

Lawyers

Lawyers advise and represent clients regarding legal matters. Only lawyers are permitted to give specific legal advice to clients about legal issues and to legally represent people. There are strict rules that lawyers must follow in performing this role, and in Victoria they must hold a current 'Practicing Certificate' (like a license to practice as a lawyer).

Lawyers have many professional obligations they must follow, the most fundamental of which is the duty to the Court and the administration of justice. In Victoria this duty is held to be higher and more important than all other duties a lawyer has.

In addition, lawyers have obligations towards their clients, including to:

- Act in the best interests of their client and follow their clients lawful instructions;
- Give their client clear and timely advice to assist them to understand the relevant legal issues;
- Keep all information received from their client confidential unless they are authorized to share it by their client or by the law;
- Avoid any conflict of interests in giving legal advice or representation, or in the way they interact with a client or are paid;

- Complete legal work on the clients behalf competently, diligently and as promptly as possible;
- If they work privately for a fee, to provide, in writing, the basis on which the client's legal costs will be calculated and an estimate of the clients total legal costs (unless those costs are unlikely to exceed \$750.00.); and,
- If they work privately for a fee, to provide a detailed (or itemised) bill within 21 days of the client asking for one.

Complaints about lawyers can be made to the Legal Services Board and Commissioner:

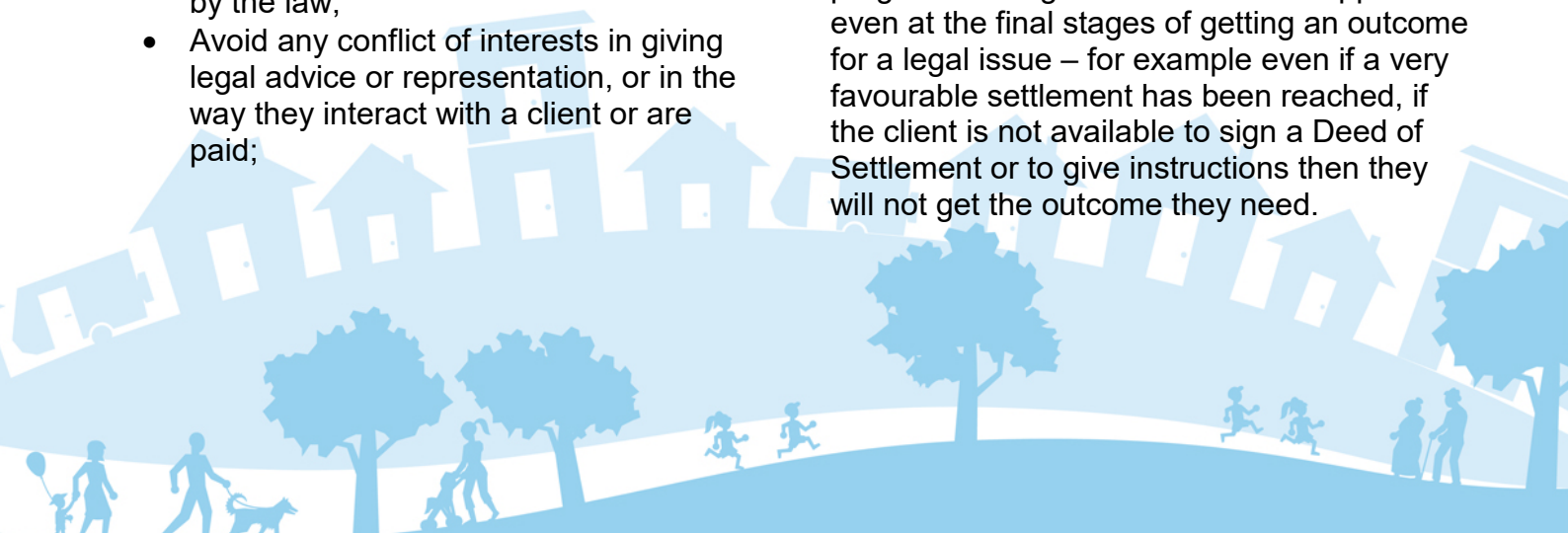
Web: <https://lsbc.vic.gov.au/contact-us>

Email: admin@lsbc.vic.gov.au

Phone: 03 9679 8001

Direct Instructions

Lawyers can only act on their client's direct instructions. Without direct instructions, lawyers cannot act at all. The effect of this is that if a lawyer ceases to have contact with their client, by their client dis-engaging or not returning phone calls, the lawyer cannot progress the legal work. This can happen even at the final stages of getting an outcome for a legal issue – for example even if a very favourable settlement has been reached, if the client is not available to sign a Deed of Settlement or to give instructions then they will not get the outcome they need.



Confidentiality

Lawyers have a professional duty of confidentiality to their clients, and if they break this confidentiality they can be disciplined by the Legal Services Board and Commissioner or potentially have to pay damages to their client. Also, confidentiality means that lawyers cannot be forced to disclose information which has been communicated for the purpose of giving or obtaining legal advice.

Information will be considered confidential whether it is oral or in writing as long as it was given for the purpose of seeking legal advice or for use in legal proceedings.

However, there are some exceptions to the lawyers obligation to keep information confidential. Lawyers are required to disclose information where:

- Their client lawfully instructs them to disclose the information;
- The confidential information was given by the client to the lawyer for the purpose of being guided or helped in committing a crime; or
- There is a duty or obligation under law to disclose the information (for example, in some cases where the Police have a search warrant).



Conflict of Interest

A Conflict of Interest is where a lawyer has competing obligations or duties they owe to more than one person, and they cannot fulfil them all at the same time. A lawyer must avoid having a conflict of interest, and if they do have one they must stop being involved in the legal dispute and also inform their clients of the conflict of interest.

Because lawyers have a duty to act in the best interests of their client, and also to keep information confidential, a lawyer cannot represent different people involved in the same dispute. For example, a lawyer should not agree to represent the buyer as well as the seller in a sale of land.

Also, a lawyer cannot act against someone who has been their client in the past – because the lawyer knows confidential information about that client. All legal firms and lawyers should check whether they have a conflict of interest as soon as a new client is referred to them.

