice can also often be available locally.

1.5 The client may examine examples of previous work and/or the individuality of design approaches shown by practices in order to consider their suitability. Many clients build an established working relationship with one or more practices to their mutual benefit.

## **Negotiation**

1.6 For large or extended commissions, clients may wish to negotiate with one or more practices to obtain the most favourable fee agreement appropriate to the commission. Discussion of the client's particular requirements will enable consultants to tailor the brief and fee basis to mutual advantage.

## **Term Appointments, Framework Agreements and Partnering Arrangements**

1.7 These arrangements offer benefits including reduced administration, improved efficiency and economy, established communication, flexibility and consistency of service. Government and industry initiatives encourage the use of these longer term

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<sup>1</sup> See DETR Best Value website [www.local-regions.detr.gov.uk/bestvalue/htm](http://www.local-regions.detr.gov.uk/bestvalue/htm) and [www.wales-bestvalue.org](http://www.wales-bestvalue.org)

arrangements as an alternative to single project tendering, particularly where a series of smaller and/or similar projects is anticipated.

### **Design competitions**

- 1.8 Design competitions operated in accordance with the Landscape Institute's guidance<sup>2</sup> are an effective way for the Client to obtain a wide range of initial ideas for a project at a conceptual stage.

### **Design and build contracts**

- 1.9 Design and Build Contracts encourage co-operation between designers and contractors, and allow the skills of both to be integrated in the design and implementation phases. However, such contracts will only achieve a good quality environmental or landscape outcome if the relevant component is clearly defined in the brief and forms part of the assessment of tenders.

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<sup>2</sup> See the LI's Landscape Competitions: Guidance Notes for Promoters

## 2. Developing the project

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- 2.1 The initial development of a project is a vital stage. It is helpful to engage a Chartered Landscape Architect at this early stage, to formulate and appraise options, consider the project's feasibility and advise on implementation. An **outline programme** for the conceptual stages, design process, procurement and implementation should then be developed **before** the selection process is decided. It is essential to consider matters such as the project's objectives, timescale, complexity, broad budget, need for EIA and planning permission, physical resources available and also whether a Client will participate directly in the design process or will use in-house expertise.
- 2.2 Clients often assemble or have access to useful background information on the site and on the project requirements. It is recommended that this information be collated and reviewed as the project is developed. It should then be provided, in a summarised form, to each potential project team to assist the Chartered Landscape Architects and so save time and money.
- 2.3 Clients must allow themselves adequate time to select the right Chartered Landscape Architect. The selection procedures should identify the **key qualities** of the service required and **clearly present the selection criteria**. Procedural guidelines for preparing a draft, project-specific, selection process are given in Section 4. Where appropriate, this process should be approved by the authorising body (e.g. Senior Officer, Council Committee, grant-aiding body) before the full brief is drafted. Any constraints such as fixed Standing Orders for the selection process or selection criteria (e.g. lowest price must be selected) should be made clear from the outset.

### 3. Preparing the brief

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- 3.1 The brief is the key document that sets out the Client's intentions for the commission, the services to be provided by the Chartered Landscape Architect and the contractual basis for the commission<sup>3</sup>. The brief provides the basis against which the consultant's services will be judged and should explain clearly what they are expected to do. A clear and comprehensive brief helps avoid qualified bids or unexpected claims for extra fees as the work progresses, and will reduce time spent dealing with queries from competing consultants during the selection process. The brief should avoid open-ended and unquantifiable requirements unless the remuneration is also open-ended.
- 3.2 The Landscape Institute<sup>4</sup> recommends that the brief should cover a description of the proposed project (including location and programme); all relevant information (including previous studies, survey information etc) and the Client's requirements with regard to:
- ◆ the project (objectives and output from the commission)
  - ◆ consultancy services within the commission
  - ◆ relationship with separately appointed members of the team.
- 3.3 For large or complex projects it may be advisable to seek professional assistance with the drafting of the brief, particularly where a number of disciplines are to be appointed or the work includes research/site investigation. When inviting expressions of interest in tendering, informal comments on a draft brief and indicative budget can be sought from potential consultants, to identify any ambiguity, impractical requirements or open-ended items.

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<sup>3</sup> The Landscape Institute recommends the use of The Landscape Consultant's Appointment.

<sup>4</sup> 'Guide to Procedure for Competitive Tendering' published by the Landscape Institute.

## 4. Methods of Selection

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There are various alternative methods of selecting a Chartered Landscape Architect:

### **Direct Appointment**

- 4.1 Appropriate following a discussion about the project and the appropriate fee. Such discussion maximises each party's understanding and can lead to an established working relationship to mutual benefit. Direct appointment is often the least costly method of appointment.

### **Design competitions and technical proposal competitions**

- 4.2 These assist the Client to discover the range of options that may be available for major projects. The Landscape Institute recommends its own established procedure which covers the preparation, judging and remuneration of competitions.

### **Quality Based Selection**

- 4.3 This overcomes the difficulty of specifying the project and services, and avoids the negative influence that price tendering has on the quality of the work undertaken. A Chartered Landscape Architect is selected on the basis of relevant qualities and the experience required for the project. The project and services are then defined jointly, drawing on the Consultant's expertise, and finally the fees for the agreed services are concluded by negotiation with reference to published guidance<sup>5</sup> and other benchmarks<sup>6</sup>.

### **Two-envelope system**

- 4.4 This system combines quality selection with price competition. Each shortlisted tenderer submits a technical (or design) proposal and a separate sealed fee tender based on a full brief. Once all the technical proposals have been evaluated and ranked, the fee envelopes are endorsed with the ranking. The fee envelope of the first choice tenderer is opened and the commission is awarded unless the fee exceeds the acceptable limit, in which case the second-ranked fee envelope is opened. When the commission is awarded, remaining fee envelopes are returned unopened.

### **Competitive fee tendering**

- 4.5 This relies on the Client's ability to select a number of appropriate Consultants to tender, and to specify the project and services required exactly, so that all tenderers price the same work. The Landscape Institute's guide sets out the recommended process in detail. As detailed information must be provided to tenderers, and the service provided must be carefully monitored, this method is not suited to projects with small budgets or where the Client cannot devote sufficient professional staff time to the process.

### **Tendering**

- 4.6 All tendering requires the investment of time and resources, both for the Client and competing Chartered Landscape Architects. Unless the process selects the best Consultant for the project with the least effort from all parties, it will not give the best value for money. If the consultant is selected on the basis of quality as in section 4.3 then best value can be achieved in a more straightforward way.

Inefficient tendering:

- ◆ wastes the Client's staff time and money
- ◆ adds to tenderers' operating costs, increasing overall prices
- ◆ wastes all parties' effort and time which could better be spent working on the project
- ◆ may deter well-qualified Chartered Landscape Architects from bidding for the project.

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<sup>5</sup> Appointing a Landscape Consultant: Guidance for Clients on Fees

<sup>6</sup> This method is explained in detail in the Construction Industry Council's publication 'A Guide to Quality Based Selection of Consultants: A Key to Design Quality'.

## 5. Selection procedures

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### Required Knowledge

- 5.1 To select the most suitable Chartered Landscape Architect for a project, the Client needs to know:
- ◆ the nature and size of the project
  - ◆ the professional services required
  - ◆ the skills, resources and qualities which will contribute to the project's success
  - ◆ the degree to which interested Chartered Landscape Architects possess those skills, resources and qualities.
- 5.2 Before commencing a potentially expensive selection process, tenderers need to know:
- ◆ the nature and size of the project
  - ◆ the stages and requirements of the selection process
  - ◆ the criteria for selection
  - ◆ the probability of success.

Where the Client does not have in-house landscape expertise, it is advisable to engage independent professional assistance for the preparation of the background information and brief. A feasibility study is often a valuable initial step, well worth the time charge or lump sum fee.

### Key principles

- 5.3 The Landscape Institute recommends that the selection procedure embody the following principles, to ensure that selection procedures are logical and fair, and that the effort involved does not outweigh the benefits to either party. Each stage in the process should aid the selection of the most suitable Consultant.

### Scoring systems

- 5.4 Scoring systems which give due weight to each selection criterion should be established at the outset and made available to all Chartered Landscape Architects expressing interest. This may be a difficult process for some clients, but guidance has been published by the Landscape Institute.
- The marks available under each category should be stated, and the Client should ensure that the necessary assessment skills are available either in-house or externally. Marks for price should be awarded relative to a realistic estimate of the financial resources required for the project, rather than relative to the lowest tender received as this can distort the scoring mechanism.
- The Institute has available a publication 'Engaging a Landscape Consultant: Guidance for Clients on Fees' which may help the Client assess a realistic fee structure in relation to the scale and complexity of the project and the staff resources required.

### Price

- 5.5 Price is commonly a significant factor in the selection of a Chartered Landscape Architect even though it is very difficult to reach an acceptable 'trade off' between quality and price. It is simplistic and misleading to assume that all Chartered Landscape Architects passing the initial quality selection will then produce an equal quality of service if forced to compete on price.

### Number of stages

- 5.6 The number of stages in the selection process should be kept to the minimum necessary to select the best Chartered Landscape Architect for the project. In many cases it is sufficient to present a detailed brief to three local landscape practices chosen from those considered capable of providing the services required, and to request each to respond, as a single stage. A three stage selection process could be more appropriate for a major or very complex project and this is examined in more detail in Section 6.

## 6. Three stage selection process

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### 6.1 Stage one – Compilation of the Select List

The **first notification** of a project inviting expressions of interest should

- i. give an outline of the project
- ii. state key criteria for selection, such as the timetable and special roles to be fulfilled. This is needed only where the project exceeds size/value thresholds<sup>7</sup> requiring advertisement (e.g. a notice in the EU Official Journal), or the work is specialised and existing approved lists of consultants are not adequate
- iii. describe the project and selection process in sufficient detail to show the bidding effort required, so that tenderers may determine their suitability, and to prevent an excessive number of expressions of interest being submitted for processing
- iv. state the precise information required from interested Chartered Landscape Architects. This information should be only that which is needed to select those fully suited to the project, such as directly related project experience and staff information. At this stage Chartered Landscape Architects should not be asked to provide general practice information such as method, cost information or estimates of the resources needed.
- v. A shortlist of Chartered Landscape Architects should be selected, on the basis of their skills and experience, from those considered capable of providing the services required. All Landscape Architects on the select list should be competent to undertake the work and the Client must be satisfied to appoint any of those on the compiled list. The number chosen to proceed to the second stage should be limited to three or four, to minimise the Client's efforts in giving all proposals due consideration.

### 6.2 Stage two – Preparation and Evaluation of the Tender Submissions

- vi. The selected Chartered Landscape Architects should be provided with the finalised (or more detailed) brief and invited to respond with further information, for example by setting out their approach to the project, their proposed staff team and a working method. Only information which the Client can evaluate and use to select between the bidders should be requested.
- vii. The Client should always be available during this stage to answer questions and provide clarification of the brief, in order to avoid qualified tenders which cannot be compared one with another.
- viii. If price is also a criterion for selection, the 'two envelope' method of tendering (see 4.4) is recommended, or the price should be negotiated with the favoured Chartered Landscape Architect.
- ix. Where the Client requires clarification of a bid, or wishes to obtain further information from tenderers, this should be requested in a letter to all tenderers, stating a date for the return of replies.

### 6.3 Stage three – Final Selection by Interview

- x. Where it is necessary to select between two, or at most three, Chartered Landscape Architects on the basis of personality or potential working relationship, the cost of arranging, attending and evaluating interviews may be justified. Each bidder's Project Landscape Architect should be present. In all cases tenderers should only be invited to interview where there is a reasonable expectation of their being appointed. Where the project budget is

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<sup>7</sup> The EC Directive is implemented in the UK by The Public Services Contracts Regulations 1993. Related guidance from the Treasury Procurement Group is available through the website [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)

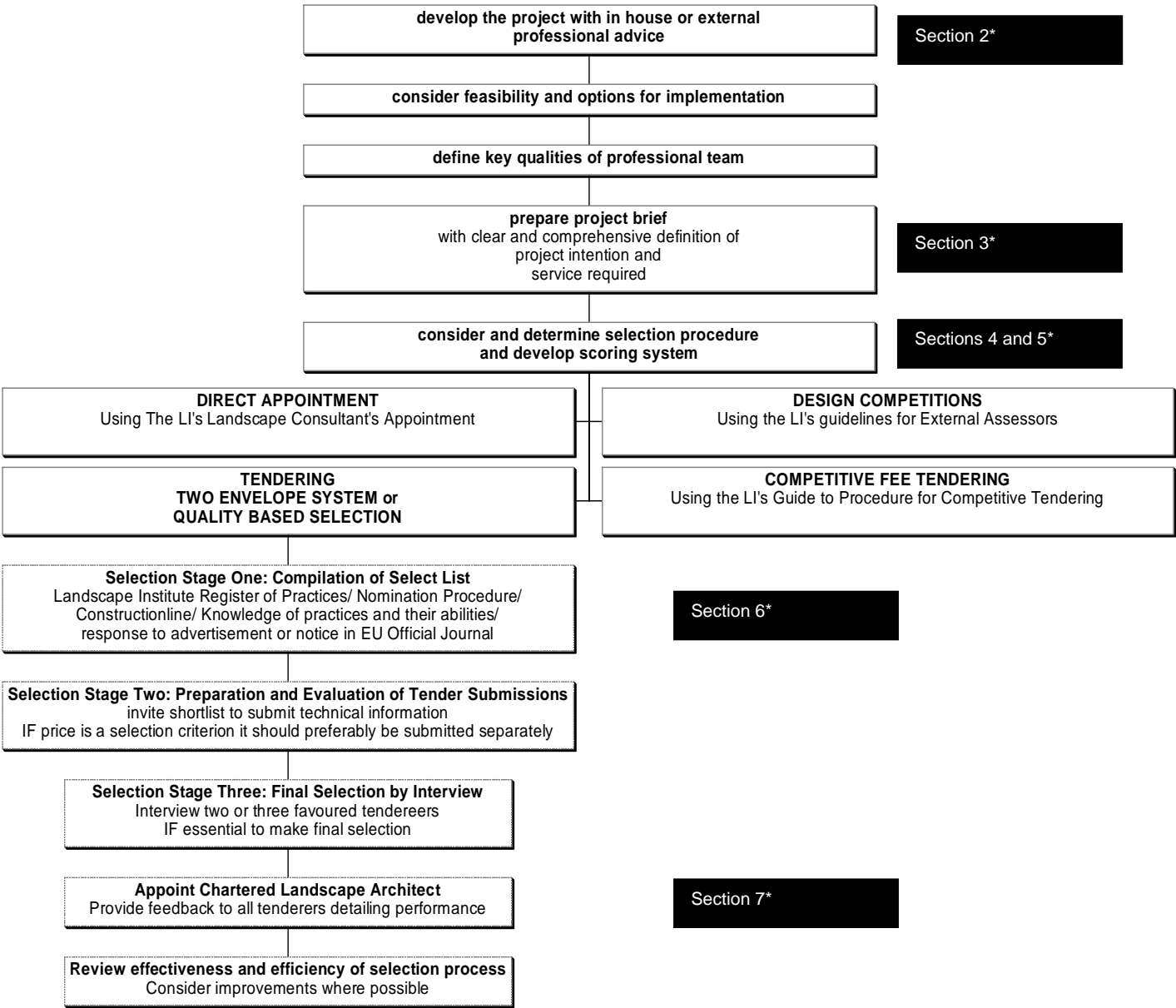
- fixed, only those whose prices fall within the budget should be invited to interview unless negotiation of the project content and cost is possible.
- xi. Interviewees should be given clear instructions as to the scope of the interview, its format and duration, so that they may prepare properly. Time should be allowed to set up a presentation, which may involve projectors, screens and other equipment. The Client should make clear to interviewees what facilities will be available. The names and roles of the interviewers should be provided.
  - xii. Interviews should not be conducted until the written submissions have been fully studied and relevant questions prepared, and should not involve merely going over information given in written tenders. Time should be allowed for additional questions, and for the interviewees to ask questions.
  - xiii. Where the Client wishes the Chartered Landscape Architect to prepare outline proposals or to produce initial design ideas for discussion at an interview, the Client should consider offering each a payment towards the time and effort involved. This will allow the Chartered Landscape Architect to expend greater effort on the Client's behalf and to produce more valuable material for discussion. Tenders should be treated as confidential and not discussed with other bidders, especially where original ideas or novel methods have been presented.

## **7. Feedback**

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It is essential, to maintain openness and to assist unsuccessful tenderers in future bidding, that all tenderers are given the maximum feedback on their bids. As a minimum, each tenderer should be given their own score for each main selection criterion, and the totals scored by all the other tenderers, together with the name of the successful tenderer. Where price is the main criterion, the tenderers' names in alphabetical order and the prices in ascending order should be given. It is good practice also to offer a "debriefing" to each tenderer, confined to a discussion of that tenderer's submission.

**Figure 1. Summary of Selection Process**



\* Cross references to full document text.

# Landscape Institute

**Guide to Procedure for  
Competitive Tendering  
March 2003**

**The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG**

**Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 72994501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)**

## 1.0 INTRODUCTION

Competitive Fee Tendering is only appropriate in particular circumstances.

- 1.1 The various ways of commissioning Consultant are set out in the **Guidelines for Best Value** and each will be suitable to particular circumstances. The sections which now follow are based on the assumption that clients have understood this and have concluded that Competitive Fee Tendering is the most suitable form of commission for the project they have in mind.
- 1.2 This guide offers guidance for those who have decided to commission a Landscape Architect, Landscape Manager or Landscape Scientist's services and who wish to make their final selection of Consultant on the basis of competitive fee tenders. The guide seeks to ensure that the procedure followed is fair and equitable to all parties, and allows the Client to make a valid judgement between tenders received.
- 1.3 Clients and Consultants are reminded that under the Landscape Institute Code of Professional Conduct, Members who are approached to proceed with professional work on which, to their knowledge, another member is employed shall notify the fact to the member.
- 1.4 It is essential that each tenderer is provided with sufficient information to identify fully the nature and scope of the works involved, and the extent of the Consultant's commitment and responsibility, in order that realistic fee tenders may be submitted without undue risk to either party. This information should follow the format and recommendations of Section 3 (Briefing) of this guide.
- 1.5 It is recommended that 'The Landscape Consultant's Appointment' is used as the basis of agreement between Client and Consultant, to set out the terms of the commission including the scope of the services, the allocation of responsibilities and any limitation of liability, the payment of fees including the rates and methods of calculation, and the provision for termination. This guide and its Form of Tender make frequent reference to that Appointment.

## 2.0 PRE-TENDER SELECTION OF LANDSCAPE CONSULTANTS

- 2.1 Once it has been decided that competitive fee tenders are required from a number of Landscape Consultants, the Client will need to draw up a short-list of suitable Practices. Each Practice invited to submit a competitive fee tender should be fully and equally acceptable to the Client on all other criteria in order that fee price should be the sole criterion for selection. There are a number of ways of drawing up a short-list.

1. Selection of Consultants from the Client's own approved lists;
2. Advertisement for Practices who would be interested in undertaking the project. In this case, responses to the advertisement will need careful evaluation;
3. The Landscape Institute will provide information and advice on suitable Practices on request.

Factors to be taken into account in making the initial selection will include the Landscape Consultant's: -

1. Design abilities and technical or scientific skills
2. Experience with similar or equivalent projects
3. Available resources and staff
4. Appreciation of the Client's requirements
5. Managerial skills and quality assurance procedures

## 6. Personal qualities

The priority given to each of these will depend on the nature of the project.

- 2.2 Examples of work and further Practice information may be requested, and references from past Clients may be taken up. It may be desirable to interview the Principal of the Practice and to meet members of the Practice's staff who are likely to be involved in the project.
- 2.3 Each short-listed Practice should be sent a preliminary enquiry and invited to reply by a particular date confirming willingness to be considered. The number of tenderers to be invited should be stated at this stage.
- 2.4 From the replies to the preliminary enquiry, a final list of Consultants should be drawn up. Those originally invited but not finally selected should be notified.
- 2.5 Normally it is recommended that not more than three Landscape Consultancies should be included on the final tender list and invited to submit fee tenders.

## 3.0 TENDER INFORMATION AND BRIEF

### 3.1 Introduction

- 3.1.1 This section provides a guide to the brief to be used by Clients when approaching a number of Landscape Consultancies for competitive fee quotations.
- 3.1.2 The brief for each project will reflect the nature and complexity of that project, but must provide adequate information to enable each Consultancy to assess the resources required to fulfil the Client's expectations, in order to provide an accurate fee quotation.
- 3.1.3 If a Client is unable to define the project requirements at a level appropriate to the project, then use of competitive fee tenders should be reconsidered since Consultants are unlikely to provide unqualified tenders.
- 3.1.4 The tender information and brief is considered below under the following headings:

#### 3.2 Description of proposed project

#### 3.3 Background information

#### 3.4 Client's requirements: The project

#### 3.5 Client's requirements: Consultants' services

### 3.2 Description of the proposed project

- 3.2.1 The description should cover, briefly, the objectives and scope of the whole project, and identify the role of the Consultant submitting the tender. The following checklist of headings should be taken as a guide:

- Client's full name and address
- Client's representative (who should be able to answer queries and give any further information)
- Name of project and reference (in any)
- Location of site, with National Grid Reference
- Plan at suitable scale showing extent, boundary and surroundings of site
- Arrangements for visiting the site
- Objectives and scope of whole project
- Role of Consultant
- Other professionals in team (if any)
- Project works budget
- Funding source (unless confidential)

Programme and critical stage dates  
Warranties required by the Client  
Ownership of copyright and plans

### **3.3 Background information**

- 3.3.1 Relevant background information which is available at the time of tender should be provided to the Consultants in order that realistic, competitive tenders are obtained. Documents enclosed with the tender invitation should be listed. Bulky or restricted information should be available to view by arrangement, and sufficient time should be allowed for this.

Relevant background information might include:

Internal proposal documents and reports, Feasibility Studies etc.  
Company or Authority policies, standing orders and relevant guidelines  
Applications/awards to/from grant aiding bodies  
Structure, District or Local plans affecting the site or proposed development  
Planning permissions, conditions or reasons for previous refusal  
Soil surveys, ecological surveys and other site investigations  
Topographical survey and/or maps and plans  
Services and statutory undertakers' information  
Land ownerships, easements, access and other restrictions

- 3.3.2 Studies or documents which will be available to the selected consultant at a later date should also be listed, with the date or work stage at which they will be made available.
- 3.3.3 Any specific information or study which the Client requires as part of the commission, such as Environmental Statements, Financial Appraisals and the like, should be specifically described in Section 3.5.
- 3.3.4 If the project involves the transfer of computer-based data, plans or information between Client and Consultant, full details of the relevant system, format and compatibility should be provided.
- 3.3.5 The Client should give details of all relevant security or confidentiality requirements.

### **3.4 Client's requirements: The project**

- 3.4.1 The Project shall be described in full detail to enable Consultants to produce accurate tenders. The description will be specific to the nature of the project, but the following checklist provides guidance. It is not exhaustive.

- 3.4.2 Site or Scientific Investigation/Feasibility Study:

The purpose of the investigation/study  
The intended use(s) of the site  
The nature of any suspected or known site problems  
Particular factors to be investigated, e.g. vegetation survey, soil survey, contamination survey  
Complementary studies previously undertaken or otherwise not required  
Specific British Standards/Code of Practice or other method requirements to be followed  
The nature and format in which results are to be presented  
The degree of interpretation required and specific questions to be answered.

- 3.4.3 Landscape Design and Contract Administration

The intended uses(s) of the site



- 3.5.4 The Client shall state the number of copies of all reports, drawings, contract documents, record drawings and the like which the Consultant is to provide, unless such reproduction is a chargeable cost in which case the rates for reproduction shall be stated in the Consultant's tender.
- 3.5.5 The Client shall state the proposed ownership of copyright and all plans and reports.

#### **4.0 TENDER PROCEDURE**

- 4.1 The Client should simultaneously provide each Landscape Consultant with identical information, and with standard envelopes. Each Consultant should be given the same timescale in which to submit a fee tender. The timescale should be sufficient to allow the Consultants to visit the site, assess the brief, raise any questions and submit a tender.
- 4.2 The tender period will vary according to the scale and complexity of the project, and should not normally be less than four weeks. Where the Landscape Consultant is asked to submit a technical document as well as a fee proposal, this period may need to be extended.
- 4.3 If the tender invitation contains ambiguities or lacks specific information, it is probable that tenderers will raise questions which should be answered fully to avoid the submission of qualified tenders. Any questions and their answers should be notified to all competing Consultants during the tender period.
- 4.4 All tendering Consultants should be advised by the Client if, as a result of questions, issues are identified which could materially affect the range of services required or the budget or timescale for the project. In these circumstances, it may also be necessary for the Client to extend the period for tender.

#### **QUALIFIED TENDERS**

- 4.5 For fair competitive tendering, it is essential that all the competing Landscape Consultants base their tenders on identical sets of documents. Tenderers should not attempt to introduce variations to the basic brief by qualifying their tenders. The allowance of questions during the tender period is intended to obviate the need for qualifications.
- 4.6 In the event of a qualified tender being submitted, the tenderer should be given the opportunity to withdraw the qualification. If the tenderer fails to do so, the qualified tender should be rejected.

#### **ASSESSMENT OF TENDERS AND NOTIFICATION OF RESULTS**

- 4.7 A specific date and time should be set for submission of sealed tenders. The tender envelope should not identify the sender. Tenders should be opened as soon as possible after the time of receipt. Any tenders received after that time should be returned unopened as invalid. All valid tenders should be opened at the same time.
- 4.8 As soon as one Landscape Consultant has been appointed, the Client should advise all the tenderers of:
- ❖ The successful consultant
  - ❖ Whether the lowest tender figure was the one accepted
  - ❖ The other tender figures received

#### **WITHDRAWAL OF A TENDER BEFORE ACCEPTANCE**

4.9 Under English law, a tender may be withdrawn at any time before its acceptance.

## 5.0 FORM OF TENDER

To: .....  
(insert name of Client)

Tender for: .....  
(insert name of project)

SIRS,

I/We have read the documents collectively forming your invitation to Tender for the above project, dated .....

I/We hereby offer to undertake the whole of the services requested and described in the above documents for the sum(s) determined in accordance with the attached Schedule of Services and Fees, and Annexures thereto (**APPENDIX I**).

I/We will complete the services requested

\*within the programme set out in the Invitation to tender

\*within ..... weeks of the completion of a Memorandum of Agreement between the Client and Consultant.

I/We undertake in the event of your acceptance of this offer, to enter into a Memorandum of Agreement with you, embodying the Landscape Consultant's Appointment (**APPENDIX II**) and all the terms and conditions of this offer.

I/We agree that should errors in pricing or arithmetic be discovered in this offer before the acceptance of this offer, such errors will be corrected.

This tender remains open for acceptance for a period of .....weeks from the tender date.

Signature.....Name (block capitals)

on .....  
behalf .....  
of .....

.....  
Date .....

\*Delete whichever is inapplicable.

**SCHEDULE OF SERVICES AND FEES**

**APPENDIX I**

Referred to in the Tender dated .....

between

.....

(insert name of Client)

and

.....

(insert name of Landscape Consultant)

for

.....

(insert description of project)

Unless otherwise stated the services listed in the conditions of appointment will be as described in **The Landscape Consultants Appointment** (.....Revision), published by the Landscape Institute. Clause references relate to that document.

**S1 SERVICES, AS DESCRIBED IN THE INVITATION TO TENDER**

---

Service	Clause	Fee basis and rate/amount (State whether percentage, time or lump sum)
---------	--------	--

Preliminary Services

Basic Services

Other Services

---

**S2 SPECIAL CONDITIONS, AS DESCRIBED IN THE INVITATION TO TENDER**

---

CONDITIONS WHICH  
SHALL APPLY

Insert any special conditions which are to apply to the appointment.

---

CONDITIONS NOT TO  
APPLY

Insert any clauses which are not to apply to this appointment.

**FEES**

**APPENDIX I (contd.)**

PERCENTAGE FEES

Fees based on a percentage of the total construction cost shall be calculated as follows:

LUMP SUM FEES

Interim payments for percentage and lump sum fees shall be \*paid monthly/quarterly/half yearly:

\*paid at completion of work stages as follows:

Work Stage	Proportion of fee	Cumulative total
------------	-------------------	------------------

\* Delete whichever is inapplicable

Notwithstanding these, fees in respect of work stage: \_\_\_\_\_ shall be paid in instalments proportionate to the drawings and other work completed or the value of works certified.

TIME CHARGE FEES

Rates for fees charged on a time basis shall be:

.1 for principals: £ \_\_\_\_\_ per hour

. 2 for staff: \_\_\_\_\_ p per £100 of gross annual income for office based staff

\* Hourly rates for named staff are given in Annexure .....

EXPENSES AND DISBURSEMENTS

\* The fees charged are inclusive of all expenses and disbursements.

Or

\* Expenses and disbursements shall be charged in accordance with Annexure .....

\* Delete whichever is inapplicable

Mileage rates shall be: \_\_\_\_\_.

Signed:

Client

Landscape Consultant

Date:

**SPECIMEN FORM OF  
MEMORANDUM OF AGREEMENT**

**APPENDIX II**

between Client and Landscape Consultant for use with the Landscape Consultant's Appointment.

**This Agreement**

is made on the ..... day of ..... 20 .....

between .....  
(insert name of Client)

of .....  
.....  
(hereinafter called the 'Client')

and .....  
(insert name of Landscape Consultant of firm of  
Landscape Consultants)

of .....  
.....  
(hereinafter called the Landscape Consultant)

**NOW IT IS HEREBY AGREED**

that upon the conditions of the Landscape Consultant's Appointment (.....Revision) a copy of which is attached hereto

save as excepted or varied by the parties hereto in the attached Schedule of Services and Fees, hereinafter called the 'Schedule',

and subject to any special conditions set out or referred to in the Schedule:

1. The Landscape Consultant will perform for the Client the services listed in the Schedule in respect of

.....  
(insert general description of project)

at .....  
(insert location of project)

2. the Client will pay the Landscape Consultant on demand for the services, fees and expenses indicated in the Schedule;
3. other consultants will be appointed as indicated in the Schedule;
4. site staff will be appointed as indicated in the Schedule;
5. any difference or dispute arising out of this Agreement shall be referable to arbitration

AS WITNESS the hands of the parties the day and year first above written

Signatures: Client ..... Landscape Consultant .....

Witnesses: Name ..... Name .....

Address ..... Address .....

Description ..... Description .....



# Code of Professional Conduct and Good Practice

## Scope of the Code

The Code as amended below was adopted by the Council of the Society of Garden Designers on 21<sup>st</sup> April 2009 under Clause 10 of the Society's Articles of Association.

This Code is binding on all members of the Society and where present, their partners and/or their employees with effect from 21<sup>st</sup> April 2009.

Breaches of this Code may result in disciplinary action being taken under Clause 6.3 of the Society's Articles of Association.

## 1 Introduction

- 1.1** The purpose and scope of the Code of Professional Conduct and Good Practice is to:
- a. inform members who are providing design services of the standard of professional conduct required of them in the exercise of their professional accountability and practice;
  - b. inform the public, other professions and employers of the standard of professional conduct that they can expect of a member of the Society.
- 1.2** As a member of the Society, you must:
- a. act in such a way that justifies the trust and confidence the public have in you;
  - b. uphold and enhance the good reputation of the profession and the Society.
- 1.3** You are personally accountable for your practice, (be it a single-person, or a multi-person practice). This means that you are answerable for the actions and omissions of your practice, regardless of advice or directions from another professional and/or non-professional.
- 1.4** You must adhere to the laws of the country in which you are practising.

## 2 As a member of the Society, you must at all times act so as to uphold the standing and reputation of the Society and of the profession.

- 2.1** You must not make, support or collaborate in any statement, written or otherwise, which is contrary to your professional opinion, or which you know to be misleading or unfair to others, or otherwise discreditable to the profession or the Society.
- 2.2** Council members, officers of the Society and others representing the Society in any capacity must act in the interest of the Society and must not use their position as representatives of the Society to benefit or further their business interests.



- 2.3 You must not misrepresent your category of membership of the Society, or that of anyone employed by you.
- 2.4 Registered Members may use the Registered Members' logo, as supplied by the Society, in their documentation and promotional material.  
Furthermore:
- Where a Registered Member practices as a Sole Trader under a "trading as" name they are entitled to use the Registered Members Logo in conjunction with their "trading as name" so long as their own name is also present and apparent.
  - Where a Registered Member is a principal member of a multi-person practice, (i.e. a more than one-person practice) that practice will be entitled to use the Registered Member's Logo in conjunction with their practice name, but only when the Registered Member's full name is also clearly displayed.
  - Where a Registered Member is an employee or non principal of a practice/business, that member may use the Registered Member logo in close association with their full name; no larger than the capital letter of their name.
- 2.5 The Society's logo may only be used by the Society itself unless it has given specific prior written consent otherwise.

### **3 As a member of the Society, you must act with integrity and avoid conflicts of interest**

- 3.1 Before commencing any work for a client or employer you must disclose in writing any business, financial or personal interest of yours, or that of any partner, co-director, associate or employee, the existence of which, if not so declared, would or might be likely to raise either a conflict of interest between you and the client or employer or doubts about your integrity.
- 3.2 You must not (in a garden design practice) be a partner, co-director or take up employment with an unsuitable person. Examples of unsuitable persons are:
- A person whose name has been removed from the Directory of Registered Garden Designers by virtue of disciplinary measures
  - A person disqualified from membership of a recognised professional body
- 3.3 You must refuse any gift, favour or hospitality that might be interpreted, now or in the future, as an attempt to obtain preferential consideration.
- 3.4 When you specify or recommend a product, contractor or any other service, you must ensure that your advice is based on your professional opinion as to the relative advantages and disadvantages of alternative products, contractors or services and is not based on commercial gain.



**4 As a member of the Society, you must only undertake professional work for which you are able to provide adequate professional, financial and technical competence and resources.**

- 4.1 This duty arises when a contract is entered into, and continues throughout the term of the contract. The duty does not extend to designers taking part in competitions or otherwise engaged in speculative work.
- 4.2 Where advisable, you must obtain additional expertise and advice from appropriately qualified individuals.
- 4.3 Where professional work is carried out on your behalf by an employee or by anyone else acting under your direct control, you are responsible for ensuring that such person is competent to perform the task and, if necessary, is adequately supervised. You remain responsible for all work prepared and issued under your name.

**5 As a member of the Society, you must only promote your professional services in a truthful and responsible manner and such promotion must not be an attempt to subvert professional work from another designer.**

- 5.1 In advertising your professional services or otherwise drawing them to the attention of a potential client, you must not make untruthful or misleading statements, nor claim to be better than other professional members. Special expertise, however, may be properly claimed and referred to.
- 5.2 Advertisements should conform, as appropriate, to the British Code of Advertising Practice and the ITC and Radio Code of Advertising Standards and Practice.
- 5.3 The business style of a practice should not be misleading nor be capable of being confused with another Practice or service.
- 5.4 In the knowledge that a client already has a contract for services provided by another member, you must not attempt to gain that contract.
- 5.5 Any advertisement or other promotional material that makes reference to the Society or uses the Registered Members' logo must clearly identify the Registered Member to whom such reference applies.

**6 As a member of the Society, you must carry out your professional work faithfully and conscientiously and with proper regard to current technical and professional standards.**

- 6.1 When acting between parties or giving advice, you must exercise impartial and independent professional judgement to the best of your ability and understanding.
- 6.2 You must perform your work with due skill, care and diligence.
- 6.3 You must ensure that you maintain and continually develop your professional knowledge and competence.



- 7 **As a member of the Society, in carrying out or agreeing to carry out professional work you must pay due regard not only to the interests of your client but also to anyone who may reasonably be expected to be affected by your work.**
- 7.1 Whilst your primary responsibility is to your clients, you should nevertheless have due regard to your wider responsibility to conserve and enhance the quality of the environment and its natural resources.
- 8 **As a member of the Society, you must organise and manage your professional work responsibly and with regard to the interests of your clients.**
- 8.1 You must not undertake professional work unless your terms of engagement have been recorded in writing, these to include:
- a. the scope of the work;
  - b. the fee or method of calculating it;
  - c. any limitation of responsibilities.
- 8.2 You must keep your client informed of the progress of work undertaken on their behalf and of any matter that may significantly affect its quality or cost.
- 8.3 You must observe the confidentiality of your client's affairs and must not disclose confidential information without the prior consent of the client or other lawful authority, for example when disclosure is required by order of a court.
- 8.4 It is essential that you are covered by adequate and appropriate insurance, in accordance with statutory requirements. It is recommended that you are also covered by Professional Indemnity insurance. You should ensure that contractors you recommend have adequate and appropriate insurances.
- 9 **As a member of the Society, you must deal with disputes or complaints concerning your professional work or that of your practice or business promptly and appropriately.**
- 9.1 It is recommended that each client is advised at the outset that:
- (a) you are a member of the Society of Garden Designers and are obliged to comply with the Society's Code of Professional Conduct;
  - (b) if you and the client are not able to resolve any issue between yourselves, then the client is entitled to raise issues of professional conduct with the Society; and
  - (c) a copy of the Society's Code of Professional Conduct and Complaints Procedure are available on request.
- 9.2 Complaints should at every stage be handled courteously, sympathetically and where possible in accordance with the following time scale:
- a) an acknowledgement should be sent within 10 working days from the receipt of the complaint; and



- b) a response addressing the issues raised in the initial letter of complaint should be sent within 30 working days from its receipt.
- 9.3 If appropriate, you should encourage alternative methods of dispute resolution, such as arbitration or conciliation.
- 9.4 If you are unable to resolve the complaint to the satisfaction of the complainant, you should advise the complainant that any alleged breaches of the Code may be referred in writing to the Council of the Society. In such case, the Council may invite you and the complainant to attend a hearing. After considering all aspects of the complaint the Council may make recommendations, failure to comply with which may result in expulsion from the Society.
- 9.5 Any complaint received by the Society regarding one of its members will be dealt with in accordance with the Society's Complaints Handling Procedure, a copy of which is available on request.

**Further information**

Printed copies of the Code of Professional Conduct can be obtained by contacting the Society Administrator at the address or contact numbers below or from the Members' section of the SGD website. Enquiries about the issues addressed in the Code of Professional Conduct should be directed in the first instance to the Society Secretary at the address or contact numbers below.

21<sup>st</sup> April 2009

# Landscape Institute

## The Landscape Consultant's Appointment

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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**The Landscape Institute, 33 Great Portland Street  
London W1W 8QG**

**Telephone: 0207-2994500  
Facsimile: 0207-2994501**

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## FOREWORD

This document has been designed to advise Landscape Consultants and their Clients in the execution of landscape commissions. It has been registered with the Office of Fair Trading under the terms of the Restrictive Trade Practices Act 1976.

The Landscape Institute is the Chartered Institute in the UK for Landscape Architects, incorporating Designers, Managers and Scientists. One of its objects is to promote the highest standard of professional service in the application of the arts and sciences of landscape architecture and management. All members of the Institute, collectively referred to in this document as Landscape Consultants, are governed by the Institute's Code of Professional Conduct, but the roles of the members of the three different landscape disciplines vary in accordance with their education and experience.

Landscape Architects (Design) identify and solve problems using design techniques based on an understanding of the external environment, knowledge of the functional and aesthetic characteristics of landscape materials, and of the organisation of landscape elements, external spaces and activities.

Landscape Architects (Management) are concerned with the long-term care and development of new and existing landscapes and also with policy and planning for future management and use. This involves them in the organisation of manpower, machinery and materials and requires a working knowledge of statutory measures and Grant Aid Schemes in order to preserve and enhance the quality of the landscape.

Landscape Architects (Science) are specialists in the physical and biological aspects of landscape design and management. Relating scientific expertise to the practical problems of designers and managers, they may work in any of the many scientific subjects that are relevant to landscape, especially botany, ecology and soil surveys.

The Landscape Institute has produced three inter-related documents which assist clients and landscape consultants to reach clear agreement on the terms and conditions of an appointment. The documents are:

- **The Landscape Consultant's Appointment** which sets out the Memorandum of Agreement as well as the standard and additional services provided, conditions of service which apply and a schedule of services and fees.
- **Engaging a Landscape Consultant – Guidance to Clients on Fees** which shows the various bases on which fees are calculated, and the fees typically charged for the Standard services for projects of a range of sizes and complexity. It provides a basis against which the fee for a particular project can be compared or a starting point for negotiation.
- **Guide to Procedure for Competitive Tendering** which guides clients through the initial considerations and the procedures needed to obtain comparable and valid fee tenders for projects.

Any question on or arising out of the information contained herein may be referred to the Director General, The Landscape Institute, 33 Great Portland Street, London W1W 8QG. Tel: 0207-2994500. Fax: 0207-2994501.



**MEMORANDUM OF AGREEMENT**

Between Client and Landscape Consultant for use with the Landscape Consultant’s Appointment.

**This Agreement**

Is made on the .....day of .....(month and year)

Between .....  
(insert name of Client)

Of .....  
.....  
(hereinafter called the Client)

And .....  
(insert name of Landscape Consultant or firm of Landscape Consultants)

Of .....  
.....  
(hereinafter called the Consultant)

**NOW IT IS HEREBY AGREED**

that upon the Conditions of the Landscape Consultant’s Appointment (Parts 1, 2 and 3) (.....Revision) attached hereto as **Appendix I**

save as excepted or varied by the parties hereto in the Schedule of Services and Fees, hereinafter called the ‘Schedule’, attached hereto as **Appendix II**

and subject to any special conditions set out or referred to in the Schedule:

- 1. The Consultant will perform for the Client the services listed on the Schedule in respect of

.....  
(insert general description of the Project)

at.....  
(insert location of the Project)

- 2. The Client will pay the Consultant on demand for the services, fees and expenses as indicated in the Schedule; in accordance with the following provisions:

- 2.1 The Consultant shall deliver invoices in the instalments and on the dates or in the circumstances specified in the Schedule. Fees so invoiced shall be due to the Consultant on the date of receipt by the Client of the invoice. If sent by post, the invoice shall be deemed to have been received two working days after posting.

2.2 Not later than 5 days after the date of receipt of an invoice in accordance with clause 2.1 hereof, the client shall acknowledge receipt of the invoice and give notice to the Consultant specifying the amount (if any) of the payment to be made and the basis on which that amount is calculated.

2.3 The Final Date for Payment of any sum due from the Client to the Consultant shall be 17 days\* [.....] after the sum becomes due.

*\*insert other period if required*

2.4 Any notice given by the Client of intention to withhold payment pursuant to section 111(1) of the Housing Grants, Construction and Regeneration Act 1996 shall be given not later than 7 days before the Final Date for Payment of any sum due to the Consultant.

AS WITNESS the hands of the parties the day and year first above written.

Signatures: Client.....

Landscape Consultant.....

Witnesses: Name..... Name.....

Address..... Address.....

.....

.....

Description..... Description.....

## **APPENDIX I**

### **PART 1 1 LANDSCAPE CONSULTANT'S SERVICES**

- 1.1 This Part describes the Preliminary and Standard Services which a Landscape Consultant will normally provide. These services are common to large and small commissions and none should be omitted if the commission is to be completed successfully. However, it may be prudent to vary the sequence of the Work Stages or to combine two or more stages to suit the particular circumstances. Where, for any reason, partial services only are to be provided, the agreement between the Client and the Consultant should indicate precisely the extent of those services. Preliminary Services comprise Work Stages A and B; Standard Services comprise Work Stages C to L inclusive. Other Services are described in Part 2.

#### **Work Stage A 1.2 Preliminary Services – Work Stage A: Inception**

**Brief 1.2.1** Discuss and assess the Client's requirements including the timescale and financial limits; advise the Client on how to proceed; advise the Client of the Employer's duties under the Construction (Design and Management) Regulations 1994 ("the CDM Regulations"); agree the Landscape Consultant's services and the terms of engagement and fee payment basis, confirming these in writing with the Client.

**Information which may be provided by the Client 1.2.2** Obtain from the Client information on ownership, other legal interests in the site, existing features, including underground services, and any other matters which may influence the development or management requirements.

**Site Appraisal 1.2.3** Visit the site and carry out an initial appraisal.

**Advice on other Consultants, Specialist Firms and Site Staff 1.2.4** Advise on the need for other consultants' services and the extent of these services; advise on the need for specialist contractors or suppliers to execute the works; advise on the need for site staff.

**Programme 1.2.5** Advise on outline programme and fee basis for further services, and obtain the Client's agreement thereto.

#### **Work Stage B 1.3 Preliminary Services – Work Stage B: Feasibility**

**Feasibility Studies 1.3.1** Undertake such studies as are necessary to determine the feasibility of the Client's requirements; discuss with the Client alternative solutions and their technical and financial implications, advise on the need to obtain planning permissions and other statutory requirements.

**Landscape Consultant's Range of Services 1.3.2** In the light of the feasibility studies, agree with the Client the detailed extent of Standard and Other Services as required.

<b>Work Stage C</b>	<b>1.4</b>	<b>Standard Services – Work Stage C: Outline Proposals</b>
Outline Proposals	<b>1.4.1</b>	Broadly analyse the Client’s requirements, prepare outline proposals and approximate estimate of the cost of executing the proposals for the Client’s approval with other Consultants where appointed.
CDM Designer’s Duties	<b>1.4.2</b>	Perform the following duties of the Designer as defined in the CDM Regulations at the appropriate stages of the commission: <ul style="list-style-type: none"> <li>- co-operate with the Planning Supervisor, if appointed;</li> <li>- pass relevant information to the Planning Supervisor, if appointed, for incorporation in the initial Health and Safety File.</li> </ul>
<b>Work Stage D</b>	<b>1.5</b>	<b>Standard Services – Work Stage D: Sketch Scheme Proposals</b>
Sketch Scheme Proposals	<b>1.5.1</b>	Develop the sketch scheme proposals from those agreed in outline, taking into account any changes requested by the Client, prepare cost estimates and programme for implementation with other Consultants where appointed. The sketch scheme proposals should indicate the size and character of the project in sufficient detail to enable the Client to agree the spatial arrangements, materials and appearance.
Changes in Scheme Proposals	<b>1.5.2</b>	Advise the Client of the implications of any changes in the cost and timing for executing the proposals and obtain approval for such changes.
Outline Planning Application	<b>1.5.3</b>	If appropriate, consult with the Planning Authority and submit any necessary application for outline planning permission using sketch scheme proposals. See also 2.2.8.
Other Approvals	<b>1.5.4</b>	Similarly, make application for any other approvals from statutory bodies, using sketch scheme proposals, where these approvals are not dependent on detailed proposals being available. See also 2.2.8.
<b>Work Stage E</b>	<b>1.6</b>	<b>Standard Services – Work Stage E: Detailed Proposals</b>
Detailed Proposals	<b>1.6.1</b>	Develop the proposals in sufficient detail to obtain the Client’s approval of the proposed materials, techniques and standards of workmanship. When acting as design team leader, co-ordinate the proposals made by other consultants, specialist contractors or suppliers; obtain quotations and other information in relation to specialist work.
Cost Checks and Changes in Detailed Proposals	<b>1.6.2</b>	Carry out cost checks where necessary and advise the Client of the consequences of any changes to the estimated cost and programme. Obtain the Client’s consent to proceed.
Detailed Statutory Approvals	<b>1.6.3</b>	Make detailed applications for approvals under planning and building legislation where necessary, using detailed scheme proposals. See also 2.2.8.
<b>Work Stages</b>	<b>1.7</b>	<b>Standard Services – Work Stages F and G: Production</b>

<b>F&amp; G</b>		<b>Information and Bills of Quantities</b>
Production Information	<b>1.7.1</b>	Prepare all production drawings, schedules and specification of materials and workmanship required for the execution of the work.
Bills of Quantities	<b>1.7.2</b>	Provide information for bills of quantities to be prepared by others. All information to be supplied in sufficient detail to enable a contract to be negotiated or competitive tenders to be invited. See also 2.6.1.
<b>Work Stages H &amp; J</b>	<b>1.8</b>	<b>Standard Services – Work Stages H and J: Tender Action and Contract Preparation</b>
Other Contracts	<b>1.8.1</b>	Where necessary, arrange for other contracts to be let in advance of the Main Contractor starting work.
Tender Lists	<b>1.8.2</b>	With the Client’s participation, advise on suitable contractors and obtain approval of a final list of tenderers.
Tender Action or Negotiation	<b>1.8.3</b>	Invite tenders from approved contractors; appraise and advise on tenders submitted. Alternatively, arrange for a price to be negotiated with a contractor by the Quantity Surveyor. See also 2.6.1.
Contract Document Preparation	<b>1.8.4</b>	Advise the Client on the appointment of the Contractor and on the responsibilities of the Client, the Contractor and the Landscape Consultant under the terms of the contract document; prepare the contract and arrange for it to be signed by the Client and the Contractor; provide production information as required by the contract.
<b>Work Stage K</b>	<b>1.9</b>	<b>Standard Services – Work Stage K: Operations on Site During Construction and 12 Months’ Maintenance</b>
Contract Administration	<b>1.9.1</b>	Administer the contract during operations on site including control of the Clerk of Works where appointed.
Inspections	<b>1.9.2</b>	Visit the site at intervals appropriate to the Contractor’s programmed activities to inspect the progress and quality of the works. Frequency of the inspections shall be agreed with the Client.
Accounts	<b>1.9.3</b>	Check and certify the authenticity of accounts.
Financial Appraisal and Programme	<b>1.9.4</b>	Make periodic financial reports to the Client; with other Consultants where appointed identify any variation in the cost of the works or in the expected duration of the contract.
<b>Work Stage L</b>	<b>1.10</b>	<b>Standard Services – Work Stage L: Completion</b>
Completion of Works	<b>1.10.1</b>	Administer the terms of the contract relating to the completion of the works and give general guidance on activities after completion of contract.

## **PART 2**

## **2 OTHER SERVICES**

**2.1** This part describes services which may be provided by the Landscape Consultant by prior agreement with the Client to augment the Preliminary and Standard Services describe in Part 1 or which may be the subject of a separate appointment. The list of services is not exhaustive.

### **2.2 Surveys and Investigations**

**Site Evaluation**

**2.2.1** Advise on the selection and suitability of sites; conduct negotiations concerned with sites and their features.

**Measured Surveys**

**2.2.2** Make measured surveys, take levels and prepare plans of sites and their features, including any existing buildings.

**Site Investigation**

**2.2.3** Undertake investigations into, prepare reports and schedules, and give advice on the nature and condition of the vegetation, soil or other features of the site. Investigate failures, arrange and supervise exploratory work by contractors or specialists.

**Maintenance and Management Cost in Use**

**2.2.4** Survey and analyse the usage, management and maintenance of a site, undertake cost in use studies, and analyse the need for additional design work.

**Environmental Assessment**

**2.2.5** Undertake environmental assessment studies of the impact of development proposals and land use changes.

**Development Plans**

**2.2.6** Prepare development plans for sites, where development of part of the whole site will not be immediate. Prepare Masterplans showing general scheme principles and layout, and integration with surrounding land uses or proposals.

**Demolition and Clearance**

**2.2.7** Provide services in connection with demolition and clearance works.

**Special Drawings and Models**

**2.2.8** Prepare special drawings, models or technical information for the use of the Client for applications under planning or building regulations, or other statutory requirements, or for negotiations with ground landlords, adjoining owners, public authorities, licensing authorities, mortgagees and others; prepare plans for conveyancing, Land Registry and other legal or record purposes.

**Prototype**

**2.2.9** Develop prototype proposals for repetitive use by the client, but only when such repetitive use is specifically agreed by the Landscape Consultant and Client as appropriate.

**Site Furniture and Equipment**

**2.2.10** Design or advise on the selection of site furniture and equipment; arrange and inspect the fabrication of site furniture, arrange trials and training in use of equipment.

**Multi-Disciplinary Meetings**

**2.2.11** Attendance at multi-disciplinary meetings held to discuss projects or elements outside the Landscape Consultant's appointment or fee basis (where attendance would not otherwise be required for whole or part of meeting).

**Public**

**2.2.12** Prepare and organise material for public consultation and

Meetings	liaison; attend public meetings.
Works of Art	<b>2.2.13</b> Advise on the commissioning or selection of works of art in connection with landscape commissions.
Scientific Developments	<b>2.2.14</b> Undertake research and conduct trials if necessary; especially where technical problems indicate that traditional solutions are inadequate. It is recommended that a full brief, fee basis and funding be separately agreed.
Visits to Nurseries	<b>2.2.15</b> Visit horticultural nurseries to ascertain the quantity, quality and cost of stock available for purchase.
	<b>2.3 Cost Estimating and Financial Advisory Services</b>
Cost Plans and Cash Flow Requirements	<b>2.3.1</b> Carry out cost planning for a project, including the cost of professional fees; advise on cash flow requirements for fees, works and cost in use.
Schedules of Rates and Quantities	<b>2.3.2</b> Prepare schedules of rates or bills of quantities for tendering purposes; measure work executed.
Cost of Replacement and Reinstatement of Damaged Landscape	<b>2.3.3</b> Carry out inspections and surveys, prepare estimates for the replacement and reinstatement of damaged landscapes; submit and negotiate claims for compensation.
Grant Applications	<b>2.3.4</b> Provide information; make applications for and conduct negotiations for grants.
	<b>2.4 Planning Negotiations</b>
Planning Applications; Exceptional Negotiations	<b>2.4.1</b> Conduct detailed negotiations with a planning authority that become prolonged because of complexity.
Planning Appeals and Public Inquiries	<b>2.4.2</b> Prepare and submit an appeal under planning acts; advise on other work in connection with planning appeals. Prepare and submit a proof of evidence for a public inquiry, appear as an expert witness at a public inquiry.
Royal Fine Art Commission	<b>2.4.3</b> Make submissions to the Royal Fine Art Commission.
Building Regulations; Exceptional Negotiations	<b>2.4.4</b> Conduct detailed negotiations for approvals under the building regulations; negotiate waivers or relaxations; all of which may become prolonged because of complexity.
Landlords' Approvals	<b>2.4.5</b> Submit plans of proposed works for the approval of landlords, mortgagees, freeholders or others.
Rights of Owners and	<b>2.4.6</b> Advise on the rights and responsibilities of owners or lessees including right of ways, rights of support, boundary, drainage

Lessees		and wayleave responsibilities etc.; such advice shall always be subject to confirmation by the Client's legal adviser.
Statutory Bodies	<b>2.4.7</b>	Liaise with, submit plans or technical information and conduct negotiations with statutory bodies, e.g. Environment Agency, highway authority, statutory undertakers.
	<b>2.5</b>	<b>Additional Administration of Projects</b>
Site Staff	<b>2.5.1</b>	Provide or recruit site staff with the Client's agreement, for frequent or constant inspection of the works.
Extended Administration	<b>2.5.2</b>	Administer and inspect contract aftercare and maintenance works extending beyond 12 months from completion of the capital works.
Suspension	<b>2.5.3</b>	Suspend and recommence work on projects where progress is unexpectedly delayed by more than 3 months due to financial constraints, delayed approvals or other reasons.
Project Management	<b>2.5.4</b>	Provide management from inception to completion; prepare briefs, appoint and co-ordinate consultants, implementation managers, agents, suppliers and contractors; monitor time cost and agreed targets; monitor progress of the works, handover projects on completion.
Record Drawings	<b>2.5.5</b>	Provide the Client with a set of drawings showing the main elements of the scheme; arrange for drawings of other services to be provided as appropriate.
Landscape Management Plans	<b>2.5.6</b>	Prepare management plans and maintenance schedules; prepare drawings, schedules and operational manuals, assess cost and staffing implications of proposals.
Contract Claims	<b>2.5.7</b>	Carry out the administration, evaluation and settlement of contract claims.
Litigation and Arbitration	<b>2.5.8</b>	Prepare and give evidence, settle proofs, confer with solicitors and counsel; attend court and arbitration hearings; appear before tribunals, act as arbitrator or adjudicator.
Health and Safety Plan	<b>2.5.9</b>	Prepare pre-tender Health and Safety Plan; notify the Health and Safety Executive of the project; assemble the Health and Safety File; prepare 'as built' drawings for the Health and Safety File.
Planning Supervisor	<b>2.5.10</b>	Provide the services of Planning Supervisor under the CDM Regulations. The terms and fee for this service should be agreed under a separate appointment.
	<b>2.6</b>	<b>Services normally provided by other Consultants</b>
Other Consultants' Services	<b>2.6.1</b>	Where services such as quantity surveying, architecture, civil, structural, mechanical or electrical engineering, town planning or graphic design are provided from within the Landscape Consultant's own office or by other Consultants in association with the Landscape Consultant, it is recommended that the fees be separately agreed.

## **2.7 Additional Design Services**

- 2.7.1** Alter or modify any design, specification, drawing or other document as a result of new or modified instructions from the Client or for other reasons which could not reasonably have been foreseen. Make and issue reproductions of such altered documents.

## **PART 3**

### **3 CONDITIONS OF APPOINTMENT**

**3.1** This Part describes the conditions which apply to a Landscape Consultant's appointment. If different or additional services are required they should be set out in the Schedule of Services, Memorandum of Agreement or letter of appointment.

**Duty of Care**                    **3.2**    The Landscape Consultant will use reasonable skill, care and diligence in accordance with the normal standards of the profession.

**Contamination Or Pollution**                    **3.3**    Unless this clause is expressly stated not to apply, nothing in the agreement shall require the Consultant to provide advice or services in connection with the presence of or risk of contamination or pollution by harmful substances. The Client shall retain sole responsibility for determining what, if any, investigations and actions shall be taken in relation to such substances, and shall commission such professional advice as he considers necessary.

**Landscape Consultant's Authority**                    **3.4**    The Landscape Consultant will act on behalf of the Client in the matters set out or implied in the Landscape Consultant's appointment. The Landscape Consultant will obtain the authority of the Client before initiating any service or Work Stage.

**Modifications**                    **3.5**    The Landscape Consultant shall not significantly alter an approved proposal without Client approval. Should changes be found to be necessary during implementation; the Client shall be informed and consent obtained without delay.

**Terms for Payment**                    **3.6**    The Client shall pay the Landscape Consultant for his services in accordance with paragraph 2 of the Memorandum of Agreement, save that in the event of termination or suspension of the commission, the Consultant shall be entitled to payment of a reasonable proportion of the interim payment or at the agreed hourly rate, whichever is applicable, for all work carried out to the date of termination or suspension and not previously the subject of an invoice for interim payment.

**Revisions to the Conditions of Appointment**                    **3.7**    The agreement between a Client and a Landscape Consultant is deemed to allow for revisions due to changing circumstances. In long-term commissions such changes will probably be due to unforeseen factors or matters beyond the control of the Landscape Consultant at the date of the appointment.

**Project Control**                    **3.8**    The Landscape Consultant will report any significant variations in authorised expenditure or contract period.

**Impartiality**                    **3.9**    The Landscape Consultant will be impartial in administering the terms of a contract between Client and Contractor.

**Appointment of Other Consultants**                    **3.10**    Consultants may be appointed either by the Client direct or by the Landscape Consultant subject to acceptance by each party.

<b>Sub-contracting</b>	<b>3.11</b>	The Landscape Consultant shall not sub-contract any part of the commission without notifying the Client and receiving formal agreement on the division of responsibilities that will apply.
<b>Liability of other Consultants</b>	<b>3.12</b>	Where a Consultant is appointed under clause 3.10, the Landscape Consultant shall not be held liable for the other Consultant's work, provided that in relation to the execution of such work under a contract between Client and Contractor, nothing in this clause shall affect any responsibility of the Landscape Consultant to perform his duties under the terms of that contract.
<b>Consultant Co-ordination</b>	<b>3.13</b>	The Landscape Consultant will have the responsibility to co-ordinate and integrate into the overall design the services provided by any consultant, however employed.
<b>Design work by Contractors/ Suppliers</b>	<b>3.14</b>	A specialist contractor, sub-contractor or supplier who is employed by the Client and who supplies design drawings to the Landscape Consultant for incorporation in the works may be appointed by agreement. The Landscape Consultant shall not be held liable for the execution and performance of this work. The Landscape Consultant will have the authority to integrate and co-ordinate this design information into the overall design.
<b>Contractor Responsibility</b>	<b>3.15</b>	The Client will employ a contractor under a separate agreement to undertake construction or other works not undertaken by the Landscape Consultant. The Client will hold the contractor, and not the Landscape Consultant, responsible for the contractor's operational methods and for the proper execution of the works.
<b>Site Inspections</b>	<b>3.16</b>	The Landscape Consultant will visit the site at intervals appropriate to the progress of the works. As these intervals will vary depending on the nature of the work, the Landscape Consultant will explain to the Client at the outset when inspections will be made and agree these with the Client. If more inspections/visits to the site are required by the Client, details, as an extension to the Standard Services, will be agreed in writing with the Client.
<b>Site Staff and Resident Landscape Staff</b>	<b>3.17</b>	Where frequent or constant professional inspection is agreed to be required, a resident professional shall be appointed on a full or part-time basis by the Consultant under specific terms of appointment and remuneration.
<b>Site Staff/Clerk of Works</b>	<b>3.18</b>	Where frequent or constant inspection of the works is required, a Clerk of Works suitably qualified in the supervision of landscape operations shall be employed. The Clerk of Works may be employed by the Client, or the Landscape Consultant, but in either case will be under the control and direction of the Landscape Consultant.
<b>Information from Client</b>	<b>3.19</b>	The Client is required to provide the Landscape Consultant with such information and make such decisions as are necessary for the proper performance of the agreed service. The requirement and reasons for such timely action shall be

explained to the Client by the Landscape Consultant so that the implications of delay are clearly understood by both parties.

- |                                  |   |
|----------------------------------|---|
| <b>Client Representative</b>     | <b>3.20</b> The Client, if a firm or other body of persons, will, when requested by the Landscape Consultant, nominate a responsible representative through whom all instructions will be given.  |
| <b>Copyright</b>                 | <b>3.21</b> Copyright in all documents and drawings prepared by the Landscape Consultant shall unless otherwise agreed remain the property of the Consultant. Where so agreed, copyright shall be passed to the Client only after all fees due to the Landscape Consultant have been paid.  |
| <b>Copyright Entitlement</b>     | <b>3.22</b> The Client will be entitled to use documents and drawings in executing the works for which they were prepared by the Landscape Consultant provided that:<br>a) All fees due to the Landscape Consultant have been submitted or paid.<br>b) The entitlement relates only to that site or part of the site for which the design was prepared.<br><br>This entitlement applies to the design, maintenance and management of the works. |
| <b>Assignment</b>                | <b>3.23</b> Neither the Client nor the Landscape Consultant shall assign the appointment in whole or in part without prior written agreement as to the division of responsibilities that apply.   |
| <b>Suspension</b>                | <b>3.24</b> The length of notice for suspension should be agreed in writing at the outset. The Client may suspend the Landscape Consultant's appointment in whole or in part, the notice given being in accordance with the agreed timing and in writing.   |
| <b>Suspension by Consultant</b>  | <b>3.25</b> The Landscape Consultant will give immediate notice in writing to the Client of any situation arising from force majeure which makes it impractical to carry out any of the agreed services, and agree with the Client a suitable course of action.   |
| <b>Resumption of Service</b>     | <b>3.26</b> Following the notice in accordance with clause 3.24 if no instruction has been received within 6 months, the Landscape Consultant shall make a written request for instructions. If no instruction is received within 30 days, the appointment shall be treated as terminated.  |
| <b>Suspension of Obligations</b> | <b>3.27</b> If the Client fails to make payment in accordance with Clause 2 of the Memorandum of Agreement and no effective notice to withhold payment has been given, the Landscape Consultant may, following 7 days' notice setting out the grounds for suspension, suspend the performance of his obligations under the agreement until payment is received.   |
| <b>Termination</b>               | <b>3.28</b> The Landscape Consultant's appointment may be terminated by either party by following the procedure in clause 3.24, where this is permitted by the appointment.   |

<b>Death or Incapacity</b>	<b>3.29</b>	If death or incapacity of a sole practitioner stops the Landscape Consultant from carrying out the agreed duties under this appointment, it shall be terminated. As soon as all outstanding fees have been submitted or paid, the Client will be entitled to use all data prepared on the project subject to the provisions in respect of copyright in accordance with clause 3.21 and 3.22.
<b>Adjudication</b>	<b>3.30</b>	In the event of a dispute arising under the agreement, either party may give notice at any time to the other of his intention to refer the dispute to adjudication.
<b>Appointment of Adjudicator</b>	<b>3.31</b>	<p>An adjudicator shall be appointed by agreement between the parties within 2 working days of receipt of notice under 3.30 or, failing agreement, within 7 days of the said notice by the President or a Vice-President of the Landscape Institute. The adjudicator shall conduct the adjudication in such manner as he considers fit, having regard to the Construction Industry Council's Model Adjudication Procedure, and subject to the following matters:</p> <ul style="list-style-type: none"> <li>• Within 7 working days of notice under 3.30 the parties shall agree and provide to the adjudicator a joint statement of undisputed facts (so as to reduce the area of dispute to a minimum);</li> <li>• The adjudicator shall act impartially and shall reach a decision within 28 days of referral of the dispute to him or such longer period as the parties may agree;</li> <li>• The adjudicator shall be entitled to extend the period of 28 days by up to 14 days with the consent of the party giving notice under 3.30;</li> <li>• The adjudicator shall be entitled to take the initiative in ascertaining the facts and the law;</li> <li>• The parties shall accept the adjudicator's decision as binding upon them until such time as the dispute is finally resolved in accordance with a ruling under 3.32, arbitration under 3.33 or by agreement; alternatively the parties may agree to accept the decision of the adjudicator as finally determining the dispute;</li> <li>• The adjudicator, or any employee or agent of his, shall not be liable to the parties for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith.</li> </ul>
<b>Ruling on a Joint Statement</b>	<b>3.32</b>	<p>Any difference or dispute arising from a written appointment under this document may, by agreement, be referred to the Landscape Institute for a ruling by the President. The parties must agree:</p> <p>to prepare and submit with their submission a joint statement of undisputed facts to reduce the area of dispute to a minimum; and</p> <p>to accept the ruling as final and binding.</p>
<b>Arbitration</b>	<b>3.33</b>	Subject to the parties' rights under 3.30 to 3.32, any difference of dispute arising out of the appointment shall be referred to arbitration by a person to be agreed between the parties or, failing agreement within 21 days after either party has given to the other a written request to concur in the

appointment of an arbitrator, a person to be appointed at the request of either party by the President or a Vice-President for the time being of the Chartered Institute of Arbitrators.

Alternative for  
Scotland

**3.34** In Scotland, any difference or dispute arising out of the appointment which cannot be resolved in accordance with clause 3.32 or 3.33 shall be referred to arbitration by a person to be agreed between the parties or, failing agreement within 21 days after either party has given to the other a written request to concur in the appointment of an arbiter, a person to be nominated at the request of either party by the Chairman for the time being of the Scottish Branch of the Chartered Institute of Arbitrators.

Settlement of  
Disputes by  
Agreement

**3.35** Nothing herein shall prevent the parties agreeing to settle any difference or dispute arising out of the appointment without recourse to arbitration or adjudication.

Governing laws  
England and  
Wales

**3.36** The application of these conditions shall be governed by the laws of England and Wales.

or

Alternative for  
Scotland

The application of these conditions shall be governed by the laws of Scotland.

or

Alternative for  
Northern  
Ireland

The application of these conditions shall be governed by the laws of Northern Ireland.

CDM  
Regulations  
1994

**3.37** Where the Client is required under the CDM Regulations to appoint a Planning Supervisor, the following Additional Conditions CDM.1 – CDM.6 shall apply to this agreement.

**CDM1** The Landscape Consultant shall, where the Client is required by CDM Regulations to appoint a Planning Supervisor, co-operate with and pass relevant information to the Planning Supervisor (whether within the same firm of landscape consultants or otherwise).

**CDM2** The Client shall, where required by the CDM Regulations, appoint as soon as reasonably practicable a competent Planning Supervisor. The Client shall procure that the appointment remains filled at all times until construction is completed.

**CDM3** The Landscape Consultant shall, where the Client is required by the CDM Regulations to have appointed a Planning Supervisor and where after the design information is complete the Client orders changes necessitating rework, continue to co-operate with and pass relevant information to the Planning Supervisor.

**CDM4** The Client shall, where required by the CDM Regulations, appoint as soon as reasonably practicable a competent Principal Contractor.

**CDM5** The Client shall, where required by the CDM Regulations to appoint a Planning Supervisor, and where consultants are appointed, procure the consultants' co-operation in the exchange of information relating to health and safety aspects of their work, and shall co-operate with the Planning Supervisor.

**CDM6** The Client shall, where required by the CDM Regulations to appoint a Planning Supervisor, and where specialists are appointed, procure the specialists' co-operation in the exchange of information relating to health and safety aspects of their work, and shall co-operate with the Planning Supervisor.

**APPENDIX II**

**SCHEDULE OF SERVICES AND FEES**

Referred to in the Memorandum of Agreement dated .....

Between .....  
(insert name of Client)

And .....  
(insert name of Landscape Consultant)

For .....  
(insert description of project)

Unless otherwise stated the services listed in the conditions of appointment will be as described in The Landscape Consultant's Appointment (Parts 1,2 and 3) (..... Revision), issued by The Landscape Institute. Clause references relate to that document.

**S1 SERVICES**

Service	Clause	Fee basis (State whether percentage, time or lump sum)
---------	--------	--

Preliminary Services

Standard Services

Other Services

**S2 SPECIAL CONDITIONS**

<b>CONDITIONS WHICH SHALL APPLY</b>	Insert any special conditions which are to apply to the appointment.
-------------------------------------	--

<b>CONDITIONS NOT TO APPLY</b>	Insert any clauses which are not to apply to this appointment.
--------------------------------	--

**PERCENTAGE FEES** Fees based on a percentage of the total construction cost shall be calculated as follows:

**LUMP SUM FEES** The total fee for all services shown under S1 Services to be on a lump sum basis shall be:  
£.....

**TIME CHARGE FEES** Rates for fees charged on a time basis shall be:

1. for Principals	£...../hour
2. for other staff grade.....	£...../hour
3. for other staff grade.....	£...../hour
4. for other staff grade.....	£...../hour
5. for other staff grade.....	£...../hour

**INTERIM PAYMENTS** The Consultant shall be entitled to (and shall render invoices for) interim payment of fees:

- for work on a percentage or lump sum basis, at the completion of work stages and/or additional interim stages, as follows:

Work stage	Proportion of percentage or lump sum fee	Cumulative total
------------	--	------------------

\* insert stages and proportions to cover all interim payments

\* delete where not applicable and insert commencement date

- for work on a time-charge basis \*monthly/quarterly/half-yearly from the commencement of work on.....

**EXPENSES AND DISBURSEMENTS**

\* delete where not applicable and insert location of rates schedule.

\* The fees charged are inclusive of all expenses and disbursements  
or  
\* Expenses and disbursements shall be charged in addition, in accordance with rates specified .....

Signed:

.....  
Client Consultant

Date:

.....

Europe  
Ecolo  
Conservation  
Ethics  
Management  
Planning  
Caree  
Quality  
Environm  
Sustainability  
Enviro  
focus  
membership  
practice  
monitor  
professional  
Institu  
Global  
cooperat  
research  
working  
survey  
program  
Wildli  
Code  
interest  
Busine  
information  
Developm  
rotection  
Training  
Countrysi  
consultancy  
Heri  
care  
In Pract



# Code of Professional Conduct

Guidance to members

Institute of Ecology and  
Environmental Management

*Promoting and Supporting Professionalism in the Environment*

Professional Issues Series

5

# Institute of Ecology and Environmental Management

## Code of Professional Conduct

### 1. Introduction

#### 1.1

Members of the Institute of Ecology and Environmental Management are bound by this Code of Professional Conduct. Acceptance of and adherence to this Code is a duty of every member and is a condition of membership.

### 2. Definitions

Throughout this Code:

#### 2.1

“Institute” shall mean the Institute of Ecology and Environmental Management;

#### 2.2

“Employers” shall mean both the employers of members of the Institute under a formal contract of employment and any third party to whom members provide consultancy services;

#### 2.3

“Members” shall mean the members of the Institute as defined in the bye-laws of the Institute;

#### 2.4

“Council” shall mean the Council of the Institute as defined in the Articles of Association of the Institute;

#### 2.5

“Consultancy services” means the provision of advice or other services under a contract for the provision of such services or voluntarily by members in their capacity as ecologists and environmental managers;

#### 2.6

“Continuing Professional Development” means the members’ obligation so to undertake as defined in the guidance to Members and as amended and updated from time to time;

#### 2.7

“Professional duties” means members’ duties and obligations as ecologists or environmental managers;

#### 2.8

“Disciplinary Regulations” means the procedures laid out in the regulations promulgated by the Institute from time to time and so described.

### 3. Objects of the Institute

#### 3.1

Members are expected to conform to the objects of the Institute. These are to:

##### 3.1.1

Advance the science and practice of ecology and environmental management for the public benefit in the United Kingdom and internationally;

##### 3.1.2

Further the conservation and enhancement of biodiversity and maintenance of ecological processes and life support systems essential to a fully functional biosphere;

##### 3.1.3

Further environmentally sustainable management and development;

##### 3.1.4

Promote and encourage education, training, study and research in the science and practice of ecology, environmental management and sustainable development;

##### 3.1.5

Establish, uphold and advance the standards of education, qualification and conduct of those who practice ecology and environmental management as a profession and for the benefit of the public.

### 4. General Professional Obligations

Members shall:

#### 4.1

Ensure that no action on their part is inconsistent with or harmful to the objects of the Institute in the Memorandum of Association of the Institute and listed in Section 3.1 above or brings the Institute into disrepute;

#### 4.2

Maintain high standards of awareness of new developments in ecology and environmental management. Members are required to conform to the Institute’s requirements for Continuing Professional Development;

#### 4.3

Not claim a class of membership other than that approved by the Council;

#### **4.4**

Not represent themselves as speaking or acting with the authority of the Institute unless they have been expressly authorised by the Council to do so;

#### **4.5**

Act honestly in their dealings with others during the discharge of their professional duties.

### **5. Advice and Reports**

When preparing advice and reports members shall:

#### **5.1**

Report correctly, truthfully, clearly and so far as is possible in the circumstances, fully and convey their findings objectively. No member shall fabricate or falsify data or information or commit fraud and members shall use their best endeavours to prevent fabrication, falsification or fraud by others;

#### **5.2**

Identify the limitations to the interpretation of information which is utilised in reports or advice;

#### **5.3**

Not plagiarise or misrepresent the work of others and give full and proper credit for information used and acknowledge fairly the contributions of others;

#### **5.4**

Not use information supplied by a third party without taking reasonable steps to establish its provenance or validity if it is appropriate so to do;

#### **5.5**

Avoid and discourage the dissemination of false, erroneous, biased, unwarranted or exaggerated statements concerning ecology and environmental management;

#### **5.6**

Use their best endeavours to ensure that their advice, assessments or other forms of appraisal have regard to local, regional, national and global implications for natural resources and ecosystems;

#### **5.7**

Wherever possible, make scientific data collected during the course of their professional duties available to others such as records centres.

### **6. Employment Obligations**

Members shall:

#### **6.1**

When in full or part time employment make their employers aware that they have subscribed to this Code and will be subject to disciplinary proceedings by the Institute if they contravene it;

#### **6.2**

Use their best endeavours to agree with their employer at the outset the terms and conditions under which their services are to be provided, including fees, the ownership of copyright and their obligations of confidentiality in respect of the provision of services;

#### **6.3**

Inform a prospective or current employer of all other professional, financial or personal interests in relation to a project;

#### **6.4**

Not solicit or accept financial inducement, favours or preferential treatment that might affect the discharge of their professional duties;

#### **6.5**

Ensure that they have effected professional indemnity insurance appropriate to their professional duties.

### **7. Compliance with the Code**

#### **7.1**

Members shall notify the Executive Director of the Institute of any failure by themselves or any other member to comply with this Code.

#### **7.2**

Any such notification will be considered in accordance with the Disciplinary Regulations.

### **8. Defence of Members**

#### **8.1**

Any member who claims to have been victimised, abused or subject to professional discrimination as a result of compliance with the Code may apply to the Institute for assistance. The Institute may at its sole discretion provide such assistance, as it considers appropriate for as long as appropriate.

### **9. Interpretation of this Code**

#### **9.1**

This Code applies to all members regardless of the country in which work is being carried out. Where local standards of professional conduct are undefined or inadequate, members shall comply with UK practice or where that is not possible, identify and justify any departures and assess their significance.

IEEM

43 Southgate Street, Winchester, Hampshire SO23 9EH

T: 01962 868626

F: 01962 868625

e: [enquiries@ieem.net](mailto:enquiries@ieem.net)

[www.ieem.net](http://www.ieem.net)

**Note:** This revised Code was approved by the AGM on 10th November 2004 and replaces earlier versions.



# Landscape Institute

**ENGAGING A LANDSCAPE CONSULTANT  
GUIDANCE FOR CLIENTS ON FEES  
SEPTEMBER 2002**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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1. Introduction
2. The Client and the Landscape Consultant's Appointment
3. Landscape Consultant's Fees and Expenses

Table 1      Classification of Landscape Work according to complexity

Table 2      Guide to Stage Payment of Fees

Fee Graph    April 2002 Graph

Examples     Worked Examples of Percentage Fee Calculations

Appendix     Fee Guidance for Planning Supervisors

First produced in draft form in June 1995 and based on "Engaging an Architect, Guidance for Clients on Professional Fees" as published by RIBA Publications Limited, and with their permission.

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Engaging a Landscape Consultant, Guidance for Clients on Fees

First Published August 1996

Revised September 2002

Appendix added June 2003

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## **FOREWORD**

The Landscape Institute withdrew its mandatory Scale of Professional Charges in 1986 and up to the first publication of this guidance in June 1995, had no formal basis on which to advise clients and landscape consultants on fees. This guidance acknowledges that fee competition is part of a free market but in order to secure comparable fee offers the client needs a baseline on which to evaluate fee proposals.

This guidance will also help when reading fee agreements, if professional services do not have to be tendered, or where they may be a partnering agreement or a framework agreement.

Value for money flows from landscape consultants who can maintain quality of service through adequate resources, design flair, appropriate experience, a cooperative attitude, and who can invest in people, training and technology through proper levels of remuneration. Experience has now shown that clients who choose on price alone frequently find that this is a recipe for second rate schemes born of a 'adversarial' stance where as little as possible is offered for cut price fees.

In contributing to the Construction Industry Council's (CIC) Guidelines for the Value Assessment of Competitive Tenders, The Landscape Institute is in the main stream of professions that seek to promote the principle of quality balanced with price in providing the best value for money. Government has acknowledged the emphasis on quality as well as price in the procurement of professional services, while still adhering to the principle of competition.

This Guidance for Clients on Fees is as much a fair basis for achieving an appropriate fee as it is a test to identify those who seek to provide the minimum for the cheapest possible fee. I hope that clients and their landscape consultants alike will use it as the main means of evaluating or preparing fee proposals; that clients will consider all that their landscape consultants are offering; and not merely price; and that this Guidance will foster a satisfactory standard of service for fair remuneration.

***Roderick I S Edwards***

**President, The Landscape Institute**

## 1. INTRODUCTION

- 1.1 This booklet has been compiled in response to requests both from clients and members of The Landscape Institute. Its purpose is to improve the working relationship between clients and landscape consultants by providing information and guidance specifically addressed to clients that will lead to a better understanding of how landscape consultants' fees for a professional appointment may be calculated, charged and paid.
- 1.2 To assist clients The Landscape Institute publishes a Register of Practices that includes information on firms that meet the professional qualification, and financial and professional indemnity insurance criteria required by The Landscape Institute. The Director General also operates a nominations procedure to assist clients in selecting a landscape consultant.
- 1.3 *The fee scale graphs included in this booklet are indicative and are intended to act as a guide to help clients and landscape consultants evaluate appropriate offers and agree fees by negotiation.*
- 1.4 Any questions concerning the information contained within this Guide should be referred to the Director General of The Landscape Institute by letter at:

**The Landscape Institute**  
33 Great Portland Street  
London W1W 8QG

*Or by telephone on 020 72994500 or facsimile 020 7299 4501 or email on [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)*

- 1.5 Publications referred to in this Guide that are available from The Landscape Institute are:

The Landscape Consultant's Appointment  
Guide to Procedure for Competitive Tendering  
Directory of Registered Landscape Practices  
Appointing a Chartered Landscape Architect: Guidelines for Best Value

## 2. THE CLIENT AND THE LANDSCAPE CONSULTANT'S APPOINTMENT

- 2.1 Generally.** A sound working relationship between the client and the landscape consultant can contribute significantly to the success of a project. Time spent in preliminary discussion with the landscape consultant is time well spent. The client should talk through the project requirements and discuss whether they can be realised within a budget and to a required programme. The Landscape Institute recommends that clients should have a clear understanding of the total cost of consultancy services including what expenses and disbursements are likely. As the project progresses, clients may wish to be actively involved, with their consultants retained to explain and advise.
- 2.2 Form of Agreement.** The agreement between client and landscape consultant may take the form of an exchange of letters in the case of small or simple projects, but for anything larger or more complex it is advisable to use the standard Memorandum of Agreement of The Landscape Institute. Under The Landscape Institute Code of Conduct it is the duty of the landscape consultant to write to the client setting down the terms of a commission.
- 2.3 The Landscape Consultant's Appointment.** This is a standard form that consists of a number of parts designed to enable the client and the landscape consultant to define the most appropriate range of services and conditions of appointment for a project. It should assist the parties to express formally the agreement reached between them.
- 2.4 Standard Form of Appointment.** This standard form of appointment covers the four parts set out below, a Memorandum of Agreement and a schedule Table 2 lists the work stages that form part of "Preliminary" and "Standard Services."
- 2.4.1 Part 1. *The Landscape Consultant's Services* lists and describes the "Preliminary" and "Standard Services" that are normally provided, and are common to most commissions.
- 2.4.2 Part 2. *Other Services* lists and describes a range of activities that can be agreed as independent elements of work, or as a supplement to "Preliminary" and "Standard Services."
- 2.4.3 Part 3. *Conditions of Appointment* describes the conditions that normally apply.
- 2.4.4 Part 4. *Professional Fees*, incorporates and expands on this Guidance.
- 2.4.5 *The Memorandum of Agreement* is a format for recording the parties to the agreement, the name and nature of the commission and the location where works are to be carried out.
- 2.4.6 *The Schedule of Services and Fees* is a format for setting out the consultancy services in detail and the agreed basis for calculating fees specifically related to the commission, forming an essential part of an agreement between client and landscape consultant.
- 2.5 Design and Build Projects.** In the Design and Build approach to construction, clients may wish to appoint a landscape consultant to help define requirements, and the contractor may also wish to appoint a landscape consultant to help develop the design. In either situation, the appointment of a landscape consultant can be properly formalised using the Memorandum of Agreement.

### 3. LANDSCAPE CONSULTANT'S FEES AND EXPENSES

- 3.1 Generally.** The landscape consultant's fees are commonly calculated on a time-charge, lump sum or percentage basis, although some work may be dealt with on a retainer or term commission basis. Expenses are generally charged separately in addition to fees.
- 3.2 Time Charged Fee Basis.** This basis is best used where services cannot be related to the construction cost of landscape works. Where the landscape consultant's appointment is for consultancy and advisory work or for preliminary or other additional services to an otherwise "Standard Service," fees should be on a time charged basis. The agreed hour/daily/weekly rates for each grade or individual member of staff, including principals working directly on the commission, should be stated in an agreement. Review dates for these rates should also be stated.
- 3.3 Lump Sum Fee Basis.** Lump sums are best used where the scope of the work can be clearly defined from the outset for any of the services described in Parts 1 and 2 of the Landscape Consultants Appointment, but where there is no firm project cost. It is necessary to define the services required and the project size and complexity, so that if these are varied by more than an agreed amount the lump sum itself may be varied. Alternatively, time charges may be agreed as the basis for payment for making variations.
- 3.4 Percentage Fee Basis.** This is best used for straightforward landscape projects where the "Standard Services" as described in Part 1 of the Landscape Consultant's Appointment Work Stages C to L are to be carried out. Fees can be expressed as a percentage of the total construction costs of a landscape contract or subcontract for which the landscape consultant is responsible. Subcontract costs should include an apportionment of main contractor's attendance, preliminaries, profit allowances and fluctuations. Separate fee calculations are appropriate for each separate landscape commission within a major construction contract. These contracts may be made up of phased development of one site over time or be a number of physically separated development sites in one main commission, which are implemented as separate contracts.
- 3.4.1 The Fee Graph indicates the fee costs that may be incurred by the client for landscape consultants' "Standard Services," expressed as percentages of the contract sum. The four graph curves show the range of percentage fees at differing complexity ratings for works of £22,500 and above. Lower fee percentages may be normally expected with higher contract sums and vice versa. Projects below the £22,500 threshold should be agreed on a time-charge or lump sum fee basis.
- 3.4.2 Landscape work varies in complexity and fees therefore vary to reflect the amount and level of service required to undertake schemes satisfactorily. In the experience of members of The Landscape Institute some projects, such as environmental improvements, involve substantially more input at all stages than other projects. To reflect this difference in complexity, Table 1 shows four different classifications of landscape work.
- 3.4.3 The four curves on the Fee Graph correspond to these four classifications and show the normal percentage fee curve (complexity rating 1), and three other curves (complexity ratings 2, 3, 4), that cater for work that is more demanding of professional time, office resources, skills and experience. The consultant can advise on the complexity rating of projects not listed in Table 1.

3.4.4 A series of worked examples of percentage fee calculations is shown on the final page of this booklet.

**3.5 Retainer Fee Basis.** This basis may be used where the client wants to retain the services of a landscape consultant on an “as needed” basis over the extended period of time, during which all work arising is required to be carried out by the landscape consultant. This basis is also applicable to term commissions.

3.5.1 Retainer or term commission fees may be calculated either as a sum additional to any fees calculated by other methods or as a payment based on an estimated time commitment when the landscape consultants retains resources constantly ready to fulfil the client’s requirements if so requested.

3.5.2 The retainer or term commission fee may, by prior arrangement, be allowed to stand in full, irrespective of the amount of work involved or it may be recalculated on a monthly, quarterly or yearly basis according to the actual commitments.

**3.6 Apportionment of the different methods of fee calculation:**

3.6.1 Part 1 – “Preliminary Services,” Inception and Feasibility, Stages A and B are normally carried out on a time charged basis. Outline and Sketch scheme proposals, Work Stages C and D, may also be carried out on a time charge basis where several scheme options are being considered or complex approvals are being sought from planning authorities. Once the scope of a scheme is agreed and approved, and there is a commitment to construct the project, a percentage fee may be agreed in relation to the construction cost. This should reflect the degree of work already executed under a time charge agreement. Where extensive inspections of site works, or inspections over an extended maintenance period are required, an additional time charge would again usually be appropriate.

3.6.2 Part 1 – “Standard Services,” Stages C to L are normally carried out on a percentage fee basis or lump sum.

3.6.3 Part 2 – “Other Services,” are normally carried out on a time-charged or lump sum basis.

**3.7 Payment of Fees.** Timely settlement of accounts is an essential part of a good working relationship. Clients may prefer to pay fees according to a plan of programmed installments. The certainty of this arrangement allows payments to be budgeted for over a period. Alternatively, fees may be paid at the completion of each work stage. Where this arrangement is agreed, the apportionment in Table 2 is offered as a guide.

**3.8 Expenses and Disbursements.** In addition to appropriate fees the landscape consultant can agree with the client the reimbursement of expenses and disbursements properly incurred in connection with the appointment. If the client requests a budget estimate of expenses, the consultant should clearly state what has been included.

3.8.1 Expenses might include, for example, the cost of printing, reproduction or purchase of documents, drawings, maps, models, photographs, hotel and travelling expenses, the cost of postage, telephone, fax and any other agreed items. The management of

suppliers and the settlement of bills on behalf of a client may be subject to a management charge.

3.8.2 Disbursements such as planning application fees, land survey and soil testing charges, are costs that may be necessarily incurred by the landscape consultant but should be properly borne by the client. Furthermore, where the landscape consultant is required to manage the work of other specialist suppliers or consultants and settle the account of a specialist appointed by agreement with the client, a handling charge may be added. Alternatively, the client may appoint the supplier or specialist separately and settle their accounts directly.

**3.9 Construction Design and Management (CDM) Regulations.** Through the Construction Industry Council Health and Safety Task Force, The Landscape Institute maintains a dialogue with the Health and Safety Executive on the applicability of the regulations to landscape works. Consultant's fees for services under the CDM Regulations should be agreed and expressed separately.

**3.10 Community Group and Grant Aid schemes.** Where materials or labour are offered to a scheme at less than market rates the client and landscape consultant should be aware of any distortion in the basis of a percentage fee based on the contract value.

**3.11 Design Competitions.** This is a way of discovering the range of design options that may be available for major projects. A number of practices may be invited to compete in offering design solutions. Unless entirely open competition is required, it is not advisable to ask too many practices to spend extended amounts of time working speculatively. Drawing up a select list of say 3-5 competitors is an efficient way of developing participants' enthusiasm for producing a satisfactory outcome of quality. Further, clients who agree to cover the costs of each competing practice's output, recognise that this is a fair and reasonable compensation for valuable creative work. The Landscape Institute has an established procedure for initiating and regulating competitions which may be held on a local or national scale and the Director General will be happy to advise.

**3.12 Contingency Fees.** Where all, or part, of a fee is contingent upon the outcome of a decision such as the success of a competitive bid or a grant application, the terms of any fee should be stated particularly clearly.

**TABLE 1**

Classification of Landscape Work according to complexity

WORK TYPE	COMPLEXITY RATING			
	1	2	3	4
<i>Planting Design and Implementation Services for -</i>				
Golf Courses and Rural Sports Projects	3			
Rural Roads and Parking	3			
Country Parks and Estates	3			
Rural Recreational Areas	3			
Afforestation/Shelter Belt Planting/Hedgerow renewal	3			
Rural Amenity Schemes	3			
<i>Comprehensive Design and Implementation Services for -</i>				
Agricultural Improvement and Estate Enhancements		3		
Coastal Defence and River Catchment Schemes		3		
Camping and Caravan Sites, Tourist Facilities		3		
Cemeteries, Crematoria and Gardens of Remembrance		3		
Industrial, Commercial & Research & Development Sites		3		
Roads and Roadside Facilities and Parking Schemes		3		
Coastal Marinas and Water Recreation and Sports Schemes		3		
Inland Marinas, Canal, River and Lakeside Schemes		3		
Rural Recreational and Pursuits Centres		3		
Infrastructure, Parking & Access for Major Projects			3	
College & University Campuses			3	
Defence Establishments			3	
Hospital Grounds			3	
New Housing			3	
School Grounds and Playing Fields			3	
Sports Stadia & Multi Sports Facilities			3	
Golf Courses & Recreational Properties			3	
Urban Offices and Commercial Properties			3	
Public Parks, Exhibition Sites and Urban Recreation Areas			3	
Mineral Workings and Landfill Sites			3	
Reclamation of Contaminated or Derelict Land				3
Urban Rehabilitation, Pedestrianisation, Renewal				3
Urban Environmental Improvements				3
Garden Design Historic, Restoration or Conservation				3

1. Work in Column 1 is classified as normal, whereas columns 2, 3 and 4 list work of increasing complexity. These classifications are shown on the graph.
2. Where the landscape work is not listed above but falls within or between complexity ratings, the client and landscape consultant may decide to interpolate an appropriate complexity rating and graph curve.
3. Environmental Assessments, Landscape Appraisals, Siting Studies and Development, Conservation and other Environmental Strategy Planning Studies are normally remunerated on a time or lump sum basis.

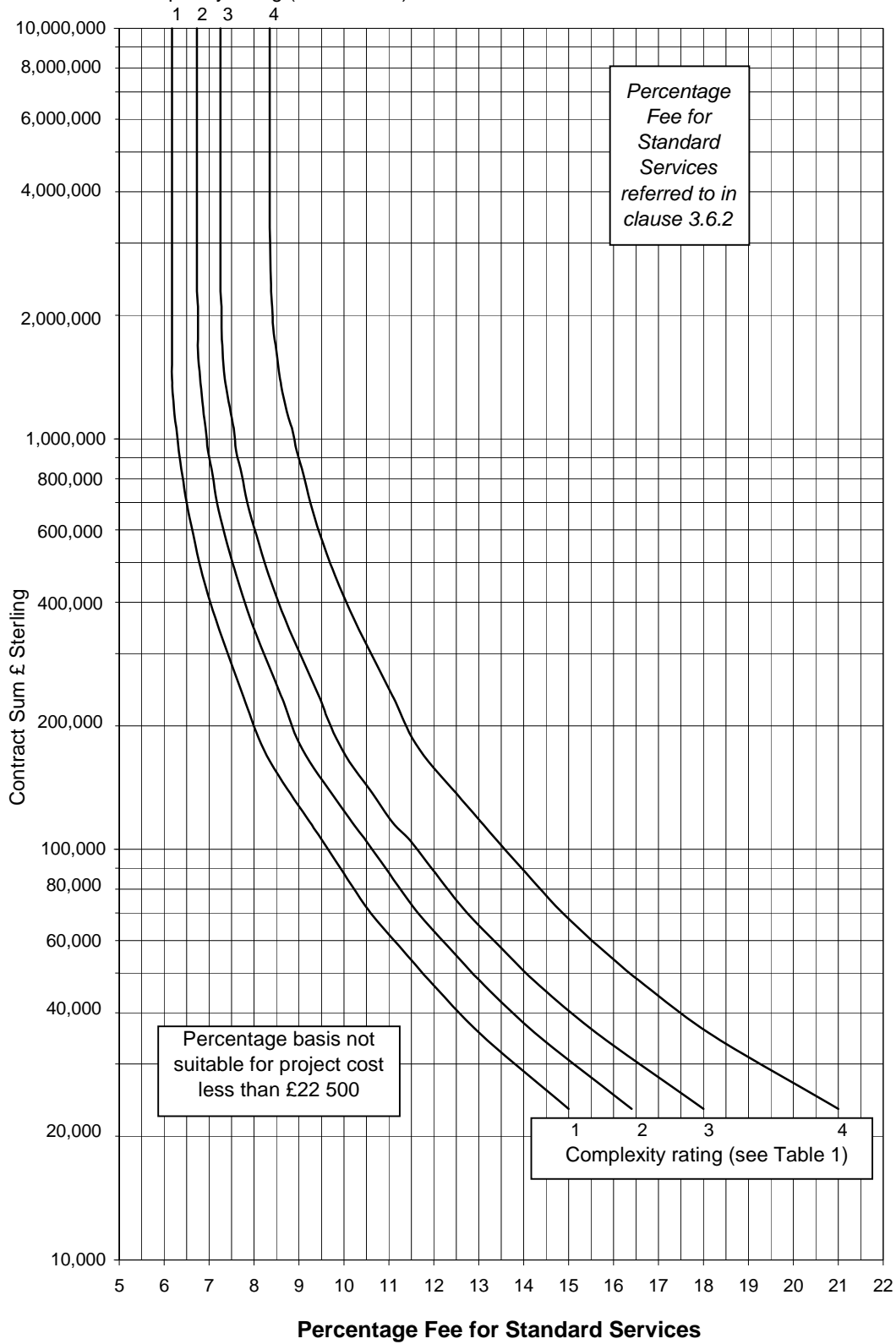
**TABLE 2**

Guide to Stage Payments of Fees, Relevant Fee Basis and Proportion of Fee Applicable to Lump Sum and Percentage Fee Basis. Details of Preliminary, Standard and Other Services are set out in detail in the Landscape Consultant's Appointment.

WORK STAGE	RELEVANT FEE BASIS			PROPORTION OF FEE	
	Time	Lump	%age	Proportion of fee	Total
<b>Preliminary Services</b>					
A Inception	3	3	N/A	N/A	N/A
B Feasibility	3	3	N/A	N/A	N/A
<b>Standard Services</b>					
C Outline Proposals	3	3	3	15%	15%
D Sketch Scheme Proposals	3	3	3	15%	30%
E Detailed Proposals	3	3	3	15%	45%
FG Production Information	3	3	3	20%	65%
HJ Tender Action & Contract Preparation	3	3	3	5%	70%
K Operations on Site				25%	95%
L Completion	3	3	3	5%	100%
	3	3	3		
<b>Other Services</b>	3	3	<b>N/A</b>		
<b>Timing of Fee Payments</b>					
<p>Percentage fees are normally paid at the end of each work stage. Time based fees are normally paid at monthly intervals. Lump sum fees are normally paid at intervals by agreement. Retainer or term commission fees are normally paid in advance, for predetermined periods of service.</p>					

# PERCENTAGE FEE GRAPH FOR STANDARD SERVICES - APRIL 2002

Complexity rating (see Table 1)



## WORKED EXAMPLES OF PERCENTAGE FEE CALCULATIONS

### WORKED EXAMPLE 1

Project Type                    Caravan Site  
Services Required            To Detailed Proposals – Work Stages C to E  
Budget                            £120,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 2  
**Step 2** Decide on Services required and Proportion of Fee                    - To Detailed Proposals, 45%  
**Step 3** Read off Graph, Complexity Rating 2, the % fee of £120,000                    - Graph Fee 9.9%  
**Step 4** Multiply the Proportion of Fee (45%) by the Graph Fee (9.9%)- Adjusted Fee – 4.46%  
**Step 5** Calculate the Guide Fee (4.46% of £120,000)                    - Guide Fee - £5,352  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 2

Project Type                    New Housing  
Services Required            Full Standard Services – Work Stages C to L  
Budget                            £350,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 3  
**Step 2** Decide on Services required and Proportion of Fee                    - To Completion, 100%  
**Step 3** Read off Graph, Complexity Rating 3 the % fee of £350,000                    -Graph Fee 8.8%  
**Step 4** Multiply the Proportion of Fee (100%) by the Graph Fee (8.8%)- Adjusted Fee – 8.8%  
**Step 5** Calculate the Guide Fee (8.8% of £350,000)                    - Guide Fee - £30,800  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 3

Project Type                    Urban Environmental Improvements  
Services Required            To Production Information – Work Stages C to G  
Budget                            £1,250,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 4  
**Step 2** Decide on Services required and Proportion of Fee                    - To Production Information, 65%  
**Step 3** Read off Graph, Complexity Rating 4 the % fee of £1,250,000                    - Graph Fee 8.6%  
**Step 4** Multiply the Proportion of Fee (65%) by the Graph Fee (8.6%)- Adjusted Fee – 5.59%  
**Step 5** Calculate the Guide Fee (5.59% of £1,250,000)                    - Guide Fee - £69,875  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

## APPENDIX

### FEE GUIDANCE FOR PLANNING SUPERVISORS

The Association of Planning Supervisors has published a leaflet for clients. 'Ensuring Adequate Resources – Guidance for Clients'\* discusses the services that a Planning Supervisor will provide for the client, and the resource implications of those services. The leaflet stresses that the client has a legal duty under the CDM Regulations to be reasonably satisfied that the appointed Planning Supervisor has "allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations.."

Guidance on the Planning Supervisor's fee will be of interest to landscape architects, whether commissioning a project team or acting as Planning Supervisor themselves.

The APS has examined the fees from more than 10,000 projects of different types, sizes and complexity to compile indicators which clients can refer to. Complexity in this case refers to health and safety issues such as the number of personnel on site, the number of separate contractors and operations on site, and the nature and hazards associated with the work type. The fee indicator in relation to project value and complexity is presented on graphs, as a recommended percentage of the project value.

As an indication, the following points have been taken from those graphs:

	Fee percentage		
Project value	Low complexity	Medium complexity	High complexity
£35,000	2.0	3.6	5.25
£250,000	0.8	1.3	1.8
£2,500,000	0.32	0.64	0.96

The full guide may be ordered in packs of 10 from the APS. Contact details and publication prices are at [www.aps.org.uk](http://www.aps.org.uk) or 16 Rutland Square, Edinburgh EH1 2BB.

\*Published 17 April 2003 by the Association of Planning Supervisors.

# Landscape Institute

## Appointing a Chartered Landscape Architect **GUIDELINES FOR BEST VALUE**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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Figure I: Summary of Selection Process

Published by the Landscape Institute.

Published in this version March 2003.

Whilst every effort is made by the Landscape Institute to ensure the accuracy of the information contained herein the Landscape Institute does not accept any responsibility for any errors or misinterpretation or for any loss or damage arising from or related to its use.

# FOREWORD: 'COMMISSIONING A LANDSCAPE CONSULTANT'

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- 1.1 Landscape consultants are able to offer a wide range of general and specialist services, sometimes working as members of multidisciplinary teams, but commonly acting as the sole advisor to their client.
- 1.2 The commissioning process involves identifying a practice able to satisfy the client's requirements, or making a selection from a number of such practices, determining a fee or remuneration basis agreeable to both parties, and finally completing a formal agreement or contract for the work. There are various ways in which a Landscape Consultant may be selected and commissioned and the following are examples, each suited to particular circumstances.
- **Direct Appointment** with a known practice
  - **Negotiation** with one or more practices to agree on a fee basis
  - **Quality – based selection** between a number of practices
  - **'Two-envelope'** system
  - **Competitive Fee Tendering** to select on the basis of fee alone
  - **Design Competition** to produce design ideas from which to select a practice.
- Additionally, The Public Services Contracts Regulations 1993 which implement European Union rules for projects exceeding a threshold value must be observed.

## GUIDANCE FROM THE LANDSCAPE INSTITUTE

The Landscape Institute has produced a series of publications dealing with the various aspects of appointing a Chartered Landscape Architect, listed below.

**Engaging a Landscape Consultant: Guidance for Clients on Fees** is a guide designed to improve the working relationship between Clients and Chartered Landscape Architects by providing information about how fees may be calculated, charged and paid. An invaluable guide to agreeing fees by negotiation that are fair to both parties. There are no standard fee scales, although methods of calculating fees on a time basis, on a percentage of the project value basis, or as a lump sum are common. Practices are able to describe the fairest means of achieving a fee agreement and can estimate the sums involved in order to give the client an order of cost.

**Directory of Registered Landscape Practices** lists practices meeting particular professional criteria. If guidance is required in selecting practices from the Directory, the Landscape Institute is always happy to assist and a procedure for nominating a short list of practices for interview is operated by the Director-General through the Nomination Panel.

**The Landscape Consultant's Appointment** is a booklet intended to help clients to identify the landscape services which they require. Included in it are a description of the work of landscape consultants, a specimen Memorandum of Agreement and specimen Schedules of Services and Fees. It is strongly recommended that clients read this booklet and use it as the basis of the Agreement with their chosen consultant whichever method of selection is used because any agreement between client and consultant must clearly set out the full scope of the commission in respect of the services to be provided, the division of responsibilities and any limitation of liability, the payment of fees including rates and methods of calculation, and the provision for termination. The most successful relationships between Client and Consultant are those that proceed in an atmosphere of trust and goodwill. Consequently the sharing of salient information at the outset is an important aspect of achieving a successful commission.

**Guide to Procedure for Competitive Tendering** gives advice on using competitive fee tendering to select a landscape practice, including Form of Tender, Schedule of Services and Fees and Memorandum of Agreement.

# 1. Introduction: Best Value in selection and appointment

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1.1 Landscape Architecture is a specialist and often complex task requiring a proper understanding of the site and the Client's needs. This document sets out 'Best Practice' guidelines to assist public and private sector Client bodies to prepare selection procedures which are **open, fair, efficient, economical to implement**, and which **achieve best value** for the Client. The guidelines can also be used to review existing procedures and, where necessary, to revise them to ensure best value. It is vital to choose a suitable professional for the job **at the outset** if best value for money is to be achieved. Although professional fees form only a small part of the whole-life cost of a project, the results of the professional's services can be far more significant, altering the construction/ running costs by far more than the fees charged.

1.2 Good selection procedures - whether or not they lie within a Best Value<sup>1</sup> framework - should define the project and services required, and lead to the appointment of the Chartered Landscape Architect best able to meet those requirements. Where a competitive tender process is chosen (or is required by Standing Orders) the process should achieve that aim with the minimum cost and effort both by the Client and by competing Chartered Landscape Architects, so that the complexity of the tendering procedure is matched to the scale of the potential commission. Best Value requires that the transaction costs associated with procurement should form part of the assessment of procedure options. Thus, the costs of preparing for tendering should not outweigh any potential savings achieved by this method of procurement. It should be remembered that design services are not a commodity with a measured 'Bill of Quantities' from which the work can be revalued on completion.

## **Direct appointment**

1.3 Generally, consultants are willing to discuss a potential appointment with a prospective client without obligation. Effort is concentrated on making progress with the project, and both parties benefit from considering the location and type of project that might be involved, the budget for the proposed works and the involvement of other professional advisers that may be working on the client's behalf.

1.4 Contact can be made simply by a telephone discussion followed by a written description and a meeting. There is some merit in approaching local consultancies if the project is within easy reach of their offices. The comprehensive skills of a national practice can also often be available locally.

1.5 The client may examine examples of previous work and/or the individuality of design approaches shown by practices in order to consider their suitability. Many clients build an established working relationship with one or more practices to their mutual benefit.

## **Negotiation**

1.6 For large or extended commissions, clients may wish to negotiate with one or more practices to obtain the most favourable fee agreement appropriate to the commission. Discussion of the client's particular requirements will enable consultants to tailor the brief and fee basis to mutual advantage.

## **Term Appointments, Framework Agreements and Partnering Arrangements**

1.7 These arrangements offer benefits including reduced administration, improved efficiency and economy, established communication, flexibility and consistency of service. Government and industry initiatives encourage the use of these longer term

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<sup>1</sup> See DETR Best Value website [www.local-regions.detr.gov.uk/bestvalue/htm](http://www.local-regions.detr.gov.uk/bestvalue/htm) and [www.wales-bestvalue.org](http://www.wales-bestvalue.org)

arrangements as an alternative to single project tendering, particularly where a series of smaller and/or similar projects is anticipated.

### **Design competitions**

- 1.8 Design competitions operated in accordance with the Landscape Institute's guidance<sup>2</sup> are an effective way for the Client to obtain a wide range of initial ideas for a project at a conceptual stage.

### **Design and build contracts**

- 1.9 Design and Build Contracts encourage co-operation between designers and contractors, and allow the skills of both to be integrated in the design and implementation phases. However, such contracts will only achieve a good quality environmental or landscape outcome if the relevant component is clearly defined in the brief and forms part of the assessment of tenders.

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<sup>2</sup> See the LI's Landscape Competitions: Guidance Notes for Promoters

## 2. Developing the project

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- 2.1 The initial development of a project is a vital stage. It is helpful to engage a Chartered Landscape Architect at this early stage, to formulate and appraise options, consider the project's feasibility and advise on implementation. An **outline programme** for the conceptual stages, design process, procurement and implementation should then be developed **before** the selection process is decided. It is essential to consider matters such as the project's objectives, timescale, complexity, broad budget, need for EIA and planning permission, physical resources available and also whether a Client will participate directly in the design process or will use in-house expertise.
- 2.2 Clients often assemble or have access to useful background information on the site and on the project requirements. It is recommended that this information be collated and reviewed as the project is developed. It should then be provided, in a summarised form, to each potential project team to assist the Chartered Landscape Architects and so save time and money.
- 2.3 Clients must allow themselves adequate time to select the right Chartered Landscape Architect. The selection procedures should identify the **key qualities** of the service required and **clearly present the selection criteria**. Procedural guidelines for preparing a draft, project-specific, selection process are given in Section 4. Where appropriate, this process should be approved by the authorising body (e.g. Senior Officer, Council Committee, grant-aiding body) before the full brief is drafted. Any constraints such as fixed Standing Orders for the selection process or selection criteria (e.g. lowest price must be selected) should be made clear from the outset.

### 3. Preparing the brief

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- 3.1 The brief is the key document that sets out the Client's intentions for the commission, the services to be provided by the Chartered Landscape Architect and the contractual basis for the commission<sup>3</sup>. The brief provides the basis against which the consultant's services will be judged and should explain clearly what they are expected to do. A clear and comprehensive brief helps avoid qualified bids or unexpected claims for extra fees as the work progresses, and will reduce time spent dealing with queries from competing consultants during the selection process. The brief should avoid open-ended and unquantifiable requirements unless the remuneration is also open-ended.
- 3.2 The Landscape Institute<sup>4</sup> recommends that the brief should cover a description of the proposed project (including location and programme); all relevant information (including previous studies, survey information etc) and the Client's requirements with regard to:
- ◆ the project (objectives and output from the commission)
  - ◆ consultancy services within the commission
  - ◆ relationship with separately appointed members of the team.
- 3.3 For large or complex projects it may be advisable to seek professional assistance with the drafting of the brief, particularly where a number of disciplines are to be appointed or the work includes research/site investigation. When inviting expressions of interest in tendering, informal comments on a draft brief and indicative budget can be sought from potential consultants, to identify any ambiguity, impractical requirements or open-ended items.

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<sup>3</sup> The Landscape Institute recommends the use of The Landscape Consultant's Appointment.

<sup>4</sup> 'Guide to Procedure for Competitive Tendering' published by the Landscape Institute.

## 4. Methods of Selection

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There are various alternative methods of selecting a Chartered Landscape Architect:

### **Direct Appointment**

- 4.1 Appropriate following a discussion about the project and the appropriate fee. Such discussion maximises each party's understanding and can lead to an established working relationship to mutual benefit. Direct appointment is often the least costly method of appointment.

### **Design competitions and technical proposal competitions**

- 4.2 These assist the Client to discover the range of options that may be available for major projects. The Landscape Institute recommends its own established procedure which covers the preparation, judging and remuneration of competitions.

### **Quality Based Selection**

- 4.3 This overcomes the difficulty of specifying the project and services, and avoids the negative influence that price tendering has on the quality of the work undertaken. A Chartered Landscape Architect is selected on the basis of relevant qualities and the experience required for the project. The project and services are then defined jointly, drawing on the Consultant's expertise, and finally the fees for the agreed services are concluded by negotiation with reference to published guidance<sup>5</sup> and other benchmarks<sup>6</sup>.

### **Two-envelope system**

- 4.4 This system combines quality selection with price competition. Each shortlisted tenderer submits a technical (or design) proposal and a separate sealed fee tender based on a full brief. Once all the technical proposals have been evaluated and ranked, the fee envelopes are endorsed with the ranking. The fee envelope of the first choice tenderer is opened and the commission is awarded unless the fee exceeds the acceptable limit, in which case the second-ranked fee envelope is opened. When the commission is awarded, remaining fee envelopes are returned unopened.

### **Competitive fee tendering**

- 4.5 This relies on the Client's ability to select a number of appropriate Consultants to tender, and to specify the project and services required exactly, so that all tenderers price the same work. The Landscape Institute's guide sets out the recommended process in detail. As detailed information must be provided to tenderers, and the service provided must be carefully monitored, this method is not suited to projects with small budgets or where the Client cannot devote sufficient professional staff time to the process.

### **Tendering**

- 4.6 All tendering requires the investment of time and resources, both for the Client and competing Chartered Landscape Architects. Unless the process selects the best Consultant for the project with the least effort from all parties, it will not give the best value for money. If the consultant is selected on the basis of quality as in section 4.3 then best value can be achieved in a more straightforward way.

Inefficient tendering:

- ◆ wastes the Client's staff time and money
- ◆ adds to tenderers' operating costs, increasing overall prices
- ◆ wastes all parties' effort and time which could better be spent working on the project
- ◆ may deter well-qualified Chartered Landscape Architects from bidding for the project.

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<sup>5</sup> Appointing a Landscape Consultant: Guidance for Clients on Fees

<sup>6</sup> This method is explained in detail in the Construction Industry Council's publication 'A Guide to Quality Based Selection of Consultants: A Key to Design Quality'.

## 5. Selection procedures

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### Required Knowledge

- 5.1 To select the most suitable Chartered Landscape Architect for a project, the Client needs to know:
- ◆ the nature and size of the project
  - ◆ the professional services required
  - ◆ the skills, resources and qualities which will contribute to the project's success
  - ◆ the degree to which interested Chartered Landscape Architects possess those skills, resources and qualities.
- 5.2 Before commencing a potentially expensive selection process, tenderers need to know:
- ◆ the nature and size of the project
  - ◆ the stages and requirements of the selection process
  - ◆ the criteria for selection
  - ◆ the probability of success.

Where the Client does not have in-house landscape expertise, it is advisable to engage independent professional assistance for the preparation of the background information and brief. A feasibility study is often a valuable initial step, well worth the time charge or lump sum fee.

### Key principles

- 5.3 The Landscape Institute recommends that the selection procedure embody the following principles, to ensure that selection procedures are logical and fair, and that the effort involved does not outweigh the benefits to either party. Each stage in the process should aid the selection of the most suitable Consultant.

### Scoring systems

- 5.4 Scoring systems which give due weight to each selection criterion should be established at the outset and made available to all Chartered Landscape Architects expressing interest. This may be a difficult process for some clients, but guidance has been published by the Landscape Institute.
- The marks available under each category should be stated, and the Client should ensure that the necessary assessment skills are available either in-house or externally. Marks for price should be awarded relative to a realistic estimate of the financial resources required for the project, rather than relative to the lowest tender received as this can distort the scoring mechanism.
- The Institute has available a publication 'Engaging a Landscape Consultant: Guidance for Clients on Fees' which may help the Client assess a realistic fee structure in relation to the scale and complexity of the project and the staff resources required.

### Price

- 5.5 Price is commonly a significant factor in the selection of a Chartered Landscape Architect even though it is very difficult to reach an acceptable 'trade off' between quality and price. It is simplistic and misleading to assume that all Chartered Landscape Architects passing the initial quality selection will then produce an equal quality of service if forced to compete on price.

### Number of stages

- 5.6 The number of stages in the selection process should be kept to the minimum necessary to select the best Chartered Landscape Architect for the project. In many cases it is sufficient to present a detailed brief to three local landscape practices chosen from those considered capable of providing the services required, and to request each to respond, as a single stage. A three stage selection process could be more appropriate for a major or very complex project and this is examined in more detail in Section 6.

## **6. Three stage selection process**

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### **6.1 Stage one – Compilation of the Select List**

The **first notification** of a project inviting expressions of interest should

- i. give an outline of the project
- ii. state key criteria for selection, such as the timetable and special roles to be fulfilled. This is needed only where the project exceeds size/value thresholds<sup>7</sup> requiring advertisement (e.g. a notice in the EU Official Journal), or the work is specialised and existing approved lists of consultants are not adequate
- iii. describe the project and selection process in sufficient detail to show the bidding effort required, so that tenderers may determine their suitability, and to prevent an excessive number of expressions of interest being submitted for processing
- iv. state the precise information required from interested Chartered Landscape Architects. This information should be only that which is needed to select those fully suited to the project, such as directly related project experience and staff information. At this stage Chartered Landscape Architects should not be asked to provide general practice information such as method, cost information or estimates of the resources needed.
- v. A shortlist of Chartered Landscape Architects should be selected, on the basis of their skills and experience, from those considered capable of providing the services required. All Landscape Architects on the select list should be competent to undertake the work and the Client must be satisfied to appoint any of those on the compiled list. The number chosen to proceed to the second stage should be limited to three or four, to minimise the Client's efforts in giving all proposals due consideration.

### **6.2 Stage two – Preparation and Evaluation of the Tender Submissions**

- vi. The selected Chartered Landscape Architects should be provided with the finalised (or more detailed) brief and invited to respond with further information, for example by setting out their approach to the project, their proposed staff team and a working method. Only information which the Client can evaluate and use to select between the bidders should be requested.
- vii. The Client should always be available during this stage to answer questions and provide clarification of the brief, in order to avoid qualified tenders which cannot be compared one with another.
- viii. If price is also a criterion for selection, the 'two envelope' method of tendering (see 4.4) is recommended, or the price should be negotiated with the favoured Chartered Landscape Architect.
- ix. Where the Client requires clarification of a bid, or wishes to obtain further information from tenderers, this should be requested in a letter to all tenderers, stating a date for the return of replies.

### **6.3 Stage three – Final Selection by Interview**

- x. Where it is necessary to select between two, or at most three, Chartered Landscape Architects on the basis of personality or potential working relationship, the cost of arranging, attending and evaluating interviews may be justified. Each bidder's Project Landscape Architect should be present. In all cases tenderers should only be invited to interview where there is a reasonable expectation of their being appointed. Where the project budget is

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<sup>7</sup> The EC Directive is implemented in the UK by The Public Services Contracts Regulations 1993. Related guidance from the Treasury Procurement Group is available through the website [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)

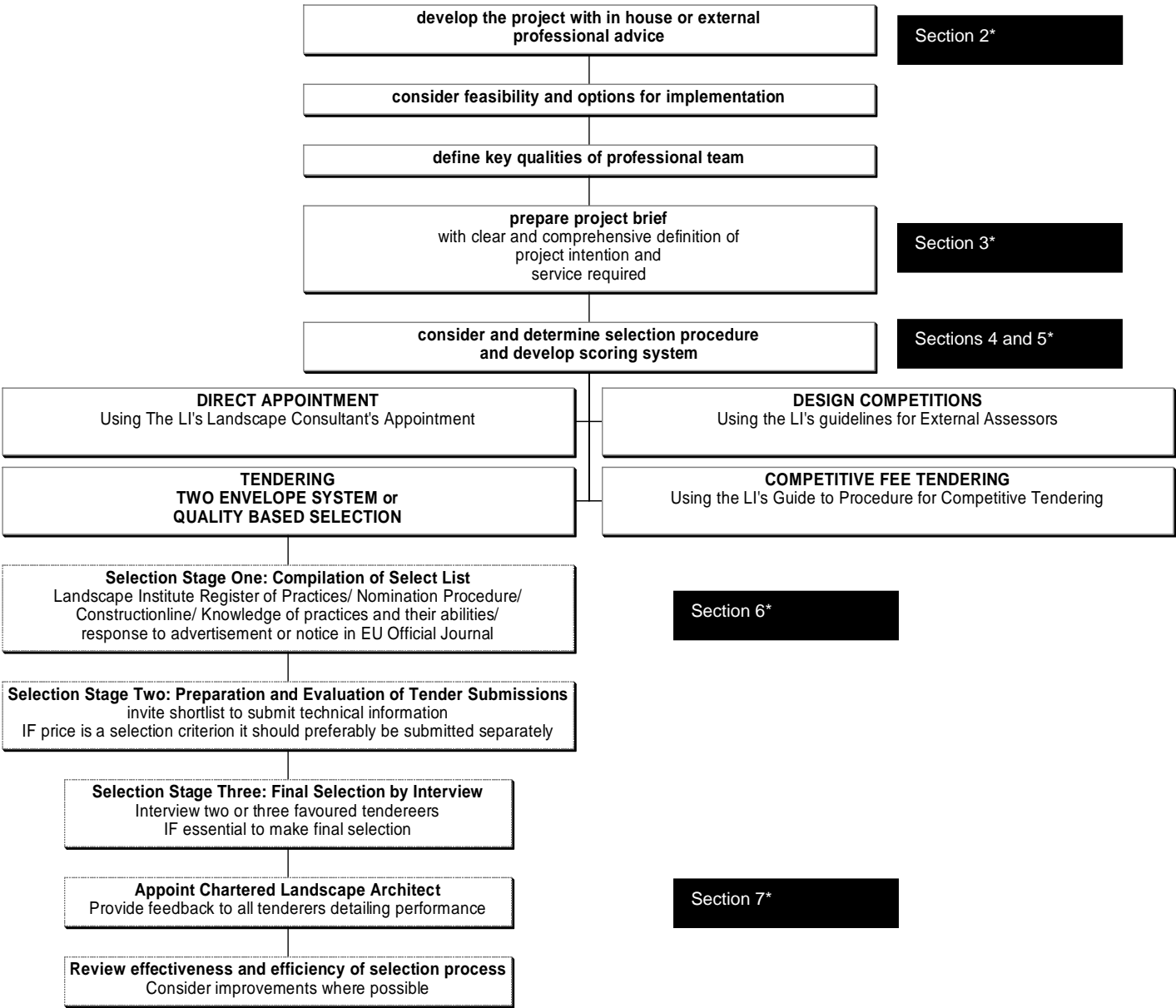
- fixed, only those whose prices fall within the budget should be invited to interview unless negotiation of the project content and cost is possible.
- xi. Interviewees should be given clear instructions as to the scope of the interview, its format and duration, so that they may prepare properly. Time should be allowed to set up a presentation, which may involve projectors, screens and other equipment. The Client should make clear to interviewees what facilities will be available. The names and roles of the interviewers should be provided.
  - xii. Interviews should not be conducted until the written submissions have been fully studied and relevant questions prepared, and should not involve merely going over information given in written tenders. Time should be allowed for additional questions, and for the interviewees to ask questions.
  - xiii. Where the Client wishes the Chartered Landscape Architect to prepare outline proposals or to produce initial design ideas for discussion at an interview, the Client should consider offering each a payment towards the time and effort involved. This will allow the Chartered Landscape Architect to expend greater effort on the Client's behalf and to produce more valuable material for discussion. Tenders should be treated as confidential and not discussed with other bidders, especially where original ideas or novel methods have been presented.

## **7. Feedback**

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It is essential, to maintain openness and to assist unsuccessful tenderers in future bidding, that all tenderers are given the maximum feedback on their bids. As a minimum, each tenderer should be given their own score for each main selection criterion, and the totals scored by all the other tenderers, together with the name of the successful tenderer. Where price is the main criterion, the tenderers' names in alphabetical order and the prices in ascending order should be given. It is good practice also to offer a "debriefing" to each tenderer, confined to a discussion of that tenderer's submission.

**Figure 1. Summary of Selection Process**



\* Cross references to full document text.

# **Landscape Institute**

## **THE LANDSCAPE INSTITUTE CODE OF STANDARDS OF CONDUCT AND PRACTICE FOR LANDSCAPE ARCHITECTS**

**September 2000**

**The Landscape Institute,  
33 Great Portland Street  
London  
W1W8QG**

**Telephone : 020 7299 4500  
Facsimile : 020 7299 4501  
e-mail : [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)**

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## FOREWORD

Landscape Architects have responsibilities to the character and quality of the environment; they should seek to manage change in the landscape for the benefit of both this and future generations, and they should seek to enhance the diversity of the natural environment, to enrich the human environment and to improve them both in a sustainable manner.

Landscape Architects must therefore act in accordance with the requirements of The Landscape Institute Charter of Incorporation. Paragraphs 5(1) and 5(2) are particularly relevant here:

*5 (1) The objects and purposes for which the Institute is hereby constituted are to protect, conserve and enhance the natural and built environment for the benefit of the public by promoting the arts and sciences of Landscape Architecture (as such expression is hereinafter defined) and its several applications and for that purpose to foster and encourage the dissemination of knowledge relating to Landscape Architecture and the promotion of research and education therein, and in particular to establish, uphold and advance the standards of education, qualification, competence and conduct of those who practise Landscape Architecture as a profession, and to determine standards and criteria for education, training and experience.*

5 (2) *In this Our Charter the expression "Landscape Architecture" shall mean all aspects of the science, planning, design, implementation and management of landscapes and their environment in urban and rural areas and the assessment, conservation, development, creation and sustainability of landscapes with a view to promoting landscapes which are aesthetically pleasing, functional and ecologically and biologically healthy and which when required are able to accommodate the built environment in all its forms, and without prejudice to the generality of the foregoing shall include:*

- a. the application of intellectual and analytical skills to the assessment and evaluation of the landscape and its character and the resolution of existing and potential conflicts through the organisation of landscape elements, spaces and activities based on sound principles of ecology, horticulture, design, planning, construction and management;*
- b. The planning and design of all types of outdoor and enclosed spaces;*
- c. the determination of policies and planning for existing and future landscapes;*
- d. the appraisal and harmonious integration of development and the built environment into landscapes;*
- e. the conservation, modification and continuing management of the landscapes of town and countryside and sustaining their characteristic features and habitats;*
- f. the promotion of a greater knowledge and understanding of materials and technology to enhance the appreciation of and resolution of practical landscape issues and problems; and*
- g. the promotion of a better understanding of the principles and purposes of natural, biological and physical systems affecting or relating to the landscape.*

Landscape Architects deservedly enjoy a high standing within the construction and design industry, but with that comes an obligation to deliver standards and services which both demonstrate and reinforce that status.

The Code should be central to the professional life of a Landscape Architect not only as a source of ethical guidance but also as a commonsense indicator to the principles of good practice. It is only through the maintenance of high standards by individuals that landscape architecture as a whole will be served, the public will be protected and the profession as a whole will thrive.

Achieving an appropriate Code is a continuing and developing process.

The Code will be reviewed regularly and The Director General therefore welcomes any feedback which will enable The Landscape Institute to build constructively on the standards and guidance given .

In preparing this code The Landscape Institute gratefully acknowledges the help and assistance of The Architect's Registration Board.

## **INTRODUCTION**

### **1 The Scope of the Code**

The overriding obligations below mainly apply to all Landscape Architects but other members of the Landscape Institute, such as Students or Associates are also expected to pay due regard to, and conform with, this Code.

This Code lays down standards of professional conduct and practice expected of Landscape Architects.

Standards 1, 6, 7, 10 and 11 apply to all Landscape Architects. Standards 2, 3, 4, 5, 8, 9 and 12 apply only to a Landscape Architect practising or carrying on business as such and not, for example, to a Landscape Architect writing or lecturing on landscape architectural subjects.

The fact that a course of conduct is not specifically referred to in this Code does not mean that it cannot form the basis of disciplinary proceedings. Landscape Architects are expected to be guided in their professional conduct and professional work as much by the spirit of the Code as by its express terms.

Disciplinary proceedings may be brought in respect of the professional conduct or competence of a Landscape Architect whether or not practising or carrying on business under any name, style or title containing the words 'Landscape Architect'.

Disciplinary orders may be made if a Landscape Architect has been *convicted* of a criminal offence other than an offence which has no material relevance to their fitness to practise as a Landscape Architect. Such proceedings are outside the scope of this Code.

### **2 The limits of the Code**

Not every shortcoming on the part of a Landscape Architect, nor non-compliance with a provision in the Code will necessarily constitute grounds for disciplinary proceedings, but a failure to follow the guidance of this Code will be taken into account should it be necessary to examine the conduct or competence of a Landscape Architect.

First, the private life of a Landscape Architect cannot be the subject of disciplinary action unless it affects their professional work or unless it results in a conviction for an offence.

Second, a minor transgression of this Code is unlikely to give rise to grounds for disciplinary proceedings unless it forms part of a pattern of

unacceptable professional conduct or professional incompetence.

## **THE STANDARDS**

**Standard 1: Landscape Architects should at all times act with integrity and avoid any action or situations which are inconsistent with their professional obligations.**

- 1.1 Landscape Architects should not make, support or collaborate in any statement, written or otherwise, which is contrary to their professional opinion, or which they know to be misleading, or unfair to others, or otherwise discreditable to the profession.
- 1.2 Personal insolvency is an exception to the rule that a Landscape Architect's private life cannot give rise to disciplinary proceedings, since it may affect professional solvency.
- 1.3 Landscape Architects should, when finding that their personal or professional interests conflict with those of the client or of other relevant parties, (thereby risking a breach of this Standard) either withdraw from the situation, or remove the source of conflict or obtain the agreement of the parties concerned to the continuance of the engagement.
- 1.4 The Director General of The Landscape Institute will provide advice to members regarding disciplinary matters and procedures.

**Standard 2 : Landscape Architects should only undertake professional work for which they are able to provide proper professional and technical competence, and resources.**

- 2.1 For the purposes of this Standard, undertaking work refers to the duty arising when a contract is entered into and continues throughout the term of the contract. No contract normally exists when engaging in speculative work, or taking part in a competition.
- 2.2 Where Landscape Architects have work carried out on their behalf by employees, or by anyone else acting under their instructions, such Landscape Architects are responsible for ensuring that they are competent to perform the task and are adequately supervised.
- 2.3 A sole practitioner should have arrangements in place for the conduct of their business in the event of their death, incapacity or other absence from work.

**Standard 3 : Landscape Architects should only promote their professional services in a truthful and responsible manner and such promotion shall not be an attempt to subvert professional work from another Landscape Architect.**

- 3.1 In advertising services Landscape Architects should not make untruthful or misleading statements, nor claim to be better than

other professional members. Special expertise, however, may be properly claimed and referred to.

- 3.2 Advertisements should conform as appropriate, to the British Code of Advertising Practice and ITC and Radio Code of Advertising Standards.
- 3.3 The business style of a Practice should not be misleading nor be capable of being confused with another Practice or service.
- 3.4 In the knowledge that a client already has a contract for services provided by another member, Landscape Architects shall not attempt to gain that contract.

**Standard 4 : Landscape Architects shall carry out their professional work with care and conscientiously and with proper regard to relevant technical and professional standards.**

- 4.1 Landscape Architects, when acting between parties or giving advice, should exercise impartial and independent professional judgement to the best of their ability and understanding
- 4.2 Landscape Architects shall perform their work with due skill, care and diligence, and so far as is reasonably practicable, in accordance with an agreed time scale and to cost limits agreed with the client. The client shall be kept informed of the progress of the work undertaken on his behalf and any issue which may affect the quality of the work, or the cost, shall be brought to the client's attention by the Landscape Architect.
- 4.3 Landscape Architects shall observe the confidentiality of their clients' affairs and should only disclose confidential information with prior consent of the client or other lawful authority.

**Standard 5 : In agreeing to carry out professional work and in the execution of that work, Landscape Architects shall have regard to the interests of those who may be reasonably expected to use or enjoy the products of their work.**

- 5.1 Landscape Architects have responsibilities to the character and quality of the environment; they should seek to manage change in the landscape for the benefit of both this and future generations, and they should seek to enhance the diversity of the natural environment, to enrich the human environment and to improve them both in a sustainable manner.
- 5.2 In meeting this obligation under this Code, Landscape Architects shall also have due regard to the Objects as set out in the Charter of The Landscape Institute.

**Standard 6 : Landscape Architects should maintain their professional competence in areas relevant to their professional work and shall provide such educational and training support to less experienced members or students of the profession over which they have a professional or employment responsibility.**

6.1 The fact that a Landscape Architect has not maintained such professional competence may count against them in the event of that competence having to be investigated.

**Standard 7 : Landscape Architects should ensure that their personal and professional finances are managed prudently and shall preserve the security of monies entrusted to their care in the course of practice or business.**

7.1 The following are examples of acts which may be examined in order to ascertain whether they disclose a wilful disregard by Landscape Architects of their responsibilities or a lack of integrity, namely:

- an order of bankruptcy;
- the placing into liquidation of a company of which they were a director; (other than for amalgamation or reconstruction purposes)
- an accommodation with creditors; (including a voluntary arrangement) and
- failure to pay a judgement debt.

7.2 When Landscape Architects hold monies belonging to a client or third party, they should arrange for its receipt to be carefully recorded and for it to be kept (where possible) in an interest-bearing account in a bank or similar institution separate from any personal or business account.

7.3 Such an account should be designated a 'client account' and the bank, or similar institution, should be given written instructions that all money held in it is held as client's money and that the bank, or similar institution, is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim.

7.4 Money may only be withdrawn from a client account to make a payment:

7.4.1 to or on behalf of a client; or

7.4.2 on the client's specific written instructions (for example, in order to defray the Landscape Architect's fees).

7.5 Unless otherwise agreed by the client, any interest (or other benefit) accruing to a client account should be paid to the client.

7.6 In the light of legislation requiring the timely payment of accounts, the Landscape Architect shall deal with creditors and debtors in conformity with best practice.

**Standard 8 : Landscape Architects shall not undertake professional work without adequate and appropriate Professional Indemnity Insurance.**

8.1 The need for cover extends to professional work undertaken outside a Landscape Architect's main professional practice or employment and to work undertaken by employees of a Landscape Architect.

8.2 Employed Landscape Architects, shall as far as possible ensure that Professional Indemnity Insurance cover, or other appropriate cover, is provided by their employer.

**Standard 9 : Landscape Architects shall organise and manage their professional work responsibly and with integrity and with regard to the interests of their clients.**

9.1 Landscape Architects shall not undertake professional work unless the terms of the contract have been recorded in writing as to:

- the scope of the work;
- the allocation of responsibilities;
- any limitation of responsibilities;
- the fee or method of calculating it; and
- any provisions for termination;
- any special provisions for dispute resolution.

9.2 Landscape Architects should not accept or continue work if they have a business, financial or personal interest that is or may be in conflict with an interest of the client. In a borderline case the Landscape Architect should make full disclosure of an interest and leave it to the client to judge. However, some conflicts of interest are so extreme as to prevent a Landscape Architect entering into or continuing work, even with the client's knowledge or consent. Particular care is needed with respect to the business and commercial interests of any partners or co-directors of the Landscape Architect, which in this context are to be treated as their own.

9.3 Where two or more clients whose interests may be in conflict require the services of the same Landscape Architect, the work of the firm shall be managed in a manner that avoids the interests of one client adversely affecting another.

9.4 Clients' papers, plans or other property, to which they are legally entitled, shall be returned to them directly, upon demand.

9.5 Landscape Architects shall ensure that their firm has appropriate and effective internal procedures, including monitoring and review procedures, and has sufficient suitably qualified and supervised staff to enable it to function efficiently.

9.6 Landscape Architects shall not take as a partner and should not act as a co-director with an unsuitable person. For example, a person who has been disqualified or suspended from membership of The Landscape Institute for disciplinary reasons, or has been disqualified from membership of another recognised professional organisation.

**Standard 10 : A Landscape Architect is expected actively and positively to promote the standards set out in these Standards of Conduct and Practice.**

10.1 It is not enough that Landscape Architects order their own professional lives according to the Standards in this Code: they should also do whatever can reasonably be done to ensure their observance generally by Landscape Architects. For this reason Landscape Architects should report to the Director General any serious falling short of these Standards on the part of any Landscape Architect of which they are aware. (It is not necessary to report facts that have been widely reported in the media.)

10.2 Landscape Architects should report to the Director General without delay if they:

- Are convicted of an indictable offence or sentenced to imprisonment in respect of any offence; or
- Are made the subject of an order of a court disqualifying them from acting as a company director; or
- Are made the subject of a bankruptcy order; or
- If a company of which they are a director is wound up otherwise than for the purposes of amalgamation or reconstruction.

10.3 The fact that a Landscape Architect has failed to make prompt report may count against them in the event of disciplinary proceedings.

10.4 Landscape Architects should not enter into contracts the terms of which would prevent any party from reporting to The Landscape Institute the conduct of a Landscape Architect.

10.5 Landscape Architects are expected to co-operate with the Director General or any other representative appointed by The Landscape Institute in their conduct of investigations into the professional conduct or competence of Landscape Architects, including themselves.

10.6 A failure by a Landscape Architect to co-operate promptly and fully with inquiries by the Director General or other representative, may result in adverse inferences being drawn against them in the event of disciplinary proceedings, and in any consequential costs to The Landscape Institute being reflected in the orders of the Professional Conduct Committee, should they be found guilty. It may also itself constitute grounds for disciplinary proceedings.

**Standard 11 : A Landscape Architect is also expected actively and positively to promote and further the aims and objectives of The Landscape Institute, as set down in its Charter and to contribute to the work and activities of the Institute.**

**Standard 12 : Complaints concerning professional work of Landscape Architects or their Practice or business should be dealt with promptly and appropriately by them.**

- 12.1 In the case of a firm or company, a director of the company or a partner of the firm shall be designated as being responsible for dealing with complaints. In the case of a sole practitioner, complaints should be referred directly to that practitioner.
- 12.2 Where the designated person is unable to resolve a complaint to the satisfaction of the complainant they should refer it promptly to the senior partner or managing director.
- 12.3 If, after reviewing the complaint, the senior partner or managing director is unable to resolve the complaint to the satisfaction of the complainant they should inform the complainant that Landscape Architects are subject to the disciplinary supervision of the Landscape Institute and that, if the complainant can demonstrate that a Landscape Architect has been guilty of unacceptable professional conduct or serious professional incompetence, disciplinary proceedings may follow.
- 12.4 If a complainant wants more than an explanation and an expression of regret for whatever difficulties he has experienced, some more formal means of dispute resolution, such as arbitration or adjudication, should be offered for consideration.
- 12.5 Complaints should at every stage be handled courteously, sympathetically and in accordance with the following time scale:
  - 12.5.1 not later than 10 working days from the receipt of a complaint an acknowledgement should be sent;
  - 12.5.2 not later than 30 working days from the receipt of a complaint a response addressing the issues raised in the initial letter should be sent.
- 12.6 All correspondence from The Landscape Institute concerning complaints and/or compliance with the Code shall be handled within the same time limits as shown above unless otherwise instructed by The Landscape Institute.

## **GENERAL GUIDANCE**

### **1 INTERPRETATION**

### **2 LEGAL PROCEEDINGS**

### **3 EMPLOYEES**

### **4 FURTHER ADVICE**

#### **1 INTERPRETATION**

This Code is issued by The Landscape Institute in accordance with the requirements of its Charter. It consists of an Introduction and the Standards, which are intended to be read together.

The Code has not been drafted in legal language and is not intended to be construed like an Act of Parliament.

Throughout this Code:

- "Landscape Architect" has the meaning ascribed to it by the Charter.
- "Client" means the person or body corporate or incorporate with whom the Landscape Architect makes an agreement or contract for the provision of services or the supply of goods.
- "Body corporate or unincorporate" includes a central government department, a local authority, public board or corporation, and any society, firm or company.
- "Institute" means The Landscape Institute.
- "Director General" means the Director General of The Landscape Institute.
- "Professional Conduct Committee" means the Professional Conduct Committee of The Landscape Institute.
- "Unacceptable professional conduct" is defined as: 'conduct which falls short of the standard required of a registered person'.
- "Serious professional incompetence" is defined as: 'a professional service which falls well below what the public requires and the landscape architectural profession expects of registered persons'.

- The text shall be interpreted in accordance with the terms of the Interpretation Act 1978 (c30). A word in the singular as including the plural; and a word in the plural as including the singular.

## **2 LEGAL PROCEEDINGS**

The following notes are intended to clarify the relationship between the Landscape Institute's disciplinary proceedings and proceedings in a court of law.

### **Civil Proceedings**

The successful bringing of civil proceedings against a Landscape Architect does not automatically constitute grounds for disciplinary proceedings. However, the facts giving rise to a civil suit can result in disciplinary proceedings if they disclose serious professional incompetence or unacceptable professional conduct, for example by way of a wilful disregard of the Landscape Architect's contractual obligations.

### **Criminal Proceedings**

If it is *alleged* that a Landscape Architect has committed a criminal offence the courts are the appropriate forum for deciding guilt or innocence and such an allegation will not, of itself, normally be the subject of investigation.

The fact that a Landscape Architect has been *acquitted* in the courts of a criminal charge does not mean that they may not be disciplined for acts or omissions connected with that charge if those acts or omissions constitute unacceptable professional conduct.

### **Criminal Convictions**

A criminal conviction may be materially relevant to a Landscape Architect's fitness to practise, if, for example:-

- it constitutes an offence under legislation directly affecting Landscape Architects; or
- it arises directly out of their professional activities; or
- it results in a sentence of imprisonment, whether suspended or not; or
- it constitutes an offence of dishonesty; or
- it is otherwise of a nature which calls into question the Landscape Architect's integrity

This list may not be exhaustive of the offences materially relevant to a Landscape Architect's fitness to practise.

### **3 EMPLOYEES**

In taking on a Landscape Architect as an employee the employer must be taken to know that the conduct of a Landscape Architect will be governed by this Code in addition to any duties as an employee. If the two sets of obligations should conflict the Landscape Architect should in the last resort follow this code or resign their employment.

In the case of an employed Landscape Architect, the more senior the position held, the greater the responsibility to ensure conformity by the employer with the Standards in this Code.

### **4 FURTHER ADVICE**

Landscape Architects in doubt as to how they should act in a particular situation may benefit from impartial advice.

The Landscape Institute is able to provide guidance on the interpretation of the Code.

The fact that a Landscape Architect has consulted The Landscape Institute, or, if the problem has a legal dimension, a lawyer, and acted upon their clear advice, may be of assistance should conduct or competence subsequently be called into question.

Landscape Architects are expected to observe this Code wherever they work, except and only to the extent that to do so would be inconsistent with local law or, in countries where the standards of professional work are governed by a reputable body, with local practice.



**ENGAGING A LANDSCAPE CONSULTANT  
GUIDANCE FOR CLIENTS ON FEES  
SEPTEMBER 2002**

**The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG**

**Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)**

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## **FOREWORD**

The Landscape Institute withdrew its mandatory Scale of Professional Charges in 1986 and up to the first publication of this guidance in June 1995, had no formal basis on which to advise clients and landscape consultants on fees. This guidance acknowledges that fee competition is part of a free market but in order to secure comparable fee offers the client needs a baseline on which to evaluate fee proposals.

This guidance will also help when reading fee agreements, if professional services do not have to be tendered, or where they may be a partnering agreement or a framework agreement.

Value for money flows from landscape consultants who can maintain quality of service through adequate resources, design flair, appropriate experience, a cooperative attitude, and who can invest in people, training and technology through proper levels of remuneration. Experience has now shown that clients who choose on price alone frequently find that this is a recipe for second rate schemes born of a 'adversarial' stance where as little as possible is offered for cut price fees.

In contributing to the Construction Industry Council's (CIC) Guidelines for the Value Assessment of Competitive Tenders, The Landscape Institute is in the main stream of professions that seek to promote the principle of quality balanced with price in providing the best value for money. Government has acknowledged the emphasis on quality as well as price in the procurement of professional services, while still adhering to the principle of competition.

This Guidance for Clients on Fees is as much a fair basis for achieving an appropriate fee as it is a test to identify those who seek to provide the minimum for the cheapest possible fee. I hope that clients and their landscape consultants alike will use it as the main means of evaluating or preparing fee proposals; that clients will consider all that their landscape consultants are offering; and not merely price; and that this Guidance will foster a satisfactory standard of service for fair remuneration.

***Roderick I S Edwards***

**President, The Landscape Institute**

## 1. INTRODUCTION

- 1.1 This booklet has been compiled in response to requests both from clients and members of The Landscape Institute. Its purpose is to improve the working relationship between clients and landscape consultants by providing information and guidance specifically addressed to clients that will lead to a better understanding of how landscape consultants' fees for a professional appointment may be calculated, charged and paid.
- 1.2 To assist clients The Landscape Institute publishes a Register of Practices that includes information on firms that meet the professional qualification, and financial and professional indemnity insurance criteria required by The Landscape Institute. The Director General also operates a nominations procedure to assist clients in selecting a landscape consultant.
- 1.3 *The fee scale graphs included in this booklet are indicative and are intended to act as a guide to help clients and landscape consultants evaluate appropriate offers and agree fees by negotiation.*
- 1.4 Any questions concerning the information contained within this Guide should be referred to the Director General of The Landscape Institute by letter at:

**The Landscape Institute**  
33 Great Portland Street  
London W1W 8QG

*Or by telephone on 020 72994500 or facsimile 020 7299 4501 or email on [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)*

- 1.5 Publications referred to in this Guide that are available from The Landscape Institute are:

The Landscape Consultant's Appointment  
Guide to Procedure for Competitive Tendering  
Directory of Registered Landscape Practices  
Appointing a Chartered Landscape Architect: Guidelines for Best Value

## 2. THE CLIENT AND THE LANDSCAPE CONSULTANT'S APPOINTMENT

- 2.1 Generally.** A sound working relationship between the client and the landscape consultant can contribute significantly to the success of a project. Time spent in preliminary discussion with the landscape consultant is time well spent. The client should talk through the project requirements and discuss whether they can be realised within a budget and to a required programme. The Landscape Institute recommends that clients should have a clear understanding of the total cost of consultancy services including what expenses and disbursements are likely. As the project progresses, clients may wish to be actively involved, with their consultants retained to explain and advise.
- 2.2 Form of Agreement.** The agreement between client and landscape consultant may take the form of an exchange of letters in the case of small or simple projects, but for anything larger or more complex it is advisable to use the standard Memorandum of Agreement of The Landscape Institute. Under The Landscape Institute Code of Conduct it is the duty of the landscape consultant to write to the client setting down the terms of a commission.
- 2.3 The Landscape Consultant's Appointment.** This is a standard form that consists of a number of parts designed to enable the client and the landscape consultant to define the most appropriate range of services and conditions of appointment for a project. It should assist the parties to express formally the agreement reached between them.
- 2.4 Standard Form of Appointment.** This standard form of appointment covers the four parts set out below, a Memorandum of Agreement and a schedule Table 2 lists the work stages that form part of "Preliminary" and "Standard Services."
- 2.4.1 Part 1. *The Landscape Consultant's Services* lists and describes the "Preliminary" and "Standard Services" that are normally provided, and are common to most commissions.
- 2.4.2 Part 2. *Other Services* lists and describes a range of activities that can be agreed as independent elements of work, or as a supplement to "Preliminary" and "Standard Services."
- 2.4.3 Part 3. *Conditions of Appointment* describes the conditions that normally apply.
- 2.4.4 Part 4. *Professional Fees*, incorporates and expands on this Guidance.
- 2.4.5 *The Memorandum of Agreement* is a format for recording the parties to the agreement, the name and nature of the commission and the location where works are to be carried out.
- 2.4.6 *The Schedule of Services and Fees* is a format for setting out the consultancy services in detail and the agreed basis for calculating fees specifically related to the commission, forming an essential part of an agreement between client and landscape consultant.
- 2.5 Design and Build Projects.** In the Design and Build approach to construction, clients may wish to appoint a landscape consultant to help define requirements, and the contractor may also wish to appoint a landscape consultant to help develop the design. In either situation, the appointment of a landscape consultant can be properly formalised using the Memorandum of Agreement.

### 3. LANDSCAPE CONSULTANT'S FEES AND EXPENSES

- 3.1 Generally.** The landscape consultant's fees are commonly calculated on a time-charge, lump sum or percentage basis, although some work may be dealt with on a retainer or term commission basis. Expenses are generally charged separately in addition to fees.
- 3.2 Time Charged Fee Basis.** This basis is best used where services cannot be related to the construction cost of landscape works. Where the landscape consultant's appointment is for consultancy and advisory work or for preliminary or other additional services to an otherwise "Standard Service," fees should be on a time charged basis. The agreed hour/daily/weekly rates for each grade or individual member of staff, including principals working directly on the commission, should be stated in an agreement. Review dates for these rates should also be stated.
- 3.3 Lump Sum Fee Basis.** Lump sums are best used where the scope of the work can be clearly defined from the outset for any of the services described in Parts 1 and 2 of the Landscape Consultants Appointment, but where there is no firm project cost. It is necessary to define the services required and the project size and complexity, so that if these are varied by more than an agreed amount the lump sum itself may be varied. Alternatively, time charges may be agreed as the basis for payment for making variations.
- 3.4 Percentage Fee Basis.** This is best used for straightforward landscape projects where the "Standard Services" as described in Part 1 of the Landscape Consultant's Appointment Work Stages C to L are to be carried out. Fees can be expressed as a percentage of the total construction costs of a landscape contract or subcontract for which the landscape consultant is responsible. Subcontract costs should include an apportionment of main contractor's attendance, preliminaries, profit allowances and fluctuations. Separate fee calculations are appropriate for each separate landscape commission within a major construction contract. These contracts may be made up of phased development of one site over time or be a number of physically separated development sites in one main commission, which are implemented as separate contracts.
- 3.4.1 The Fee Graph indicates the fee costs that may be incurred by the client for landscape consultants' "Standard Services," expressed as percentages of the contract sum. The four graph curves show the range of percentage fees at differing complexity ratings for works of £22,500 and above. Lower fee percentages may be normally expected with higher contract sums and vice versa. Projects below the £22,500 threshold should be agreed on a time-charge or lump sum fee basis.
- 3.4.2 Landscape work varies in complexity and fees therefore vary to reflect the amount and level of service required to undertake schemes satisfactorily. In the experience of members of The Landscape Institute some projects, such as environmental improvements, involve substantially more input at all stages than other projects. To reflect this difference in complexity, Table 1 shows four different classifications of landscape work.
- 3.4.3 The four curves on the Fee Graph correspond to these four classifications and show the normal percentage fee curve (complexity rating 1), and three other curves (complexity ratings 2, 3, 4), that cater for work that is more demanding of professional time, office resources, skills and experience. The consultant can advise on the complexity rating of projects not listed in Table 1.

3.4.4 A series of worked examples of percentage fee calculations is shown on the final page of this booklet.

**3.5 Retainer Fee Basis.** This basis may be used where the client wants to retain the services of a landscape consultant on an “as needed” basis over the extended period of time, during which all work arising is required to be carried out by the landscape consultant. This basis is also applicable to term commissions.

3.5.1 Retainer or term commission fees may be calculated either as a sum additional to any fees calculated by other methods or as a payment based on an estimated time commitment when the landscape consultants retains resources constantly ready to fulfil the client’s requirements if so requested.

3.5.2 The retainer or term commission fee may, by prior arrangement, be allowed to stand in full, irrespective of the amount of work involved or it may be recalculated on a monthly, quarterly or yearly basis according to the actual commitments.

**3.6 Apportionment of the different methods of fee calculation:**

3.6.1 Part 1 – “Preliminary Services,” Inception and Feasibility, Stages A and B are normally carried out on a time charged basis. Outline and Sketch scheme proposals, Work Stages C and D, may also be carried out on a time charge basis where several scheme options are being considered or complex approvals are being sought from planning authorities. Once the scope of a scheme is agreed and approved, and there is a commitment to construct the project, a percentage fee may be agreed in relation to the construction cost. This should reflect the degree of work already executed under a time charge agreement. Where extensive inspections of site works, or inspections over an extended maintenance period are required, an additional time charge would again usually be appropriate.

3.6.2 Part 1 – “Standard Services,” Stages C to L are normally carried out on a percentage fee basis or lump sum.

3.6.3 Part 2 – “Other Services,” are normally carried out on a time-charged or lump sum basis.

**3.7 Payment of Fees.** Timely settlement of accounts is an essential part of a good working relationship. Clients may prefer to pay fees according to a plan of programmed installments. The certainty of this arrangement allows payments to be budgeted for over a period. Alternatively, fees may be paid at the completion of each work stage. Where this arrangement is agreed, the apportionment in Table 2 is offered as a guide.

**3.8 Expenses and Disbursements.** In addition to appropriate fees the landscape consultant can agree with the client the reimbursement of expenses and disbursements properly incurred in connection with the appointment. If the client requests a budget estimate of expenses, the consultant should clearly state what has been included.

3.8.1 Expenses might include, for example, the cost of printing, reproduction or purchase of documents, drawings, maps, models, photographs, hotel and travelling expenses, the cost of postage, telephone, fax and any other agreed items. The management of

suppliers and the settlement of bills on behalf of a client may be subject to a management charge.

3.8.2 Disbursements such as planning application fees, land survey and soil testing charges, are costs that may be necessarily incurred by the landscape consultant but should be properly borne by the client. Furthermore, where the landscape consultant is required to manage the work of other specialist suppliers or consultants and settle the account of a specialist appointed by agreement with the client, a handling charge may be added. Alternatively, the client may appoint the supplier or specialist separately and settle their accounts directly.

**3.9 Construction Design and Management (CDM) Regulations.** Through the Construction Industry Council Health and Safety Task Force, The Landscape Institute maintains a dialogue with the Health and Safety Executive on the applicability of the regulations to landscape works. Consultant's fees for services under the CDM Regulations should be agreed and expressed separately.

**3.10 Community Group and Grant Aid schemes.** Where materials or labour are offered to a scheme at less than market rates the client and landscape consultant should be aware of any distortion in the basis of a percentage fee based on the contract value.

**3.11 Design Competitions.** This is a way of discovering the range of design options that may be available for major projects. A number of practices may be invited to compete in offering design solutions. Unless entirely open competition is required, it is not advisable to ask too many practices to spend extended amounts of time working speculatively. Drawing up a select list of say 3-5 competitors is an efficient way of developing participants' enthusiasm for producing a satisfactory outcome of quality. Further, clients who agree to cover the costs of each competing practice's output, recognise that this is a fair and reasonable compensation for valuable creative work. The Landscape Institute has an established procedure for initiating and regulating competitions which may be held on a local or national scale and the Director General will be happy to advise.

**3.12 Contingency Fees.** Where all, or part, of a fee is contingent upon the outcome of a decision such as the success of a competitive bid or a grant application, the terms of any fee should be stated particularly clearly.

**TABLE 1**

Classification of Landscape Work according to complexity

WORK TYPE	COMPLEXITY RATING			
	1	2	3	4
<i>Planting Design and Implementation Services for -</i>				
Golf Courses and Rural Sports Projects	3			
Rural Roads and Parking	3			
Country Parks and Estates	3			
Rural Recreational Areas	3			
Afforestation/Shelter Belt Planting/Hedgerow renewal	3			
Rural Amenity Schemes	3			
<i>Comprehensive Design and Implementation Services for -</i>				
Agricultural Improvement and Estate Enhancements		3		
Coastal Defence and River Catchment Schemes		3		
Camping and Caravan Sites, Tourist Facilities		3		
Cemeteries, Crematoria and Gardens of Remembrance		3		
Industrial, Commercial & Research & Development Sites		3		
Roads and Roadside Facilities and Parking Schemes		3		
Coastal Marinas and Water Recreation and Sports Schemes		3		
Inland Marinas, Canal, River and Lakeside Schemes		3		
Rural Recreational and Pursuits Centres		3		
Infrastructure, Parking & Access for Major Projects			3	
College & University Campuses			3	
Defence Establishments			3	
Hospital Grounds			3	
New Housing			3	
School Grounds and Playing Fields			3	
Sports Stadia & Multi Sports Facilities			3	
Golf Courses & Recreational Properties			3	
Urban Offices and Commercial Properties			3	
Public Parks, Exhibition Sites and Urban Recreation Areas			3	
Mineral Workings and Landfill Sites			3	
Reclamation of Contaminated or Derelict Land				3
Urban Rehabilitation, Pedestrianisation, Renewal				3
Urban Environmental Improvements				3
Garden Design Historic, Restoration or Conservation				3

1. Work in Column 1 is classified as normal, whereas columns 2, 3 and 4 list work of increasing complexity. These classifications are shown on the graph.
2. Where the landscape work is not listed above but falls within or between complexity ratings, the client and landscape consultant may decide to interpolate an appropriate complexity rating and graph curve.
3. Environmental Assessments, Landscape Appraisals, Siting Studies and Development, Conservation and other Environmental Strategy Planning Studies are normally remunerated on a time or lump sum basis.

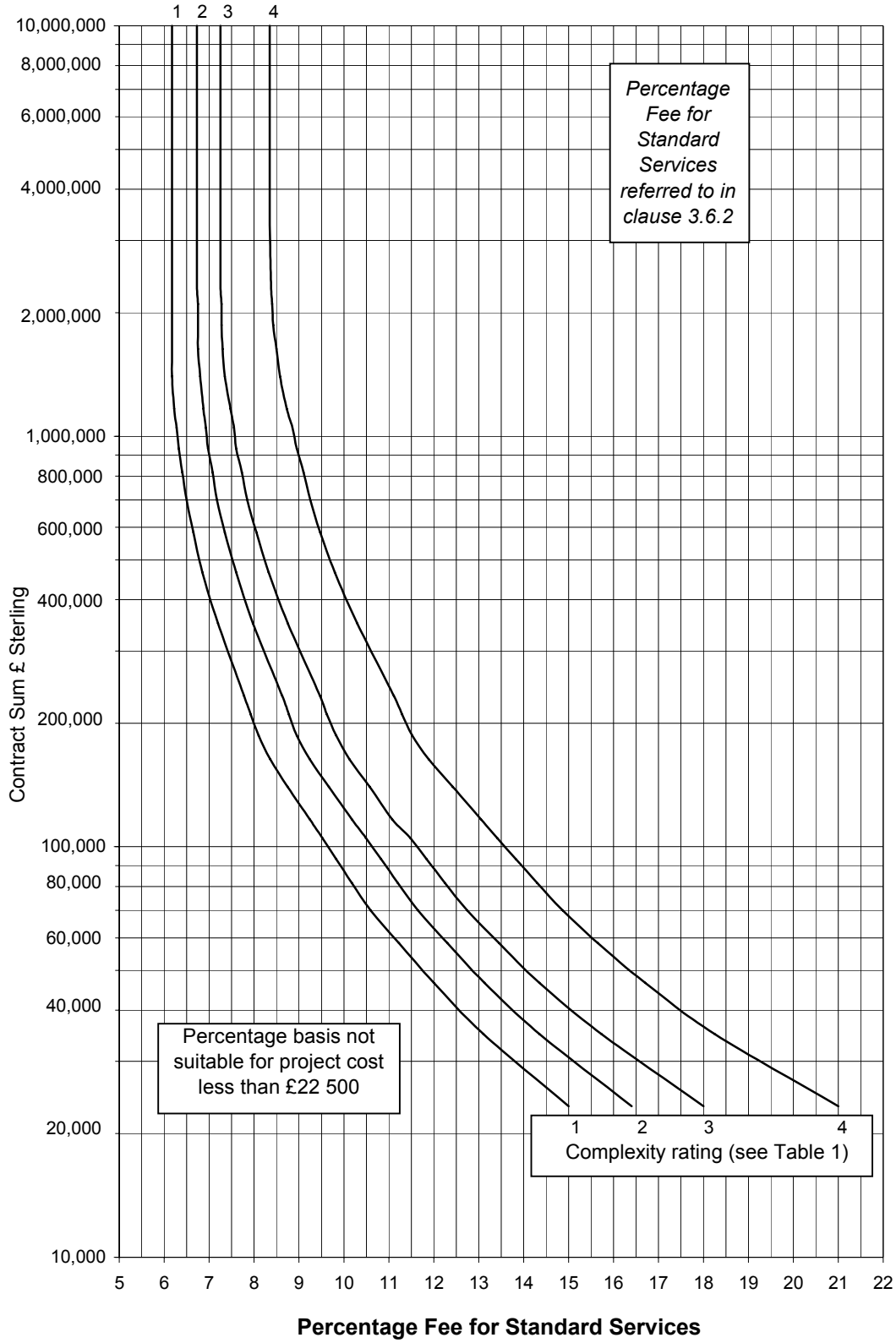
**TABLE 2**

Guide to Stage Payments of Fees, Relevant Fee Basis and Proportion of Fee Applicable to Lump Sum and Percentage Fee Basis. Details of Preliminary, Standard and Other Services are set out in detail in the Landscape Consultant's Appointment.

WORK STAGE	RELEVANT FEE BASIS			PROPORTION OF FEE	
	Time	Lump	%age	Proportion of fee	Total
<b>Preliminary Services</b>					
A Inception	3	3	N/A	N/A	N/A
B Feasibility	3	3	N/A	N/A	N/A
<b>Standard Services</b>					
C Outline Proposals	3	3	3	15%	15%
D Sketch Scheme Proposals	3	3	3	15%	30%
E Detailed Proposals	3	3	3	15%	45%
FG Production Information	3	3	3	20%	65%
HJ Tender Action & Contract Preparation	3	3	3	5%	70%
K Operations on Site				25%	95%
L Completion	3	3	3	5%	100%
	3	3	3		
<b>Other Services</b>	3	3	<b>N/A</b>		
<b>Timing of Fee Payments</b>					
<p>Percentage fees are normally paid at the end of each work stage. Time based fees are normally paid at monthly intervals. Lump sum fees are normally paid at intervals by agreement. Retainer or term commission fees are normally paid in advance, for predetermined periods of service.</p>					

# PERCENTAGE FEE GRAPH FOR STANDARD SERVICES - APRIL 2002

Complexity rating (see Table 1)



## WORKED EXAMPLES OF PERCENTAGE FEE CALCULATIONS

### WORKED EXAMPLE 1

Project Type            Caravan Site  
Services Required      To Detailed Proposals – Work Stages C to E  
Budget                    £120,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 2  
**Step 2** Decide on Services required and Proportion of Fee                    - To Detailed Proposals, 45%  
**Step 3** Read off Graph, Complexity Rating 2, the % fee of £120,000                    - Graph Fee 9.9%  
**Step 4** Multiply the Proportion of Fee (45%) by the Graph Fee (9.9%)- Adjusted Fee – 4.46%  
**Step 5** Calculate the Guide Fee (4.46% of £120,000)                    - Guide Fee - £5,352  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 2

Project Type            New Housing  
Services Required      Full Standard Services – Work Stages C to L  
Budget                    £350,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 3  
**Step 2** Decide on Services required and Proportion of Fee                    - To Completion, 100%  
**Step 3** Read off Graph, Complexity Rating 3 the % fee of £350,000                    -Graph Fee 8.8%  
**Step 4** Multiply the Proportion of Fee (100%) by the Graph Fee (8.8%)- Adjusted Fee – 8.8%  
**Step 5** Calculate the Guide Fee (8.8% of £350,000)                    - Guide Fee - £30,800  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

### WORKED EXAMPLE 3

Project Type            Urban Environmental Improvements  
Services Required      To Production Information – Work Stages C to G  
Budget                    £1,250,000

- Step 1** Decide on Work Type and therefore Complexity Rating                    - Complexity Rating 4  
**Step 2** Decide on Services required and Proportion of Fee                    - To Production Information, 65%  
**Step 3** Read off Graph, Complexity Rating 4 the % fee of £1,250,000                    - Graph Fee 8.6%  
**Step 4** Multiply the Proportion of Fee (65%) by the Graph Fee (8.6%)- Adjusted Fee – 5.59%  
**Step 5** Calculate the Guide Fee (5.59% of £1,250,000)                    - Guide Fee - £69,875  
**Step 6** Agree fee with Client, complete Memorandum of Agreement & Schedule of Services & Fees

## APPENDIX

### FEE GUIDANCE FOR PLANNING SUPERVISORS

The Association of Planning Supervisors has published a leaflet for clients. 'Ensuring Adequate Resources – Guidance for Clients'\* discusses the services that a Planning Supervisor will provide for the client, and the resource implications of those services. The leaflet stresses that the client has a legal duty under the CDM Regulations to be reasonably satisfied that the appointed Planning Supervisor has "allocated or, as appropriate, will allocate adequate resources to enable him to perform the functions of planning supervisor under these Regulations.."

Guidance on the Planning Supervisor's fee will be of interest to landscape architects, whether commissioning a project team or acting as Planning Supervisor themselves.

The APS has examined the fees from more than 10,000 projects of different types, sizes and complexity to compile indicators which clients can refer to. Complexity in this case refers to health and safety issues such as the number of personnel on site, the number of separate contractors and operations on site, and the nature and hazards associated with the work type. The fee indicator in relation to project value and complexity is presented on graphs, as a recommended percentage of the project value.

As an indication, the following points have been taken from those graphs:

	Fee percentage		
Project value	Low complexity	Medium complexity	High complexity
£35,000	2.0	3.6	5.25
£250,000	0.8	1.3	1.8
£2,500,000	0.32	0.64	0.96

The full guide may be ordered in packs of 10 from the APS. Contact details and publication prices are at [www.aps.org.uk](http://www.aps.org.uk) or 16 Rutland Square, Edinburgh EH1 2BB.

\*Published 17 April 2003 by the Association of Planning Supervisors.

# Landscape Institute

## Appointing a Chartered Landscape Architect **GUIDELINES FOR BEST VALUE**

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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6. Three Stage Selection Process
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Figure I: Summary of Selection Process

Published by the Landscape Institute.

Published in this version March 2003.

Whilst every effort is made by the Landscape Institute to ensure the accuracy of the information contained herein the Landscape Institute does not accept any responsibility for any errors or misinterpretation or for any loss or damage arising from or related to its use.

# FOREWORD: 'COMMISSIONING A LANDSCAPE CONSULTANT'

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- 1.1 Landscape consultants are able to offer a wide range of general and specialist services, sometimes working as members of multidisciplinary teams, but commonly acting as the sole advisor to their client.
- 1.2 The commissioning process involves identifying a practice able to satisfy the client's requirements, or making a selection from a number of such practices, determining a fee or remuneration basis agreeable to both parties, and finally completing a formal agreement or contract for the work. There are various ways in which a Landscape Consultant may be selected and commissioned and the following are examples, each suited to particular circumstances.
- **Direct Appointment** with a known practice
  - **Negotiation** with one or more practices to agree on a fee basis
  - **Quality – based selection** between a number of practices
  - **'Two-envelope'** system
  - **Competitive Fee Tendering** to select on the basis of fee alone
  - **Design Competition** to produce design ideas from which to select a practice.
- Additionally, The Public Services Contracts Regulations 1993 which implement European Union rules for projects exceeding a threshold value must be observed.

## GUIDANCE FROM THE LANDSCAPE INSTITUTE

The Landscape Institute has produced a series of publications dealing with the various aspects of appointing a Chartered Landscape Architect, listed below.

**Engaging a Landscape Consultant: Guidance for Clients on Fees** is a guide designed to improve the working relationship between Clients and Chartered Landscape Architects by providing information about how fees may be calculated, charged and paid. An invaluable guide to agreeing fees by negotiation that are fair to both parties. There are no standard fee scales, although methods of calculating fees on a time basis, on a percentage of the project value basis, or as a lump sum are common. Practices are able to describe the fairest means of achieving a fee agreement and can estimate the sums involved in order to give the client an order of cost.

**Directory of Registered Landscape Practices** lists practices meeting particular professional criteria. If guidance is required in selecting practices from the Directory, the Landscape Institute is always happy to assist and a procedure for nominating a short list of practices for interview is operated by the Director-General through the Nomination Panel.

**The Landscape Consultant's Appointment** is a booklet intended to help clients to identify the landscape services which they require. Included in it are a description of the work of landscape consultants, a specimen Memorandum of Agreement and specimen Schedules of Services and Fees. It is strongly recommended that clients read this booklet and use it as the basis of the Agreement with their chosen consultant whichever method of selection is used because any agreement between client and consultant must clearly set out the full scope of the commission in respect of the services to be provided, the division of responsibilities and any limitation of liability, the payment of fees including rates and methods of calculation, and the provision for termination. The most successful relationships between Client and Consultant are those that proceed in an atmosphere of trust and goodwill. Consequently the sharing of salient information at the outset is an important aspect of achieving a successful commission.

**Guide to Procedure for Competitive Tendering** gives advice on using competitive fee tendering to select a landscape practice, including Form of Tender, Schedule of Services and Fees and Memorandum of Agreement.

# 1. Introduction: Best Value in selection and appointment

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1.1 Landscape Architecture is a specialist and often complex task requiring a proper understanding of the site and the Client's needs. This document sets out 'Best Practice' guidelines to assist public and private sector Client bodies to prepare selection procedures which are **open, fair, efficient, economical to implement**, and which **achieve best value** for the Client. The guidelines can also be used to review existing procedures and, where necessary, to revise them to ensure best value. It is vital to choose a suitable professional for the job **at the outset** if best value for money is to be achieved. Although professional fees form only a small part of the whole-life cost of a project, the results of the professional's services can be far more significant, altering the construction/ running costs by far more than the fees charged.

1.2 Good selection procedures - whether or not they lie within a Best Value<sup>1</sup> framework - should define the project and services required, and lead to the appointment of the Chartered Landscape Architect best able to meet those requirements. Where a competitive tender process is chosen (or is required by Standing Orders) the process should achieve that aim with the minimum cost and effort both by the Client and by competing Chartered Landscape Architects, so that the complexity of the tendering procedure is matched to the scale of the potential commission. Best Value requires that the transaction costs associated with procurement should form part of the assessment of procedure options. Thus, the costs of preparing for tendering should not outweigh any potential savings achieved by this method of procurement. It should be remembered that design services are not a commodity with a measured 'Bill of Quantities' from which the work can be revalued on completion.

## **Direct appointment**

1.3 Generally, consultants are willing to discuss a potential appointment with a prospective client without obligation. Effort is concentrated on making progress with the project, and both parties benefit from considering the location and type of project that might be involved, the budget for the proposed works and the involvement of other professional advisers that may be working on the client's behalf.

1.4 Contact can be made simply by a telephone discussion followed by a written description and a meeting. There is some merit in approaching local consultancies if the project is within easy reach of their offices. The comprehensive skills of a national practice can also often be available locally.

1.5 The client may examine examples of previous work and/or the individuality of design approaches shown by practices in order to consider their suitability. Many clients build an established working relationship with one or more practices to their mutual benefit.

## **Negotiation**

1.6 For large or extended commissions, clients may wish to negotiate with one or more practices to obtain the most favourable fee agreement appropriate to the commission. Discussion of the client's particular requirements will enable consultants to tailor the brief and fee basis to mutual advantage.

## **Term Appointments, Framework Agreements and Partnering Arrangements**

1.7 These arrangements offer benefits including reduced administration, improved efficiency and economy, established communication, flexibility and consistency of service. Government and industry initiatives encourage the use of these longer term

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<sup>1</sup> See DETR Best Value website [www.local-regions.detr.gov.uk/bestvalue/htm](http://www.local-regions.detr.gov.uk/bestvalue/htm) and [www.wales-bestvalue.org](http://www.wales-bestvalue.org)

arrangements as an alternative to single project tendering, particularly where a series of smaller and/or similar projects is anticipated.

### **Design competitions**

- 1.8 Design competitions operated in accordance with the Landscape Institute's guidance<sup>2</sup> are an effective way for the Client to obtain a wide range of initial ideas for a project at a conceptual stage.

### **Design and build contracts**

- 1.9 Design and Build Contracts encourage co-operation between designers and contractors, and allow the skills of both to be integrated in the design and implementation phases. However, such contracts will only achieve a good quality environmental or landscape outcome if the relevant component is clearly defined in the brief and forms part of the assessment of tenders.

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<sup>2</sup> See the LI's Landscape Competitions: Guidance Notes for Promoters

## 2. Developing the project

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- 2.1 The initial development of a project is a vital stage. It is helpful to engage a Chartered Landscape Architect at this early stage, to formulate and appraise options, consider the project's feasibility and advise on implementation. An **outline programme** for the conceptual stages, design process, procurement and implementation should then be developed **before** the selection process is decided. It is essential to consider matters such as the project's objectives, timescale, complexity, broad budget, need for EIA and planning permission, physical resources available and also whether a Client will participate directly in the design process or will use in-house expertise.
- 2.2 Clients often assemble or have access to useful background information on the site and on the project requirements. It is recommended that this information be collated and reviewed as the project is developed. It should then be provided, in a summarised form, to each potential project team to assist the Chartered Landscape Architects and so save time and money.
- 2.3 Clients must allow themselves adequate time to select the right Chartered Landscape Architect. The selection procedures should identify the **key qualities** of the service required and **clearly present the selection criteria**. Procedural guidelines for preparing a draft, project-specific, selection process are given in Section 4. Where appropriate, this process should be approved by the authorising body (e.g. Senior Officer, Council Committee, grant-aiding body) before the full brief is drafted. Any constraints such as fixed Standing Orders for the selection process or selection criteria (e.g. lowest price must be selected) should be made clear from the outset.

### 3. Preparing the brief

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- 3.1 The brief is the key document that sets out the Client's intentions for the commission, the services to be provided by the Chartered Landscape Architect and the contractual basis for the commission<sup>3</sup>. The brief provides the basis against which the consultant's services will be judged and should explain clearly what they are expected to do. A clear and comprehensive brief helps avoid qualified bids or unexpected claims for extra fees as the work progresses, and will reduce time spent dealing with queries from competing consultants during the selection process. The brief should avoid open-ended and unquantifiable requirements unless the remuneration is also open-ended.
- 3.2 The Landscape Institute<sup>4</sup> recommends that the brief should cover a description of the proposed project (including location and programme); all relevant information (including previous studies, survey information etc) and the Client's requirements with regard to:
- ◆ the project (objectives and output from the commission)
  - ◆ consultancy services within the commission
  - ◆ relationship with separately appointed members of the team.
- 3.3 For large or complex projects it may be advisable to seek professional assistance with the drafting of the brief, particularly where a number of disciplines are to be appointed or the work includes research/site investigation. When inviting expressions of interest in tendering, informal comments on a draft brief and indicative budget can be sought from potential consultants, to identify any ambiguity, impractical requirements or open-ended items.

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<sup>3</sup> The Landscape Institute recommends the use of The Landscape Consultant's Appointment.

<sup>4</sup> 'Guide to Procedure for Competitive Tendering' published by the Landscape Institute.

## 4. Methods of Selection

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There are various alternative methods of selecting a Chartered Landscape Architect:

### **Direct Appointment**

- 4.1 Appropriate following a discussion about the project and the appropriate fee. Such discussion maximises each party's understanding and can lead to an established working relationship to mutual benefit. Direct appointment is often the least costly method of appointment.

### **Design competitions and technical proposal competitions**

- 4.2 These assist the Client to discover the range of options that may be available for major projects. The Landscape Institute recommends its own established procedure which covers the preparation, judging and remuneration of competitions.

### **Quality Based Selection**

- 4.3 This overcomes the difficulty of specifying the project and services, and avoids the negative influence that price tendering has on the quality of the work undertaken. A Chartered Landscape Architect is selected on the basis of relevant qualities and the experience required for the project. The project and services are then defined jointly, drawing on the Consultant's expertise, and finally the fees for the agreed services are concluded by negotiation with reference to published guidance<sup>5</sup> and other benchmarks<sup>6</sup>.

### **Two-envelope system**

- 4.4 This system combines quality selection with price competition. Each shortlisted tenderer submits a technical (or design) proposal and a separate sealed fee tender based on a full brief. Once all the technical proposals have been evaluated and ranked, the fee envelopes are endorsed with the ranking. The fee envelope of the first choice tenderer is opened and the commission is awarded unless the fee exceeds the acceptable limit, in which case the second-ranked fee envelope is opened. When the commission is awarded, remaining fee envelopes are returned unopened.

### **Competitive fee tendering**

- 4.5 This relies on the Client's ability to select a number of appropriate Consultants to tender, and to specify the project and services required exactly, so that all tenderers price the same work. The Landscape Institute's guide sets out the recommended process in detail. As detailed information must be provided to tenderers, and the service provided must be carefully monitored, this method is not suited to projects with small budgets or where the Client cannot devote sufficient professional staff time to the process.

### **Tendering**

- 4.6 All tendering requires the investment of time and resources, both for the Client and competing Chartered Landscape Architects. Unless the process selects the best Consultant for the project with the least effort from all parties, it will not give the best value for money. If the consultant is selected on the basis of quality as in section 4.3 then best value can be achieved in a more straightforward way.

Inefficient tendering:

- ◆ wastes the Client's staff time and money
- ◆ adds to tenderers' operating costs, increasing overall prices
- ◆ wastes all parties' effort and time which could better be spent working on the project
- ◆ may deter well-qualified Chartered Landscape Architects from bidding for the project.

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<sup>5</sup> Appointing a Landscape Consultant: Guidance for Clients on Fees

<sup>6</sup> This method is explained in detail in the Construction Industry Council's publication 'A Guide to Quality Based Selection of Consultants: A Key to Design Quality'.

## 5. Selection procedures

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### Required Knowledge

- 5.1 To select the most suitable Chartered Landscape Architect for a project, the Client needs to know:
- ◆ the nature and size of the project
  - ◆ the professional services required
  - ◆ the skills, resources and qualities which will contribute to the project's success
  - ◆ the degree to which interested Chartered Landscape Architects possess those skills, resources and qualities.
- 5.2 Before commencing a potentially expensive selection process, tenderers need to know:
- ◆ the nature and size of the project
  - ◆ the stages and requirements of the selection process
  - ◆ the criteria for selection
  - ◆ the probability of success.

Where the Client does not have in-house landscape expertise, it is advisable to engage independent professional assistance for the preparation of the background information and brief. A feasibility study is often a valuable initial step, well worth the time charge or lump sum fee.

### Key principles

- 5.3 The Landscape Institute recommends that the selection procedure embody the following principles, to ensure that selection procedures are logical and fair, and that the effort involved does not outweigh the benefits to either party. Each stage in the process should aid the selection of the most suitable Consultant.

### Scoring systems

- 5.4 Scoring systems which give due weight to each selection criterion should be established at the outset and made available to all Chartered Landscape Architects expressing interest. This may be a difficult process for some clients, but guidance has been published by the Landscape Institute.
- The marks available under each category should be stated, and the Client should ensure that the necessary assessment skills are available either in-house or externally. Marks for price should be awarded relative to a realistic estimate of the financial resources required for the project, rather than relative to the lowest tender received as this can distort the scoring mechanism.
- The Institute has available a publication 'Engaging a Landscape Consultant: Guidance for Clients on Fees' which may help the Client assess a realistic fee structure in relation to the scale and complexity of the project and the staff resources required.

### Price

- 5.5 Price is commonly a significant factor in the selection of a Chartered Landscape Architect even though it is very difficult to reach an acceptable 'trade off' between quality and price. It is simplistic and misleading to assume that all Chartered Landscape Architects passing the initial quality selection will then produce an equal quality of service if forced to compete on price.

### Number of stages

- 5.6 The number of stages in the selection process should be kept to the minimum necessary to select the best Chartered Landscape Architect for the project. In many cases it is sufficient to present a detailed brief to three local landscape practices chosen from those considered capable of providing the services required, and to request each to respond, as a single stage. A three stage selection process could be more appropriate for a major or very complex project and this is examined in more detail in Section 6.

## 6. Three stage selection process

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### 6.1 Stage one – Compilation of the Select List

The **first notification** of a project inviting expressions of interest should

- i. give an outline of the project
- ii. state key criteria for selection, such as the timetable and special roles to be fulfilled. This is needed only where the project exceeds size/value thresholds<sup>7</sup> requiring advertisement (e.g. a notice in the EU Official Journal), or the work is specialised and existing approved lists of consultants are not adequate
- iii. describe the project and selection process in sufficient detail to show the bidding effort required, so that tenderers may determine their suitability, and to prevent an excessive number of expressions of interest being submitted for processing
- iv. state the precise information required from interested Chartered Landscape Architects. This information should be only that which is needed to select those fully suited to the project, such as directly related project experience and staff information. At this stage Chartered Landscape Architects should not be asked to provide general practice information such as method, cost information or estimates of the resources needed.
- v. A shortlist of Chartered Landscape Architects should be selected, on the basis of their skills and experience, from those considered capable of providing the services required. All Landscape Architects on the select list should be competent to undertake the work and the Client must be satisfied to appoint any of those on the compiled list. The number chosen to proceed to the second stage should be limited to three or four, to minimise the Client's efforts in giving all proposals due consideration.

### 6.2 Stage two – Preparation and Evaluation of the Tender Submissions

- vi. The selected Chartered Landscape Architects should be provided with the finalised (or more detailed) brief and invited to respond with further information, for example by setting out their approach to the project, their proposed staff team and a working method. Only information which the Client can evaluate and use to select between the bidders should be requested.
- vii. The Client should always be available during this stage to answer questions and provide clarification of the brief, in order to avoid qualified tenders which cannot be compared one with another.
- viii. If price is also a criterion for selection, the 'two envelope' method of tendering (see 4.4) is recommended, or the price should be negotiated with the favoured Chartered Landscape Architect.
- ix. Where the Client requires clarification of a bid, or wishes to obtain further information from tenderers, this should be requested in a letter to all tenderers, stating a date for the return of replies.

### 6.3 Stage three – Final Selection by Interview

- x. Where it is necessary to select between two, or at most three, Chartered Landscape Architects on the basis of personality or potential working relationship, the cost of arranging, attending and evaluating interviews may be justified. Each bidder's Project Landscape Architect should be present. In all cases tenderers should only be invited to interview where there is a reasonable expectation of their being appointed. Where the project budget is

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<sup>7</sup> The EC Directive is implemented in the UK by The Public Services Contracts Regulations 1993. Related guidance from the Treasury Procurement Group is available through the website [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)

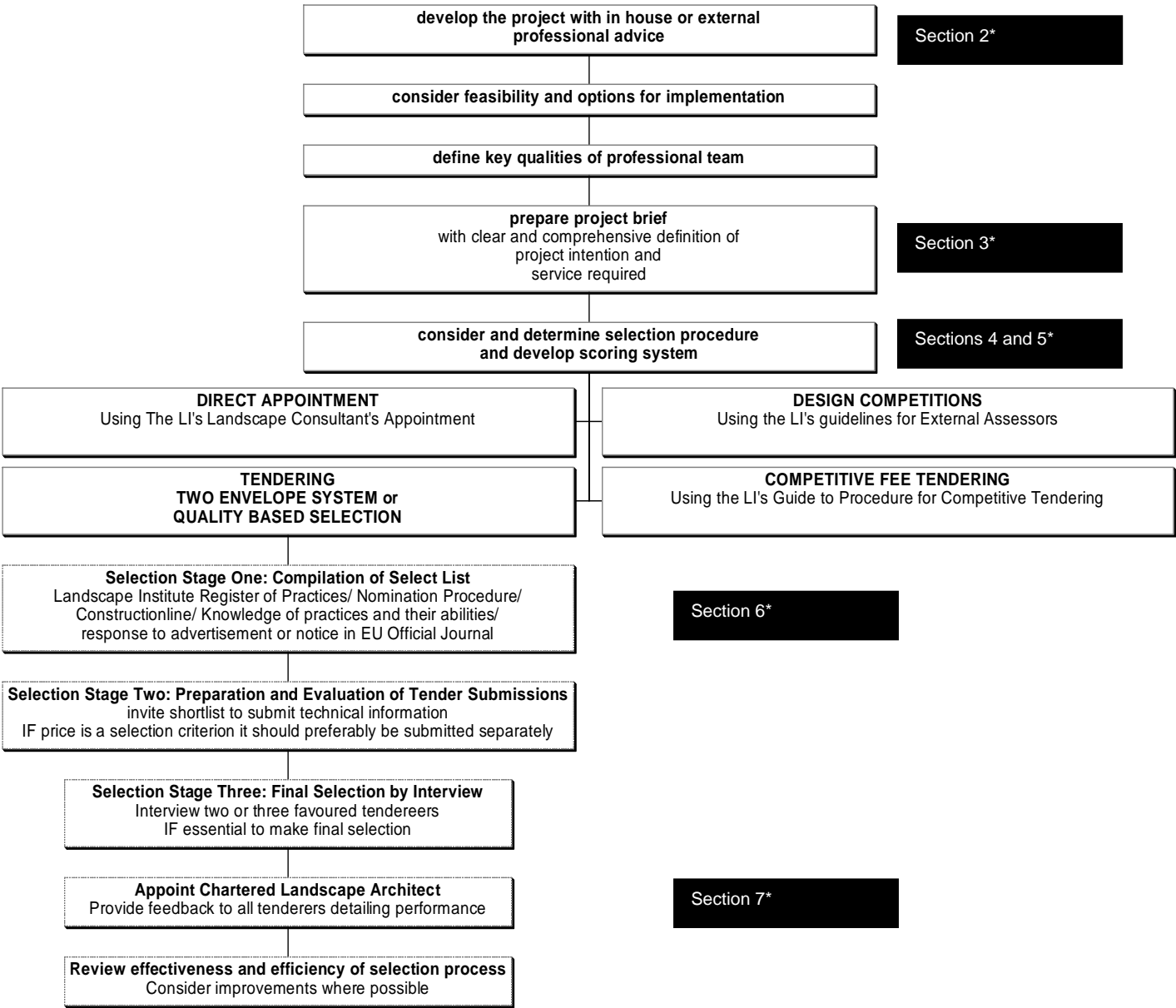
- fixed, only those whose prices fall within the budget should be invited to interview unless negotiation of the project content and cost is possible.
- xi. Interviewees should be given clear instructions as to the scope of the interview, its format and duration, so that they may prepare properly. Time should be allowed to set up a presentation, which may involve projectors, screens and other equipment. The Client should make clear to interviewees what facilities will be available. The names and roles of the interviewers should be provided.
  - xii. Interviews should not be conducted until the written submissions have been fully studied and relevant questions prepared, and should not involve merely going over information given in written tenders. Time should be allowed for additional questions, and for the interviewees to ask questions.
  - xiii. Where the Client wishes the Chartered Landscape Architect to prepare outline proposals or to produce initial design ideas for discussion at an interview, the Client should consider offering each a payment towards the time and effort involved. This will allow the Chartered Landscape Architect to expend greater effort on the Client's behalf and to produce more valuable material for discussion. Tenders should be treated as confidential and not discussed with other bidders, especially where original ideas or novel methods have been presented.

## **7. Feedback**

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It is essential, to maintain openness and to assist unsuccessful tenderers in future bidding, that all tenderers are given the maximum feedback on their bids. As a minimum, each tenderer should be given their own score for each main selection criterion, and the totals scored by all the other tenderers, together with the name of the successful tenderer. Where price is the main criterion, the tenderers' names in alphabetical order and the prices in ascending order should be given. It is good practice also to offer a "debriefing" to each tenderer, confined to a discussion of that tenderer's submission.

**Figure 1. Summary of Selection Process**



\* Cross references to full document text.

# Landscape Institute

**Guide to Procedure for  
Competitive Tendering  
March 2003**

**The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG**

**Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 72994501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)**

## 1.0 INTRODUCTION

Competitive Fee Tendering is only appropriate in particular circumstances.

- 1.1 The various ways of commissioning Consultant are set out in the **Guidelines for Best Value** and each will be suitable to particular circumstances. The sections which now follow are based on the assumption that clients have understood this and have concluded that Competitive Fee Tendering is the most suitable form of commission for the project they have in mind.
- 1.2 This guide offers guidance for those who have decided to commission a Landscape Architect, Landscape Manager or Landscape Scientist's services and who wish to make their final selection of Consultant on the basis of competitive fee tenders. The guide seeks to ensure that the procedure followed is fair and equitable to all parties, and allows the Client to make a valid judgement between tenders received.
- 1.3 Clients and Consultants are reminded that under the Landscape Institute Code of Professional Conduct, Members who are approached to proceed with professional work on which, to their knowledge, another member is employed shall notify the fact to the member.
- 1.4 It is essential that each tenderer is provided with sufficient information to identify fully the nature and scope of the works involved, and the extent of the Consultant's commitment and responsibility, in order that realistic fee tenders may be submitted without undue risk to either party. This information should follow the format and recommendations of Section 3 (Briefing) of this guide.
- 1.5 It is recommended that 'The Landscape Consultant's Appointment' is used as the basis of agreement between Client and Consultant, to set out the terms of the commission including the scope of the services, the allocation of responsibilities and any limitation of liability, the payment of fees including the rates and methods of calculation, and the provision for termination. This guide and its Form of Tender make frequent reference to that Appointment.

## 2.0 PRE-TENDER SELECTION OF LANDSCAPE CONSULTANTS

- 2.1 Once it has been decided that competitive fee tenders are required from a number of Landscape Consultants, the Client will need to draw up a short-list of suitable Practices. Each Practice invited to submit a competitive fee tender should be fully and equally acceptable to the Client on all other criteria in order that fee price should be the sole criterion for selection. There are a number of ways of drawing up a short-list.
  1. Selection of Consultants from the Client's own approved lists;
  2. Advertisement for Practices who would be interested in undertaking the project. In this case, responses to the advertisement will need careful evaluation;
  3. The Landscape Institute will provide information and advice on suitable Practices on request.

Factors to be taken into account in making the initial selection will include the Landscape Consultant's: -

1. Design abilities and technical or scientific skills
2. Experience with similar or equivalent projects
3. Available resources and staff
4. Appreciation of the Client's requirements
5. Managerial skills and quality assurance procedures

## 6. Personal qualities

The priority given to each of these will depend on the nature of the project.

- 2.2 Examples of work and further Practice information may be requested, and references from past Clients may be taken up. It may be desirable to interview the Principal of the Practice and to meet members of the Practice's staff who are likely to be involved in the project.
- 2.3 Each short-listed Practice should be sent a preliminary enquiry and invited to reply by a particular date confirming willingness to be considered. The number of tenderers to be invited should be stated at this stage.
- 2.4 From the replies to the preliminary enquiry, a final list of Consultants should be drawn up. Those originally invited but not finally selected should be notified.
- 2.5 Normally it is recommended that not more than three Landscape Consultancies should be included on the final tender list and invited to submit fee tenders.

## 3.0 TENDER INFORMATION AND BRIEF

### 3.1 Introduction

- 3.1.1 This section provides a guide to the brief to be used by Clients when approaching a number of Landscape Consultancies for competitive fee quotations.
- 3.1.2 The brief for each project will reflect the nature and complexity of that project, but must provide adequate information to enable each Consultancy to assess the resources required to fulfil the Client's expectations, in order to provide an accurate fee quotation.
- 3.1.3 If a Client is unable to define the project requirements at a level appropriate to the project, then use of competitive fee tenders should be reconsidered since Consultants are unlikely to provide unqualified tenders.
- 3.1.4 The tender information and brief is considered below under the following headings:

#### 3.2 Description of proposed project

#### 3.3 Background information

#### 3.4 Client's requirements: The project

#### 3.5 Client's requirements: Consultants' services

### 3.2 Description of the proposed project

- 3.2.1 The description should cover, briefly, the objectives and scope of the whole project, and identify the role of the Consultant submitting the tender. The following checklist of headings should be taken as a guide:

- Client's full name and address
- Client's representative (who should be able to answer queries and give any further information)
- Name of project and reference (in any)
- Location of site, with National Grid Reference
- Plan at suitable scale showing extent, boundary and surroundings of site
- Arrangements for visiting the site
- Objectives and scope of whole project
- Role of Consultant
- Other professionals in team (if any)
- Project works budget
- Funding source (unless confidential)

Programme and critical stage dates  
Warranties required by the Client  
Ownership of copyright and plans

### **3.3 Background information**

- 3.3.1 Relevant background information which is available at the time of tender should be provided to the Consultants in order that realistic, competitive tenders are obtained. Documents enclosed with the tender invitation should be listed. Bulky or restricted information should be available to view by arrangement, and sufficient time should be allowed for this.

Relevant background information might include:

Internal proposal documents and reports, Feasibility Studies etc.  
Company or Authority policies, standing orders and relevant guidelines  
Applications/awards to/from grant aiding bodies  
Structure, District or Local plans affecting the site or proposed development  
Planning permissions, conditions or reasons for previous refusal  
Soil surveys, ecological surveys and other site investigations  
Topographical survey and/or maps and plans  
Services and statutory undertakers' information  
Land ownerships, easements, access and other restrictions

- 3.3.2 Studies or documents which will be available to the selected consultant at a later date should also be listed, with the date or work stage at which they will be made available.
- 3.3.3 Any specific information or study which the Client requires as part of the commission, such as Environmental Statements, Financial Appraisals and the like, should be specifically described in Section 3.5.
- 3.3.4 If the project involves the transfer of computer-based data, plans or information between Client and Consultant, full details of the relevant system, format and compatibility should be provided.
- 3.3.5 The Client should give details of all relevant security or confidentiality requirements.

### **3.4 Client's requirements: The project**

- 3.4.1 The Project shall be described in full detail to enable Consultants to produce accurate tenders. The description will be specific to the nature of the project, but the following checklist provides guidance. It is not exhaustive.

- 3.4.2 Site or Scientific Investigation/Feasibility Study:

The purpose of the investigation/study  
The intended use(s) of the site  
The nature of any suspected or known site problems  
Particular factors to be investigated, e.g. vegetation survey, soil survey, contamination survey  
Complementary studies previously undertaken or otherwise not required  
Specific British Standards/Code of Practice or other method requirements to be followed  
The nature and format in which results are to be presented  
The degree of interpretation required and specific questions to be answered.

- 3.4.3 Landscape Design and Contract Administration

The intended uses(s) of the site



- 3.5.4 The Client shall state the number of copies of all reports, drawings, contract documents, record drawings and the like which the Consultant is to provide, unless such reproduction is a chargeable cost in which case the rates for reproduction shall be stated in the Consultant's tender.
- 3.5.5 The Client shall state the proposed ownership of copyright and all plans and reports.

#### **4.0 TENDER PROCEDURE**

- 4.1 The Client should simultaneously provide each Landscape Consultant with identical information, and with standard envelopes. Each Consultant should be given the same timescale in which to submit a fee tender. The timescale should be sufficient to allow the Consultants to visit the site, assess the brief, raise any questions and submit a tender.
- 4.2 The tender period will vary according to the scale and complexity of the project, and should not normally be less than four weeks. Where the Landscape Consultant is asked to submit a technical document as well as a fee proposal, this period may need to be extended.
- 4.3 If the tender invitation contains ambiguities or lacks specific information, it is probable that tenderers will raise questions which should be answered fully to avoid the submission of qualified tenders. Any questions and their answers should be notified to all competing Consultants during the tender period.
- 4.4 All tendering Consultants should be advised by the Client if, as a result of questions, issues are identified which could materially affect the range of services required or the budget or timescale for the project. In these circumstances, it may also be necessary for the Client to extend the period for tender.

#### **QUALIFIED TENDERS**

- 4.5 For fair competitive tendering, it is essential that all the competing Landscape Consultants base their tenders on identical sets of documents. Tenderers should not attempt to introduce variations to the basic brief by qualifying their tenders. The allowance of questions during the tender period is intended to obviate the need for qualifications.
- 4.6 In the event of a qualified tender being submitted, the tenderer should be given the opportunity to withdraw the qualification. If the tenderer fails to do so, the qualified tender should be rejected.

#### **ASSESSMENT OF TENDERS AND NOTIFICATION OF RESULTS**

- 4.7 A specific date and time should be set for submission of sealed tenders. The tender envelope should not identify the sender. Tenders should be opened as soon as possible after the time of receipt. Any tenders received after that time should be returned unopened as invalid. All valid tenders should be opened at the same time.
- 4.8 As soon as one Landscape Consultant has been appointed, the Client should advise all the tenderers of:
- ❖ The successful consultant
  - ❖ Whether the lowest tender figure was the one accepted
  - ❖ The other tender figures received

#### **WITHDRAWAL OF A TENDER BEFORE ACCEPTANCE**

4.9 Under English law, a tender may be withdrawn at any time before its acceptance.

## 5.0 FORM OF TENDER

To: .....  
(insert name of Client)

Tender for: .....  
(insert name of project)

SIRS,

I/We have read the documents collectively forming your invitation to Tender for the above project, dated .....

I/We hereby offer to undertake the whole of the services requested and described in the above documents for the sum(s) determined in accordance with the attached Schedule of Services and Fees, and Annexures thereto (**APPENDIX I**).

I/We will complete the services requested

\*within the programme set out in the Invitation to tender

\*within ..... weeks of the completion of a Memorandum of Agreement between the Client and Consultant.

I/We undertake in the event of your acceptance of this offer, to enter into a Memorandum of Agreement with you, embodying the Landscape Consultant's Appointment (**APPENDIX II**) and all the terms and conditions of this offer.

I/We agree that should errors in pricing or arithmetic be discovered in this offer before the acceptance of this offer, such errors will be corrected.

This tender remains open for acceptance for a period of .....weeks from the tender date.

Signature.....Name (block capitals)

on .....  
behalf .....  
of .....

.....  
Date .....

\*Delete whichever is inapplicable.

**SCHEDULE OF SERVICES AND FEES**

**APPENDIX I**

Referred to in the Tender dated .....

between

.....  
(insert name of Client)

and

.....  
(insert name of Landscape Consultant)

for

.....  
(insert description of project)

Unless otherwise stated the services listed in the conditions of appointment will be as described in **The Landscape Consultants Appointment** (.....Revision), published by the Landscape Institute. Clause references relate to that document.

**S1 SERVICES, AS DESCRIBED IN THE INVITATION TO TENDER**

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Service	Clause	Fee basis and rate/amount (State whether percentage, time or lump sum)
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Preliminary Services

Basic Services

Other Services

**S2 SPECIAL CONDITIONS, AS DESCRIBED IN THE INVITATION TO TENDER**

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CONDITIONS WHICH SHALL APPLY

Insert any special conditions which are to apply to the appointment.

CONDITIONS NOT TO APPLY

Insert any clauses which are not to apply to this appointment.

**FEES**

**APPENDIX I (contd.)**

PERCENTAGE FEES

Fees based on a percentage of the total construction cost shall be calculated as follows:

LUMP SUM FEES

Interim payments for percentage and lump sum fees shall be \*paid monthly/quarterly/half yearly:

\*paid at completion of work stages as follows:

Work Stage	Proportion of fee	Cumulative total
------------	-------------------	------------------

\* Delete whichever is inapplicable

Notwithstanding these, fees in respect of work stage: \_\_\_\_\_ shall be paid in instalments proportionate to the drawings and other work completed or the value of works certified.

TIME CHARGE FEES

Rates for fees charged on a time basis shall be:

.1 for principals: £ \_\_\_\_\_ per hour

.2 for staff: \_\_\_\_\_ p per £100 of gross annual income for office based staff

\* Hourly rates for named staff are given in Annexure .....

EXPENSES AND DISBURSEMENTS

\* The fees charged are inclusive of all expenses and disbursements.

Or

\* Expenses and disbursements shall be charged in accordance with Annexure .....

\* Delete whichever is inapplicable

Mileage rates shall be: \_\_\_\_\_.

Signed:

Client

Landscape Consultant

Date:

**SPECIMEN FORM OF  
MEMORANDUM OF AGREEMENT**

**APPENDIX II**

between Client and Landscape Consultant for use with the Landscape Consultant's Appointment.

**This Agreement**

is made on the ..... day of ..... 20 .....

between .....  
(insert name of Client)

of .....  
.....  
(hereinafter called the 'Client')

and .....  
(insert name of Landscape Consultant of firm of  
Landscape Consultants)

of .....  
.....  
(hereinafter called the Landscape Consultant)

**NOW IT IS HEREBY AGREED**

that upon the conditions of the Landscape Consultant's Appointment (.....Revision) a copy of which is attached hereto

save as excepted or varied by the parties hereto in the attached Schedule of Services and Fees, hereinafter called the 'Schedule',

and subject to any special conditions set out or referred to in the Schedule:

- 1. The Landscape Consultant will perform for the Client the services listed in the Schedule in respect of  
.....  
(insert general description of project)

at .....  
(insert location of project)

- 2. the Client will pay the Landscape Consultant on demand for the services, fees and expenses indicated in the Schedule;
- 3. other consultants will be appointed as indicated in the Schedule;
- 4. site staff will be appointed as indicated in the Schedule;
- 5. any difference or dispute arising out of this Agreement shall be referable to arbitration

AS WITNESS the hands of the parties the day and year first above written

Signatures: Client ..... Landscape Consultant .....

Witnesses: Name ..... Name .....

Address ..... Address .....

Description ..... Description .....



# Code of Professional Conduct and Good Practice

## Scope of the Code

The Code as amended below was adopted by the Council of the Society of Garden Designers on 21<sup>st</sup> April 2009 under Clause 10 of the Society's Articles of Association.

This Code is binding on all members of the Society and where present, their partners and/or their employees with effect from 21<sup>st</sup> April 2009.

Breaches of this Code may result in disciplinary action being taken under Clause 6.3 of the Society's Articles of Association.

## 1 Introduction

- 1.1 The purpose and scope of the Code of Professional Conduct and Good Practice is to:
  - a. inform members who are providing design services of the standard of professional conduct required of them in the exercise of their professional accountability and practice;
  - b. inform the public, other professions and employers of the standard of professional conduct that they can expect of a member of the Society.
- 1.2 As a member of the Society, you must:
  - a. act in such a way that justifies the trust and confidence the public have in you;
  - b. uphold and enhance the good reputation of the profession and the Society.
- 1.3 You are personally accountable for your practice, (be it a single-person, or a multi-person practice). This means that you are answerable for the actions and omissions of your practice, regardless of advice or directions from another professional and/or non-professional.
- 1.4 You must adhere to the laws of the country in which you are practising.

## 2 As a member of the Society, you must at all times act so as to uphold the standing and reputation of the Society and of the profession.

- 2.1 You must not make, support or collaborate in any statement, written or otherwise, which is contrary to your professional opinion, or which you know to be misleading or unfair to others, or otherwise discreditable to the profession or the Society.
- 2.2 Council members, officers of the Society and others representing the Society in any capacity must act in the interest of the Society and must not use their position as representatives of the Society to benefit or further their business interests.



- 2.3 You must not misrepresent your category of membership of the Society, or that of anyone employed by you.
- 2.4 Registered Members may use the Registered Members' logo, as supplied by the Society, in their documentation and promotional material.  
Furthermore:
- Where a Registered Member practices as a Sole Trader under a "trading as" name they are entitled to use the Registered Members Logo in conjunction with their "trading as name" so long as their own name is also present and apparent.
  - Where a Registered Member is a principal member of a multi-person practice, (i.e. a more than one-person practice) that practice will be entitled to use the Registered Member's Logo in conjunction with their practice name, but only when the Registered Member's full name is also clearly displayed.
  - Where a Registered Member is an employee or non principal of a practice/business, that member may use the Registered Member logo in close association with their full name; no larger than the capital letter of their name.
- 2.5 The Society's logo may only be used by the Society itself unless it has given specific prior written consent otherwise.

### **3 As a member of the Society, you must act with integrity and avoid conflicts of interest**

- 3.1 Before commencing any work for a client or employer you must disclose in writing any business, financial or personal interest of yours, or that of any partner, co-director, associate or employee, the existence of which, if not so declared, would or might be likely to raise either a conflict of interest between you and the client or employer or doubts about your integrity.
- 3.2 You must not (in a garden design practice) be a partner, co-director or take up employment with an unsuitable person. Examples of unsuitable persons are:
- A person whose name has been removed from the Directory of Registered Garden Designers by virtue of disciplinary measures
  - A person disqualified from membership of a recognised professional body
- 3.3 You must refuse any gift, favour or hospitality that might be interpreted, now or in the future, as an attempt to obtain preferential consideration.
- 3.4 When you specify or recommend a product, contractor or any other service, you must ensure that your advice is based on your professional opinion as to the relative advantages and disadvantages of alternative products, contractors or services and is not based on commercial gain.



- 4 **As a member of the Society, you must only undertake professional work for which you are able to provide adequate professional, financial and technical competence and resources.**
- 4.1 This duty arises when a contract is entered into, and continues throughout the term of the contract. The duty does not extend to designers taking part in competitions or otherwise engaged in speculative work.
  - 4.2 Where advisable, you must obtain additional expertise and advice from appropriately qualified individuals.
  - 4.3 Where professional work is carried out on your behalf by an employee or by anyone else acting under your direct control, you are responsible for ensuring that such person is competent to perform the task and, if necessary, is adequately supervised. You remain responsible for all work prepared and issued under your name.
- 5 **As a member of the Society, you must only promote your professional services in a truthful and responsible manner and such promotion must not be an attempt to subvert professional work from another designer.**
- 5.1 In advertising your professional services or otherwise drawing them to the attention of a potential client, you must not make untruthful or misleading statements, nor claim to be better than other professional members. Special expertise, however, may be properly claimed and referred to.
  - 5.2 Advertisements should conform, as appropriate, to the British Code of Advertising Practice and the ITC and Radio Code of Advertising Standards and Practice.
  - 5.3 The business style of a practice should not be misleading nor be capable of being confused with another Practice or service.
  - 5.4 In the knowledge that a client already has a contract for services provided by another member, you must not attempt to gain that contract.
  - 5.5 Any advertisement or other promotional material that makes reference to the Society or uses the Registered Members' logo must clearly identify the Registered Member to whom such reference applies.
- 6 **As a member of the Society, you must carry out your professional work faithfully and conscientiously and with proper regard to current technical and professional standards.**
- 6.1 When acting between parties or giving advice, you must exercise impartial and independent professional judgement to the best of your ability and understanding.
  - 6.2 You must perform your work with due skill, care and diligence.
  - 6.3 You must ensure that you maintain and continually develop your professional knowledge and competence.



- 7 **As a member of the Society, in carrying out or agreeing to carry out professional work you must pay due regard not only to the interests of your client but also to anyone who may reasonably be expected to be affected by your work.**
- 7.1 Whilst your primary responsibility is to your clients, you should nevertheless have due regard to your wider responsibility to conserve and enhance the quality of the environment and its natural resources.
- 8 **As a member of the Society, you must organise and manage your professional work responsibly and with regard to the interests of your clients.**
- 8.1 You must not undertake professional work unless your terms of engagement have been recorded in writing, these to include:
- a. the scope of the work;
  - b. the fee or method of calculating it;
  - c. any limitation of responsibilities.
- 8.2 You must keep your client informed of the progress of work undertaken on their behalf and of any matter that may significantly affect its quality or cost.
- 8.3 You must observe the confidentiality of your client's affairs and must not disclose confidential information without the prior consent of the client or other lawful authority, for example when disclosure is required by order of a court.
- 8.4 It is essential that you are covered by adequate and appropriate insurance, in accordance with statutory requirements. It is recommended that you are also covered by Professional Indemnity insurance. You should ensure that contractors you recommend have adequate and appropriate insurances.
- 9 **As a member of the Society, you must deal with disputes or complaints concerning your professional work or that of your practice or business promptly and appropriately.**
- 9.1 It is recommended that each client is advised at the outset that:
- (a) you are a member of the Society of Garden Designers and are obliged to comply with the Society's Code of Professional Conduct;
  - (b) if you and the client are not able to resolve any issue between yourselves, then the client is entitled to raise issues of professional conduct with the Society; and
  - (c) a copy of the Society's Code of Professional Conduct and Complaints Procedure are available on request.
- 9.2 Complaints should at every stage be handled courteously, sympathetically and where possible in accordance with the following time scale:
- a) an acknowledgement should be sent within 10 working days from the receipt of the complaint; and



- b) a response addressing the issues raised in the initial letter of complaint should be sent within 30 working days from its receipt.
- 9.3 If appropriate, you should encourage alternative methods of dispute resolution, such as arbitration or conciliation.
- 9.4 If you are unable to resolve the complaint to the satisfaction of the complainant, you should advise the complainant that any alleged breaches of the Code may be referred in writing to the Council of the Society. In such case, the Council may invite you and the complainant to attend a hearing. After considering all aspects of the complaint the Council may make recommendations, failure to comply with which may result in expulsion from the Society.
- 9.5 Any complaint received by the Society regarding one of its members will be dealt with in accordance with the Society's Complaints Handling Procedure, a copy of which is available on request.

**Further information**

Printed copies of the Code of Professional Conduct can be obtained by contacting the Society Administrator at the address or contact numbers below or from the Members' section of the SGD website. Enquiries about the issues addressed in the Code of Professional Conduct should be directed in the first instance to the Society Secretary at the address or contact numbers below.

21<sup>st</sup> April 2009

# Landscape Institute

## The Landscape Consultant's Appointment

The Landscape Institute  
33 Great Portland Street  
London  
W1W 8QG

Tel: +44 (0)20 7299 4500  
Fax: +44 (0)20 7299 4501  
Email: [mail@landscapeinstitute.org](mailto:mail@landscapeinstitute.org)  
Web: [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

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**The Landscape Institute, 33 Great Portland Street  
London W1W 8QG**

**Telephone: 0207-2994500  
Facsimile: 0207-2994501**

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## FOREWORD

This document has been designed to advise Landscape Consultants and their Clients in the execution of landscape commissions. It has been registered with the Office of Fair Trading under the terms of the Restrictive Trade Practices Act 1976.

The Landscape Institute is the Chartered Institute in the UK for Landscape Architects, incorporating Designers, Managers and Scientists. One of its objects is to promote the highest standard of professional service in the application of the arts and sciences of landscape architecture and management. All members of the Institute, collectively referred to in this document as Landscape Consultants, are governed by the Institute's Code of Professional Conduct, but the roles of the members of the three different landscape disciplines vary in accordance with their education and experience.

Landscape Architects (Design) identify and solve problems using design techniques based on an understanding of the external environment, knowledge of the functional and aesthetic characteristics of landscape materials, and of the organisation of landscape elements, external spaces and activities.

Landscape Architects (Management) are concerned with the long-term care and development of new and existing landscapes and also with policy and planning for future management and use. This involves them in the organisation of manpower, machinery and materials and requires a working knowledge of statutory measures and Grant Aid Schemes in order to preserve and enhance the quality of the landscape.

Landscape Architects (Science) are specialists in the physical and biological aspects of landscape design and management. Relating scientific expertise to the practical problems of designers and managers, they may work in any of the many scientific subjects that are relevant to landscape, especially botany, ecology and soil surveys.

The Landscape Institute has produced three inter-related documents which assist clients and landscape consultants to reach clear agreement on the terms and conditions of an appointment. The documents are:

- **The Landscape Consultant's Appointment** which sets out the Memorandum of Agreement as well as the standard and additional services provided, conditions of service which apply and a schedule of services and fees.
- **Engaging a Landscape Consultant – Guidance to Clients on Fees** which shows the various bases on which fees are calculated, and the fees typically charged for the Standard services for projects of a range of sizes and complexity. It provides a basis against which the fee for a particular project can be compared or a starting point for negotiation.
- **Guide to Procedure for Competitive Tendering** which guides clients through the initial considerations and the procedures needed to obtain comparable and valid fee tenders for projects.

Any question on or arising out of the information contained herein may be referred to the Director General, The Landscape Institute, 33 Great Portland Street, London W1W 8QG. Tel: 0207-2994500. Fax: 0207-2994501.



**MEMORANDUM OF AGREEMENT**

Between Client and Landscape Consultant for use with the Landscape Consultant’s Appointment.

**This Agreement**

Is made on the .....day of .....(month and year)

Between .....  
(insert name of Client)

Of .....  
.....  
(hereinafter called the Client)

And .....  
(insert name of Landscape Consultant or firm of Landscape Consultants)

Of .....  
.....  
(hereinafter called the Consultant)

**NOW IT IS HEREBY AGREED**

that upon the Conditions of the Landscape Consultant’s Appointment (Parts 1, 2 and 3) (.....Revision) attached hereto as **Appendix I**

save as excepted or varied by the parties hereto in the Schedule of Services and Fees, hereinafter called the ‘Schedule’, attached hereto as **Appendix II**

and subject to any special conditions set out or referred to in the Schedule:

- 1. The Consultant will perform for the Client the services listed on the Schedule in respect of

.....  
(insert general description of the Project)

at.....  
(insert location of the Project)

- 2. The Client will pay the Consultant on demand for the services, fees and expenses as indicated in the Schedule; in accordance with the following provisions:

- 2.1 The Consultant shall deliver invoices in the instalments and on the dates or in the circumstances specified in the Schedule. Fees so invoiced shall be due to the Consultant on the date of receipt by the Client of the invoice. If sent by post, the invoice shall be deemed to have been received two working days after posting.

2.2 Not later than 5 days after the date of receipt of an invoice in accordance with clause 2.1 hereof, the client shall acknowledge receipt of the invoice and give notice to the Consultant specifying the amount (if any) of the payment to be made and the basis on which that amount is calculated.

2.3 The Final Date for Payment of any sum due from the Client to the Consultant shall be 17 days\* [.....] after the sum becomes due.

*\*insert other period if required*

2.4 Any notice given by the Client of intention to withhold payment pursuant to section 111(1) of the Housing Grants, Construction and Regeneration Act 1996 shall be given not later than 7 days before the Final Date for Payment of any sum due to the Consultant.

AS WITNESS the hands of the parties the day and year first above written.

Signatures: Client.....

Landscape Consultant.....

Witnesses: Name..... Name.....

Address..... Address.....

.....

.....

Description..... Description.....

## **APPENDIX I**

### **PART 1 1 LANDSCAPE CONSULTANT'S SERVICES**

- 1.1 This Part describes the Preliminary and Standard Services which a Landscape Consultant will normally provide. These services are common to large and small commissions and none should be omitted if the commission is to be completed successfully. However, it may be prudent to vary the sequence of the Work Stages or to combine two or more stages to suit the particular circumstances. Where, for any reason, partial services only are to be provided, the agreement between the Client and the Consultant should indicate precisely the extent of those services. Preliminary Services comprise Work Stages A and B; Standard Services comprise Work Stages C to L inclusive. Other Services are described in Part 2.

#### **Work Stage A 1.2 Preliminary Services – Work Stage A: Inception**

**Brief 1.2.1** Discuss and assess the Client's requirements including the timescale and financial limits; advise the Client on how to proceed; advise the Client of the Employer's duties under the Construction (Design and Management) Regulations 1994 ("the CDM Regulations"); agree the Landscape Consultant's services and the terms of engagement and fee payment basis, confirming these in writing with the Client.

**Information which may be provided by the Client 1.2.2** Obtain from the Client information on ownership, other legal interests in the site, existing features, including underground services, and any other matters which may influence the development or management requirements.

**Site Appraisal 1.2.3** Visit the site and carry out an initial appraisal.

**Advice on other Consultants, Specialist Firms and Site Staff 1.2.4** Advise on the need for other consultants' services and the extent of these services; advise on the need for specialist contractors or suppliers to execute the works; advise on the need for site staff.

**Programme 1.2.5** Advise on outline programme and fee basis for further services, and obtain the Client's agreement thereto.

#### **Work Stage B 1.3 Preliminary Services – Work Stage B: Feasibility**

**Feasibility Studies 1.3.1** Undertake such studies as are necessary to determine the feasibility of the Client's requirements; discuss with the Client alternative solutions and their technical and financial implications, advise on the need to obtain planning permissions and other statutory requirements.

**Landscape Consultant's Range of Services 1.3.2** In the light of the feasibility studies, agree with the Client the detailed extent of Standard and Other Services as required.

<b>Work Stage C</b>	<b>1.4</b>	<b>Standard Services – Work Stage C: Outline Proposals</b>
Outline Proposals	<b>1.4.1</b>	Broadly analyse the Client’s requirements, prepare outline proposals and approximate estimate of the cost of executing the proposals for the Client’s approval with other Consultants where appointed.
CDM Designer’s Duties	<b>1.4.2</b>	Perform the following duties of the Designer as defined in the CDM Regulations at the appropriate stages of the commission: <ul style="list-style-type: none"> <li>- co-operate with the Planning Supervisor, if appointed;</li> <li>- pass relevant information to the Planning Supervisor, if appointed, for incorporation in the initial Health and Safety File.</li> </ul>
<b>Work Stage D</b>	<b>1.5</b>	<b>Standard Services – Work Stage D: Sketch Scheme Proposals</b>
Sketch Scheme Proposals	<b>1.5.1</b>	Develop the sketch scheme proposals from those agreed in outline, taking into account any changes requested by the Client, prepare cost estimates and programme for implementation with other Consultants where appointed. The sketch scheme proposals should indicate the size and character of the project in sufficient detail to enable the Client to agree the spatial arrangements, materials and appearance.
Changes in Scheme Proposals	<b>1.5.2</b>	Advise the Client of the implications of any changes in the cost and timing for executing the proposals and obtain approval for such changes.
Outline Planning Application	<b>1.5.3</b>	If appropriate, consult with the Planning Authority and submit any necessary application for outline planning permission using sketch scheme proposals. See also 2.2.8.
Other Approvals	<b>1.5.4</b>	Similarly, make application for any other approvals from statutory bodies, using sketch scheme proposals, where these approvals are not dependent on detailed proposals being available. See also 2.2.8.
<b>Work Stage E</b>	<b>1.6</b>	<b>Standard Services – Work Stage E: Detailed Proposals</b>
Detailed Proposals	<b>1.6.1</b>	Develop the proposals in sufficient detail to obtain the Client’s approval of the proposed materials, techniques and standards of workmanship. When acting as design team leader, co-ordinate the proposals made by other consultants, specialist contractors or suppliers; obtain quotations and other information in relation to specialist work.
Cost Checks and Changes in Detailed Proposals	<b>1.6.2</b>	Carry out cost checks where necessary and advise the Client of the consequences of any changes to the estimated cost and programme. Obtain the Client’s consent to proceed.
Detailed Statutory Approvals	<b>1.6.3</b>	Make detailed applications for approvals under planning and building legislation where necessary, using detailed scheme proposals. See also 2.2.8.
<b>Work Stages</b>	<b>1.7</b>	<b>Standard Services – Work Stages F and G: Production</b>

<b>F&amp; G</b>		<b>Information and Bills of Quantities</b>
Production Information	<b>1.7.1</b>	Prepare all production drawings, schedules and specification of materials and workmanship required for the execution of the work.
Bills of Quantities	<b>1.7.2</b>	Provide information for bills of quantities to be prepared by others. All information to be supplied in sufficient detail to enable a contract to be negotiated or competitive tenders to be invited. See also 2.6.1.
<b>Work Stages H &amp; J</b>	<b>1.8</b>	<b>Standard Services – Work Stages H and J: Tender Action and Contract Preparation</b>
Other Contracts	<b>1.8.1</b>	Where necessary, arrange for other contracts to be let in advance of the Main Contractor starting work.
Tender Lists	<b>1.8.2</b>	With the Client’s participation, advise on suitable contractors and obtain approval of a final list of tenderers.
Tender Action or Negotiation	<b>1.8.3</b>	Invite tenders from approved contractors; appraise and advise on tenders submitted. Alternatively, arrange for a price to be negotiated with a contractor by the Quantity Surveyor. See also 2.6.1.
Contract Document Preparation	<b>1.8.4</b>	Advise the Client on the appointment of the Contractor and on the responsibilities of the Client, the Contractor and the Landscape Consultant under the terms of the contract document; prepare the contract and arrange for it to be signed by the Client and the Contractor; provide production information as required by the contract.
<b>Work Stage K</b>	<b>1.9</b>	<b>Standard Services – Work Stage K: Operations on Site During Construction and 12 Months’ Maintenance</b>
Contract Administration	<b>1.9.1</b>	Administer the contract during operations on site including control of the Clerk of Works where appointed.
Inspections	<b>1.9.2</b>	Visit the site at intervals appropriate to the Contractor’s programmed activities to inspect the progress and quality of the works. Frequency of the inspections shall be agreed with the Client.
Accounts	<b>1.9.3</b>	Check and certify the authenticity of accounts.
Financial Appraisal and Programme	<b>1.9.4</b>	Make periodic financial reports to the Client; with other Consultants where appointed identify any variation in the cost of the works or in the expected duration of the contract.
<b>Work Stage L</b>	<b>1.10</b>	<b>Standard Services – Work Stage L: Completion</b>
Completion of Works	<b>1.10.1</b>	Administer the terms of the contract relating to the completion of the works and give general guidance on activities after completion of contract.

## **PART 2**

## **2 OTHER SERVICES**

**2.1** This part describes services which may be provided by the Landscape Consultant by prior agreement with the Client to augment the Preliminary and Standard Services describe in Part 1 or which may be the subject of a separate appointment. The list of services is not exhaustive.

### **2.2 Surveys and Investigations**

Site  
Evaluation

**2.2.1** Advise on the selection and suitability of sites; conduct negotiations concerned with sites and their features.

Measured  
Surveys

**2.2.2** Make measured surveys, take levels and prepare plans of sites and their features, including any existing buildings.

Site  
Investigation

**2.2.3** Undertake investigations into, prepare reports and schedules, and give advice on the nature and condition of the vegetation, soil or other features of the site. Investigate failures, arrange and supervise exploratory work by contractors or specialists.

Maintenance  
and  
Management  
Cost in Use

**2.2.4** Survey and analyse the usage, management and maintenance of a site, undertake cost in use studies, and analyse the need for additional design work.

Environmental  
Assessment

**2.2.5** Undertake environmental assessment studies of the impact of development proposals and land use changes.

Development  
Plans

**2.2.6** Prepare development plans for sites, where development of part of the whole site will not be immediate. Prepare Masterplans showing general scheme principles and layout, and integration with surrounding land uses or proposals.

Demolition  
and Clearance

**2.2.7** Provide services in connection with demolition and clearance works.

Special  
Drawings and  
Models

**2.2.8** Prepare special drawings, models or technical information for the use of the Client for applications under planning or building regulations, or other statutory requirements, or for negotiations with ground landlords, adjoining owners, public authorities, licensing authorities, mortgagees and others; prepare plans for conveyancing, Land Registry and other legal or record purposes.

Prototype

**2.2.9** Develop prototype proposals for repetitive use by the client, but only when such repetitive use is specifically agreed by the Landscape Consultant and Client as appropriate.

Site Furniture  
and  
Equipment

**2.2.10** Design or advise on the selection of site furniture and equipment; arrange and inspect the fabrication of site furniture, arrange trials and training in use of equipment.

Multi-  
Disciplinary  
Meetings

**2.2.11** Attendance at multi-disciplinary meetings held to discuss projects or elements outside the Landscape Consultant's appointment or fee basis (where attendance would not otherwise be required for whole or part of meeting).

Public

**2.2.12** Prepare and organise material for public consultation and

Meetings	liaison; attend public meetings.
Works of Art	<b>2.2.13</b> Advise on the commissioning or selection of works of art in connection with landscape commissions.
Scientific Developments	<b>2.2.14</b> Undertake research and conduct trials if necessary; especially where technical problems indicate that traditional solutions are inadequate. It is recommended that a full brief, fee basis and funding be separately agreed.
Visits to Nurseries	<b>2.2.15</b> Visit horticultural nurseries to ascertain the quantity, quality and cost of stock available for purchase.
	<b>2.3 Cost Estimating and Financial Advisory Services</b>
Cost Plans and Cash Flow Requirements	<b>2.3.1</b> Carry out cost planning for a project, including the cost of professional fees; advise on cash flow requirements for fees, works and cost in use.
Schedules of Rates and Quantities	<b>2.3.2</b> Prepare schedules of rates or bills of quantities for tendering purposes; measure work executed.
Cost of Replacement and Reinstatement of Damaged Landscape	<b>2.3.3</b> Carry out inspections and surveys, prepare estimates for the replacement and reinstatement of damaged landscapes; submit and negotiate claims for compensation.
Grant Applications	<b>2.3.4</b> Provide information; make applications for and conduct negotiations for grants.
	<b>2.4 Planning Negotiations</b>
Planning Applications; Exceptional Negotiations	<b>2.4.1</b> Conduct detailed negotiations with a planning authority that become prolonged because of complexity.
Planning Appeals and Public Inquiries	<b>2.4.2</b> Prepare and submit an appeal under planning acts; advise on other work in connection with planning appeals. Prepare and submit a proof of evidence for a public inquiry, appear as an expert witness at a public inquiry.
Royal Fine Art Commission	<b>2.4.3</b> Make submissions to the Royal Fine Art Commission.
Building Regulations; Exceptional Negotiations	<b>2.4.4</b> Conduct detailed negotiations for approvals under the building regulations; negotiate waivers or relaxations; all of which may become prolonged because of complexity.
Landlords' Approvals	<b>2.4.5</b> Submit plans of proposed works for the approval of landlords, mortgagees, freeholders or others.
Rights of Owners and	<b>2.4.6</b> Advise on the rights and responsibilities of owners or lessees including right of ways, rights of support, boundary, drainage

Lessees		and wayleave responsibilities etc.; such advice shall always be subject to confirmation by the Client's legal adviser.
Statutory Bodies	<b>2.4.7</b>	Liaise with, submit plans or technical information and conduct negotiations with statutory bodies, e.g. Environment Agency, highway authority, statutory undertakers.
	<b>2.5</b>	<b>Additional Administration of Projects</b>
Site Staff	<b>2.5.1</b>	Provide or recruit site staff with the Client's agreement, for frequent or constant inspection of the works.
Extended Administration	<b>2.5.2</b>	Administer and inspect contract aftercare and maintenance works extending beyond 12 months from completion of the capital works.
Suspension	<b>2.5.3</b>	Suspend and recommence work on projects where progress is unexpectedly delayed by more than 3 months due to financial constraints, delayed approvals or other reasons.
Project Management	<b>2.5.4</b>	Provide management from inception to completion; prepare briefs, appoint and co-ordinate consultants, implementation managers, agents, suppliers and contractors; monitor time cost and agreed targets; monitor progress of the works, handover projects on completion.
Record Drawings	<b>2.5.5</b>	Provide the Client with a set of drawings showing the main elements of the scheme; arrange for drawings of other services to be provided as appropriate.
Landscape Management Plans	<b>2.5.6</b>	Prepare management plans and maintenance schedules; prepare drawings, schedules and operational manuals, assess cost and staffing implications of proposals.
Contract Claims	<b>2.5.7</b>	Carry out the administration, evaluation and settlement of contract claims.
Litigation and Arbitration	<b>2.5.8</b>	Prepare and give evidence, settle proofs, confer with solicitors and counsel; attend court and arbitration hearings; appear before tribunals, act as arbitrator or adjudicator.
Health and Safety Plan	<b>2.5.9</b>	Prepare pre-tender Health and Safety Plan; notify the Health and Safety Executive of the project; assemble the Health and Safety File; prepare 'as built' drawings for the Health and Safety File.
Planning Supervisor	<b>2.5.10</b>	Provide the services of Planning Supervisor under the CDM Regulations. The terms and fee for this service should be agreed under a separate appointment.
	<b>2.6</b>	<b>Services normally provided by other Consultants</b>
Other Consultants' Services	<b>2.6.1</b>	Where services such as quantity surveying, architecture, civil, structural, mechanical or electrical engineering, town planning or graphic design are provided from within the Landscape Consultant's own office or by other Consultants in association with the Landscape Consultant, it is recommended that the fees be separately agreed.

## **2.7 Additional Design Services**

- 2.7.1** Alter or modify any design, specification, drawing or other document as a result of new or modified instructions from the Client or for other reasons which could not reasonably have been foreseen. Make and issue reproductions of such altered documents.

## **PART 3**

### **3 CONDITIONS OF APPOINTMENT**

**3.1** This Part describes the conditions which apply to a Landscape Consultant's appointment. If different or additional services are required they should be set out in the Schedule of Services, Memorandum of Agreement or letter of appointment.

**Duty of Care**                    **3.2**    The Landscape Consultant will use reasonable skill, care and diligence in accordance with the normal standards of the profession.

**Contamination Or Pollution**                    **3.3**    Unless this clause is expressly stated not to apply, nothing in the agreement shall require the Consultant to provide advice or services in connection with the presence of or risk of contamination or pollution by harmful substances. The Client shall retain sole responsibility for determining what, if any, investigations and actions shall be taken in relation to such substances, and shall commission such professional advice as he considers necessary.

**Landscape Consultant's Authority**                    **3.4**    The Landscape Consultant will act on behalf of the Client in the matters set out or implied in the Landscape Consultant's appointment. The Landscape Consultant will obtain the authority of the Client before initiating any service or Work Stage.

**Modifications**                    **3.5**    The Landscape Consultant shall not significantly alter an approved proposal without Client approval. Should changes be found to be necessary during implementation; the Client shall be informed and consent obtained without delay.

**Terms for Payment**                    **3.6**    The Client shall pay the Landscape Consultant for his services in accordance with paragraph 2 of the Memorandum of Agreement, save that in the event of termination or suspension of the commission, the Consultant shall be entitled to payment of a reasonable proportion of the interim payment or at the agreed hourly rate, whichever is applicable, for all work carried out to the date of termination or suspension and not previously the subject of an invoice for interim payment.

**Revisions to the Conditions of Appointment**                    **3.7**    The agreement between a Client and a Landscape Consultant is deemed to allow for revisions due to changing circumstances. In long-term commissions such changes will probably be due to unforeseen factors or matters beyond the control of the Landscape Consultant at the date of the appointment.

**Project Control**                    **3.8**    The Landscape Consultant will report any significant variations in authorised expenditure or contract period.

**Impartiality**                    **3.9**    The Landscape Consultant will be impartial in administering the terms of a contract between Client and Contractor.

**Appointment of Other Consultants**                    **3.10**    Consultants may be appointed either by the Client direct or by the Landscape Consultant subject to acceptance by each party.

<b>Sub-contracting</b>	<b>3.11</b>	The Landscape Consultant shall not sub-contract any part of the commission without notifying the Client and receiving formal agreement on the division of responsibilities that will apply.
<b>Liability of other Consultants</b>	<b>3.12</b>	Where a Consultant is appointed under clause 3.10, the Landscape Consultant shall not be held liable for the other Consultant's work, provided that in relation to the execution of such work under a contract between Client and Contractor, nothing in this clause shall affect any responsibility of the Landscape Consultant to perform his duties under the terms of that contract.
<b>Consultant Co-ordination</b>	<b>3.13</b>	The Landscape Consultant will have the responsibility to co-ordinate and integrate into the overall design the services provided by any consultant, however employed.
<b>Design work by Contractors/ Suppliers</b>	<b>3.14</b>	A specialist contractor, sub-contractor or supplier who is employed by the Client and who supplies design drawings to the Landscape Consultant for incorporation in the works may be appointed by agreement. The Landscape Consultant shall not be held liable for the execution and performance of this work. The Landscape Consultant will have the authority to integrate and co-ordinate this design information into the overall design.
<b>Contractor Responsibility</b>	<b>3.15</b>	The Client will employ a contractor under a separate agreement to undertake construction or other works not undertaken by the Landscape Consultant. The Client will hold the contractor, and not the Landscape Consultant, responsible for the contractor's operational methods and for the proper execution of the works.
<b>Site Inspections</b>	<b>3.16</b>	The Landscape Consultant will visit the site at intervals appropriate to the progress of the works. As these intervals will vary depending on the nature of the work, the Landscape Consultant will explain to the Client at the outset when inspections will be made and agree these with the Client. If more inspections/visits to the site are required by the Client, details, as an extension to the Standard Services, will be agreed in writing with the Client.
<b>Site Staff and Resident Landscape Staff</b>	<b>3.17</b>	Where frequent or constant professional inspection is agreed to be required, a resident professional shall be appointed on a full or part-time basis by the Consultant under specific terms of appointment and remuneration.
<b>Site Staff/Clerk of Works</b>	<b>3.18</b>	Where frequent or constant inspection of the works is required, a Clerk of Works suitably qualified in the supervision of landscape operations shall be employed. The Clerk of Works may be employed by the Client, or the Landscape Consultant, but in either case will be under the control and direction of the Landscape Consultant.
<b>Information from Client</b>	<b>3.19</b>	The Client is required to provide the Landscape Consultant with such information and make such decisions as are necessary for the proper performance of the agreed service. The requirement and reasons for such timely action shall be

explained to the Client by the Landscape Consultant so that the implications of delay are clearly understood by both parties.

- |                                  |   |
|----------------------------------|---|
| <b>Client Representative</b>     | <b>3.20</b> The Client, if a firm or other body of persons, will, when requested by the Landscape Consultant, nominate a responsible representative through whom all instructions will be given.  |
| <b>Copyright</b>                 | <b>3.21</b> Copyright in all documents and drawings prepared by the Landscape Consultant shall unless otherwise agreed remain the property of the Consultant. Where so agreed, copyright shall be passed to the Client only after all fees due to the Landscape Consultant have been paid.  |
| <b>Copyright Entitlement</b>     | <b>3.22</b> The Client will be entitled to use documents and drawings in executing the works for which they were prepared by the Landscape Consultant provided that:<br>a) All fees due to the Landscape Consultant have been submitted or paid.<br>b) The entitlement relates only to that site or part of the site for which the design was prepared.<br><br>This entitlement applies to the design, maintenance and management of the works. |
| <b>Assignment</b>                | <b>3.23</b> Neither the Client nor the Landscape Consultant shall assign the appointment in whole or in part without prior written agreement as to the division of responsibilities that apply.   |
| <b>Suspension</b>                | <b>3.24</b> The length of notice for suspension should be agreed in writing at the outset. The Client may suspend the Landscape Consultant's appointment in whole or in part, the notice given being in accordance with the agreed timing and in writing.   |
| <b>Suspension by Consultant</b>  | <b>3.25</b> The Landscape Consultant will give immediate notice in writing to the Client of any situation arising from force majeure which makes it impractical to carry out any of the agreed services, and agree with the Client a suitable course of action.   |
| <b>Resumption of Service</b>     | <b>3.26</b> Following the notice in accordance with clause 3.24 if no instruction has been received within 6 months, the Landscape Consultant shall make a written request for instructions. If no instruction is received within 30 days, the appointment shall be treated as terminated.  |
| <b>Suspension of Obligations</b> | <b>3.27</b> If the Client fails to make payment in accordance with Clause 2 of the Memorandum of Agreement and no effective notice to withhold payment has been given, the Landscape Consultant may, following 7 days' notice setting out the grounds for suspension, suspend the performance of his obligations under the agreement until payment is received.   |
| <b>Termination</b>               | <b>3.28</b> The Landscape Consultant's appointment may be terminated by either party by following the procedure in clause 3.24, where this is permitted by the appointment.   |

<b>Death or Incapacity</b>	<b>3.29</b>	If death or incapacity of a sole practitioner stops the Landscape Consultant from carrying out the agreed duties under this appointment, it shall be terminated. As soon as all outstanding fees have been submitted or paid, the Client will be entitled to use all data prepared on the project subject to the provisions in respect of copyright in accordance with clause 3.21 and 3.22.
<b>Adjudication</b>	<b>3.30</b>	In the event of a dispute arising under the agreement, either party may give notice at any time to the other of his intention to refer the dispute to adjudication.
<b>Appointment of Adjudicator</b>	<b>3.31</b>	<p>An adjudicator shall be appointed by agreement between the parties within 2 working days of receipt of notice under 3.30 or, failing agreement, within 7 days of the said notice by the President or a Vice-President of the Landscape Institute. The adjudicator shall conduct the adjudication in such manner as he considers fit, having regard to the Construction Industry Council's Model Adjudication Procedure, and subject to the following matters:</p> <ul style="list-style-type: none"> <li>• Within 7 working days of notice under 3.30 the parties shall agree and provide to the adjudicator a joint statement of undisputed facts (so as to reduce the area of dispute to a minimum);</li> <li>• The adjudicator shall act impartially and shall reach a decision within 28 days of referral of the dispute to him or such longer period as the parties may agree;</li> <li>• The adjudicator shall be entitled to extend the period of 28 days by up to 14 days with the consent of the party giving notice under 3.30;</li> <li>• The adjudicator shall be entitled to take the initiative in ascertaining the facts and the law;</li> <li>• The parties shall accept the adjudicator's decision as binding upon them until such time as the dispute is finally resolved in accordance with a ruling under 3.32, arbitration under 3.33 or by agreement; alternatively the parties may agree to accept the decision of the adjudicator as finally determining the dispute;</li> <li>• The adjudicator, or any employee or agent of his, shall not be liable to the parties for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith.</li> </ul>
<b>Ruling on a Joint Statement</b>	<b>3.32</b>	<p>Any difference or dispute arising from a written appointment under this document may, by agreement, be referred to the Landscape Institute for a ruling by the President. The parties must agree:</p> <p>to prepare and submit with their submission a joint statement of undisputed facts to reduce the area of dispute to a minimum; and</p> <p>to accept the ruling as final and binding.</p>
<b>Arbitration</b>	<b>3.33</b>	Subject to the parties' rights under 3.30 to 3.32, any difference of dispute arising out of the appointment shall be referred to arbitration by a person to be agreed between the parties or, failing agreement within 21 days after either party has given to the other a written request to concur in the

appointment of an arbitrator, a person to be appointed at the request of either party by the President or a Vice-President for the time being of the Chartered Institute of Arbitrators.

Alternative for  
Scotland

**3.34** In Scotland, any difference or dispute arising out of the appointment which cannot be resolved in accordance with clause 3.32 or 3.33 shall be referred to arbitration by a person to be agreed between the parties or, failing agreement within 21 days after either party has given to the other a written request to concur in the appointment of an arbiter, a person to be nominated at the request of either party by the Chairman for the time being of the Scottish Branch of the Chartered Institute of Arbitrators.

Settlement of  
Disputes by  
Agreement

**3.35** Nothing herein shall prevent the parties agreeing to settle any difference or dispute arising out of the appointment without recourse to arbitration or adjudication.

Governing laws  
England and  
Wales

**3.36** The application of these conditions shall be governed by the laws of England and Wales.

or

Alternative for  
Scotland

The application of these conditions shall be governed by the laws of Scotland.

or

Alternative for  
Northern  
Ireland

The application of these conditions shall be governed by the laws of Northern Ireland.

CDM  
Regulations  
1994

**3.37** Where the Client is required under the CDM Regulations to appoint a Planning Supervisor, the following Additional Conditions CDM.1 – CDM.6 shall apply to this agreement.

**CDM1** The Landscape Consultant shall, where the Client is required by CDM Regulations to appoint a Planning Supervisor, co-operate with and pass relevant information to the Planning Supervisor (whether within the same firm of landscape consultants or otherwise).

**CDM2** The Client shall, where required by the CDM Regulations, appoint as soon as reasonably practicable a competent Planning Supervisor. The Client shall procure that the appointment remains filled at all times until construction is completed.

**CDM3** The Landscape Consultant shall, where the Client is required by the CDM Regulations to have appointed a Planning Supervisor and where after the design information is complete the Client orders changes necessitating rework, continue to co-operate with and pass relevant information to the Planning Supervisor.

**CDM4** The Client shall, where required by the CDM Regulations, appoint as soon as reasonably practicable a competent Principal Contractor.

**CDM5** The Client shall, where required by the CDM Regulations to appoint a Planning Supervisor, and where consultants are appointed, procure the consultants' co-operation in the exchange of information relating to health and safety aspects of their work, and shall co-operate with the Planning Supervisor.

**CDM6** The Client shall, where required by the CDM Regulations to appoint a Planning Supervisor, and where specialists are appointed, procure the specialists' co-operation in the exchange of information relating to health and safety aspects of their work, and shall co-operate with the Planning Supervisor.

**APPENDIX II**

**SCHEDULE OF SERVICES AND FEES**

Referred to in the Memorandum of Agreement dated .....

Between .....  
(insert name of Client)

And .....  
(insert name of Landscape Consultant)

For .....  
(insert description of project)

Unless otherwise stated the services listed in the conditions of appointment will be as described in The Landscape Consultant's Appointment (Parts 1,2 and 3) (..... Revision), issued by The Landscape Institute. Clause references relate to that document.

**S1 SERVICES**

Service	Clause	Fee basis (State whether percentage, time or lump sum)
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Preliminary Services

Standard Services

Other Services

**S2 SPECIAL CONDITIONS**

<b>CONDITIONS WHICH SHALL APPLY</b>	Insert any special conditions which are to apply to the appointment.
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<b>CONDITIONS NOT TO APPLY</b>	Insert any clauses which are not to apply to this appointment.
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**PERCENTAGE FEES** Fees based on a percentage of the total construction cost shall be calculated as follows:

**LUMP SUM FEES** The total fee for all services shown under S1 Services to be on a lump sum basis shall be:  
£.....

**TIME CHARGE FEES** Rates for fees charged on a time basis shall be:

1. for Principals	£...../hour
2. for other staff grade.....	£...../hour
3. for other staff grade.....	£...../hour
4. for other staff grade.....	£...../hour
5. for other staff grade.....	£...../hour

**INTERIM PAYMENTS** The Consultant shall be entitled to (and shall render invoices for) interim payment of fees:

- for work on a percentage or lump sum basis, at the completion of work stages and/or additional interim stages, as follows:

Work stage	Proportion of percentage or lump sum fee	Cumulative total
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\* insert stages and proportions to cover all interim payments

\* delete where not applicable and insert commencement date

- for work on a time-charge basis \*monthly/quarterly/half-yearly from the commencement of work on.....

**EXPENSES AND DISBURSEMENTS**

\* delete where not applicable and insert location of rates schedule.

\* The fees charged are inclusive of all expenses and disbursements  
or  
\* Expenses and disbursements shall be charged in addition, in accordance with rates specified .....

Signed:

.....  
Client Consultant

Date:

.....