

Working with your client

This fact sheet provides information about how to maintain a positive relationship with your clients.

INFORMATION FOR LAWYERS

Complaints to the Victorian Legal Services Commissioner cannot always be avoided. However, there are things you can do to help maintain positive relationships with your clients.

Explain your role

Complaints often arise through clients misunderstanding the role of their lawyer. To avoid this, it is imperative that you clearly explain your role to your client at the initial meeting. Outline what it is that you can and cannot do, what they can expect from you, when you will be available, as well as any relevant litigation processes you will be using.

Communication

Communication is a crucial part of the lawyer-client relationship. If your clients understand what is happening, they are far less likely to make a complaint about your service or conduct.

Wherever possible speak to your clients using plain English and avoid the use of legal jargon when explaining the legal process. This will help to minimise confusion and improve your clients' comprehension of what you are saying, particularly if your client is stressed.

It is important that you maintain clear lines of communication with your clients throughout the course of a matter. You should aim to respond to any queries or correspondence in a timely manner. It may help to outline your days of availability at the initial consultation and inform your clients in advance of any periods of leave you may be taking over the course of the matter.

Interpreters

If your client has trouble understanding or communicating with you, whether because of a language barrier or because of a disability, you may need to seek the assistance of a formally registered interpreter or a disability support service. Using a family member to interpret for you may not always be appropriate, especially if that family member is a child, or does not have a strong understanding of English themselves. Confidentiality and undue influence are also factors which must be considered in using a family member or friend as an interpreter.

Remember that cultural sensitivities to privacy and confidentiality also exist, especially within small communities where the client may know the interpreter.

It is wise to confirm with your clients that they understand the interpreter process and how the costs of this additional service will be billed.

Make good notes and maintain your records

Good file management is extremely important. Making thorough notes can help you prepare for meetings, mediations and litigation. Maintaining client's files and records can also help with your preparation and in the recovery of legal costs. If a complaint is made about you, your notes and records will be helpful in addressing and refuting the concerns raised.

Avoid conflicts of interest

As a lawyer, you have an obligation to avoid a conflict of interest. Conflicts of interests can arise if you act:

- for a party where you have a personal interest in the matter
- for two or more parties in the one matter
- against a former client, or
- against a party represented by a family member.

Ensure you are prepared

Inadequate preparation is a common complaint to the Commissioner. In some circumstances you may have minimal time to prepare, however it is good practice to allocate sufficient time to prepare yourself for all meetings.

Follow the rules

Lawyers are bound by a set of rules and regulations, as well as legislation and common law. You should familiarise yourself with the rules and ensure you comply with them at all times. If you are unsure then you should try discussing the matter with your superior or colleagues, or contact the professional associations for information.

Manage the process

Keep your clients informed and up-to-date with their legal matter. Make sure you advise your clients that you may not always be able to do what they ask you to do. You should make sure that you explain that you have an obligation to the court as well as to your clients.

Giving your clients progress reports and informing them of any major developments in the matter helps to keep them informed and gives clients a sense of control. Outline to your clients the course of action you will take and why. You should also explain to your clients about the distinction between acting as their lawyer and any other work you might do for them (for example, acting as executor of an estate, or providing investment advice or services).

It is particularly important to keep your clients informed of any delays which have occurred or are likely to occur in the matter, and to explain the reason(s) for those delays so the client is fully aware.

Charge your time reasonably and accurately

Ensure you give your clients adequate information about costs at the initial consultation and throughout the course of the matter, even if you believe your costs will be less than the disclosure threshold of \$750. If your first consultation is not free of charge you should advise your clients of this. If it is, then you should advise your clients when their time expires and that you will be charging per hour for any further work. This is also the case when you take away some documents to peruse and consider – you should always advise your clients whether there will be a cost involved and what the amount is per hour.

Overcharging may amount to a disciplinary breach, so it is important that you comply with your obligations under the Legal Profession Uniform Law.

If in doubt, seek assistance

If you are faced with an ethical dilemma and you are unsure of what to do, seek advice on the matter. Try discussing the matter with your superior or colleagues. They may offer some insight into the matter. The professional associations also offer information and advice about how to act ethically in accordance with the law.

Use complaints as an opportunity to improve

Try not to view a complaint to the Commissioner as a negative thing. The complaint may provide insight into what your clients think and expect of the services from a lawyer. The complaint also provides you with an opportunity to improve your services and knowledge and how you might better manage client expectations in future matters.

Further information:

Contact the Victorian Legal Services Commissioner

Tel: 1300 796 344

Email: admin@lsbc.vic.gov.au