

21. RESPONSIBLE USE OF COURT PROCESS AND PRIVILEGE

- 21.1. A solicitor must take care to ensure that the solicitor's advice to invoke the coercive powers of a court:
- 21.1.1. is reasonably justified by the material then available to the solicitor;
 - 21.1.2. is appropriate for the robust advancement of the client's case on its merits;
 - 21.1.3. is not given principally in order to harass or embarrass a person; and
 - 21.1.4. is not given principally in order to gain some collateral advantage for the client or the solicitor or a third party out of court.
- 21.2. A solicitor must take care to ensure that decisions by the solicitor to make allegations or suggestions under privilege against any person:
- 21.2.1. are reasonably justified by the material then available to the solicitor;
 - 21.2.2. are appropriate for the robust advancement of the client's case on its merits; and
 - 21.2.3. are not made principally in order to harass or embarrass a person.
- 21.3. A solicitor must not allege any matter of fact in:
- 21.3.1. any court document settled by the solicitor;
 - 21.3.2. any submission during any hearing;
 - 21.3.3. the course of an opening address; or
 - 21.3.4. the course of a closing address or submission on the evidence,
- unless the solicitor believes on reasonable grounds that the factual material already available provides a proper basis to do so.
- 21.4. A solicitor must not allege any matter of fact amounting to criminality, fraud or other serious misconduct against any person unless the solicitor believes on reasonable grounds that:
- 21.4.1. available material by which the allegation could be supported provides a proper basis for it; and
 - 21.4.2. the client wishes the allegation to be made, after having been advised of the seriousness of the allegation and of the possible consequences for the client and the case if it is not made out.
- 21.5. A solicitor must not make a suggestion in cross-examination on credit unless the solicitor believes on reasonable grounds that acceptance of the suggestion would diminish the credibility of the evidence of the witness.
- 21.6. A solicitor may regard the opinion of an instructing solicitor that material which is available to the instructing solicitor is credible, being material which appears to the solicitor from its nature to support an allegation to which Rules 21.1, 21.2, 21.3 and 21.4 apply, as a reasonable ground for holding the belief required by those Rules (except in the case of a closing address or submission on the evidence).
- 21.7. A solicitor who has instructions which justify submissions for the client in mitigation of the client's criminality which involve allegations of serious misconduct against any other person not able to answer the allegations in the case must seek to avoid disclosing the other person's identity directly or indirectly unless the solicitor believes on reasonable grounds that such disclosure is necessary for the proper conduct of the client's case.

- 21.8. Without limiting the generality of Rule 21.2, in proceedings in which an allegation of domestic or family violence, sexual assault, indecent assault or the commission of an act of indecency is made and in which the alleged victim gives evidence:
- 21.8.1. a solicitor must not ask that witness a question or pursue a line of questioning of that witness which is intended:
- (i) to mislead or confuse the witness; or
 - (ii) to be unduly annoying, harassing, intimidating, offensive, oppressive, humiliating or repetitive; and
- 21.8.2. a solicitor must take into account any particular vulnerability of the witness in the manner and tone of the questions that the solicitor asks.
- 21.9. A solicitor does not infringe Rule 21.8 merely because:
- 21.9.1. the question or questioning challenges the truthfulness of the witness or the consistency or accuracy of a statement made by the witness, or
- 21.9.2. the question or questioning requires the witness to give evidence that the witness could consider to be offensive, distasteful or private.

22. COMMUNICATION WITH OPPONENTS

- 22.1. A solicitor must not knowingly make a false or misleading statement to an opponent in relation to the case (including its compromise).
- 22.2. A solicitor must take all necessary steps to correct any false or misleading statement made by the solicitor to an opponent as soon as possible after the solicitor becomes aware that the statement was false or misleading.
- 22.3. A solicitor will not have made a false or misleading statement to the opponent simply by failing to correct an error on any matter stated to the solicitor by the opponent.
- 22.4. A solicitor must not confer or deal with any party represented by or to the knowledge of the solicitor indemnified by an insurer, unless the party and the insurer have signified willingness to that course.
- 22.5. A solicitor must not, outside an ex parte application or a hearing of which an opponent has had proper notice, communicate in the opponent's absence with the court concerning any matter of substance in connection with current proceedings unless:
- 22.5.1. the court has first communicated with the solicitor in such a way as to require the solicitor to respond to the court; or
- 22.5.2. the opponent has consented beforehand to the solicitor communicating with the court in a specific manner notified to the opponent by the solicitor.
- 22.6. A solicitor must promptly tell the opponent what passes between the solicitor and a court in a communication referred to in Rule 22.5.
- 22.7. A solicitor must not raise any matter with a court in connection with current proceedings on any occasion to which an opponent has consented under Rule 22.5.2 other than the matters specifically notified by the solicitor to the opponent when seeking the opponent's consent.
- 22.8. A solicitor must take steps to inform the opponent as soon as possible after the solicitor has reasonable grounds to believe that there will be an application on behalf of the client to adjourn any hearing, of that fact and the grounds of the application, and must try, with the opponent's consent, to inform the court of that application promptly.

23. OPPOSITION ACCESS TO WITNESSES

- 23.1. A solicitor must not take any step to prevent or discourage a prospective witness or a witness from conferring with an opponent or being interviewed by or on behalf of any other person involved in the proceedings.
- 23.2. A solicitor does not breach Rule 23.1 simply by:
- 23.2.1. telling a prospective witness or a witness that the witness need not agree to confer or to be interviewed, or
 - 23.2.2. advising the prospective witness or the witness about relevant obligations of confidentiality.

24. INTEGRITY OF EVIDENCE – INFLUENCING EVIDENCE

- 24.1. A solicitor must not:
- 24.1.1. advise or suggest to a witness that false or misleading evidence should be given nor condone another person doing so; or
 - 24.1.2. coach a witness by advising what answers the witness should give to questions which might be asked.
- 24.2. A solicitor will not have breached Rules 24.1 by:
- 24.2.1. expressing a general admonition to tell the truth;
 - 24.2.2. questioning and testing in conference the version of evidence to be given by a prospective witness; or
 - 24.2.3. drawing the witness's attention to inconsistencies or other difficulties with the evidence, but the solicitor must not encourage the witness to give evidence different from the evidence which the witness believes to be true.

25. INTEGRITY OF EVIDENCE – TWO WITNESSES TOGETHER

- 25.1. A solicitor must not confer with, or condone another solicitor conferring with, more than one lay witness (including a party or client) at the same time:
- 25.1.1. about any issue which there are reasonable grounds for the solicitor to believe may be contentious at a hearing; and
 - 25.1.2. where such conferral could affect evidence to be given by any of those witnesses, unless the solicitor believes on reasonable grounds that special circumstances require such a conference.
- 25.2. A solicitor will not have breached Rule 25.1 by conferring with, or condoning another solicitor conferring with, more than one client about undertakings to a court, admissions or concessions of fact, amendments of pleadings or compromise.

26. COMMUNICATION WITH WITNESSES UNDER CROSS-EXAMINATION

- 26.1. A solicitor must not confer with any witness (including a party or client) called by the solicitor on any matter related to the proceedings while that witness remains under cross-examination, unless:
- 26.1.1. the cross-examiner has consented beforehand to the solicitor doing so; or
 - 26.1.2. the solicitor:
 - (i) believes on reasonable grounds that special circumstances (including the need for instructions on a proposed compromise) require such a conference;
 - (ii) has, if possible, informed the cross-examiner beforehand of the solicitor's intention to do so; and
 - (iii) otherwise does inform the cross-examiner as soon as possible of the solicitor having done so.

27. SOLICITOR AS MATERIAL WITNESS IN CLIENT'S CASE

- 27.1. In a case in which it is known, or becomes apparent, that a solicitor will be required to give evidence material to the determination of contested issues before the court, the solicitor may not appear as advocate for the client in the hearing.
- 27.2. In a case in which it is known, or becomes apparent, that a solicitor will be required to give evidence material to the determination of contested issues before the court the solicitor, an associate of the solicitor or a law practice of which the solicitor is a member must not continue to act for the client if doing so would prejudice the administration of justice.

28. PUBLIC COMMENT DURING CURRENT PROCEEDINGS

- 28.1. A solicitor must not publish or take steps towards the publication of any material concerning current proceedings which may prejudice a fair trial or the administration of justice.

29. PROSECUTOR'S DUTIES

- 29.1. A prosecutor must fairly assist the court to arrive at the truth, must seek impartially to have the whole of the relevant evidence placed intelligibly before the court, and must seek to assist the court with adequate submissions of law to enable the law properly to be applied to the facts.
- 29.2. A prosecutor must not press the prosecution's case for a conviction beyond a full and firm presentation of that case.
- 29.3. A prosecutor must not, by language or other conduct, seek to inflame or bias the court against the accused.
- 29.4. A prosecutor must not argue any proposition of fact or law which the prosecutor does not believe on reasonable grounds to be capable of contributing to a finding of guilt and also to carry weight.

- 29.5. A prosecutor must disclose to the opponent as soon as practicable all material (including the names of and means of finding prospective witnesses in connection with such material) available to the prosecutor or of which the prosecutor becomes aware which could constitute evidence relevant to the guilt or innocence of the accused other than material subject to statutory immunity, unless the prosecutor believes on reasonable grounds that such disclosure, or full disclosure, would seriously threaten the integrity of the administration of justice in those proceedings or the safety of any person.
- 29.6. A prosecutor who has decided not to disclose material to the opponent under Rule 29.5 must consider whether:
- 29.6.1. the charge against the accused to which such material is relevant should be withdrawn; or
- 29.6.2. the accused should be faced only with a lesser charge to which such material would not be so relevant.
- 29.7. A prosecutor must call as part of the prosecution's case all witnesses:
- 29.7.1. whose testimony is admissible and necessary for the presentation of all of the relevant circumstances;
- 29.7.2. whose testimony provides reasonable grounds for the prosecutor to believe that it could provide admissible evidence relevant to any matter in issue;
- UNLESS:
- (i) the opponent consents to the prosecutor not calling a particular witness,
- (ii) the only matter with respect to which the particular witness can give admissible evidence has been dealt with by an admission on behalf of the accused,
- (iii) the only matter with respect to which the particular witness can give admissible evidence goes to establishing a particular point already adequately established by another witness or other witnesses; or
- (iv) the prosecutor believes on reasonable grounds that the testimony of a particular witness is plainly untruthful or is plainly unreliable,
- provided that the prosecutor must inform the opponent as soon as practicable of the identity of any witness whom the prosecutor intends not to call on any ground within (ii), (iii) or (iv) together with the grounds on which the prosecutor has reached that decision.
- 29.8. A prosecutor who has reasonable grounds to believe that certain material available to the prosecution may have been unlawfully obtained must promptly:
- 29.8.1. inform the opponent if the prosecutor intends to use the material; and
- 29.8.2. make available to the opponent a copy of the material if it is in documentary form.
- 29.9. A prosecutor must not confer with or interview any accused except in the presence of the accused's legal representative.
- 29.10. A prosecutor must not inform the court or an opponent that the prosecution has evidence supporting an aspect of its case unless the prosecutor believes on reasonable grounds that such evidence will be available from material already available to the prosecutor.
- 29.11. A prosecutor who has informed the court of matters within Rule 29.10, and who has later learnt that such evidence will not be available, must immediately inform the opponent of that fact and must inform the court of it when next the case is before the court.

- 29.12. A prosecutor:
- 29.12.1. must correct any error made by the opponent in address on sentence;
 - 29.12.2. must inform the court of any relevant authority or legislation bearing on the appropriate sentence;
 - 29.12.3. must assist the court to avoid appealable error on the issue of sentence;
 - 29.12.4. may submit that a custodial or non-custodial sentence is appropriate; and
 - 29.12.5. may inform the court of an appropriate range of severity of penalty, including a period of imprisonment, by reference to relevant decisions.
- 29.13. A solicitor who appears as counsel assisting an inquisitorial body such as the Criminal Justice Commission, the Australian Crime Commission, the Australian Securities and Investments Commission, the ACCC, a Royal Commission or other statutory tribunal or body having investigative powers must act in accordance with Rules 29.1, 29.3 and 29.4 as if the body is a court referred to in those Rules and any person whose conduct is in question before the body is an accused referred to in Rule 29.

RELATIONS WITH OTHER PERSONS

30. ANOTHER SOLICITOR OR OTHER PERSON'S ERROR

- 30.1. A solicitor must not take unfair advantage of the obvious error of another solicitor or other person, if to do so would obtain for a client a benefit which has no supportable foundation in law or fact.

31. INADVERTENT DISCLOSURE

- 31.1. Unless otherwise permitted or compelled by law, a solicitor to whom material known or reasonably suspected to be confidential is disclosed by another solicitor, or by some other person and who is aware that the disclosure was inadvertent must not use the material and must:
- 31.1.1. return, destroy or delete the material (as appropriate) immediately upon becoming aware that disclosure was inadvertent; and
 - 31.1.2. notify the other solicitor or the other person of the disclosure and the steps taken to prevent inappropriate misuse of the material.
- 31.2. A solicitor who reads part or all of the confidential material before becoming aware of its confidential status must:
- 31.2.1. not disclose or use the material, unless otherwise permitted or compelled by law,
 - 31.2.2. notify the opposing solicitor or the other person immediately, and
 - 31.2.3. not read any more of the material.
- 31.3. If a solicitor is instructed by a client to read confidential material received in error, the solicitor must refuse to do so.

32. UNFOUNDED ALLEGATIONS

- 32.1. A solicitor must not make an allegation against another Australian legal practitioner of unsatisfactory professional conduct or professional misconduct unless the allegation is made bona fide and the solicitor believes on reasonable grounds that available material by which the allegation could be supported provides a proper basis for it.

33. COMMUNICATION WITH ANOTHER SOLICITOR'S CLIENT

- 33.1. In representing a client, a solicitor shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another practitioner unless:
- 33.1.1. the other practitioner has previously consented;
 - 33.1.2. the solicitor believes on reasonable grounds that:
 - (i) the circumstances are so urgent as to require the solicitor to do so; and
 - (ii) the substance of the communication would not be unfair to the opponent's client;
 - 33.1.3. the communication is solely to enquire whether the other party or parties to a matter are represented and, if so, by whom; or
 - 33.1.4. there is notice of the solicitor's intention to communicate with the other party or parties, but the other practitioner has failed, after a reasonable time, to reply and there is a reasonable basis for proceeding with the communication.

34. DEALING WITH OTHER PERSONS

- 34.1. A solicitor must not in any action or communication associated with representing a client:
- 34.1.1. make any statement to another person:
 - (i) which grossly exceeds the legitimate assertion of the rights or entitlements of the solicitor's client, and
 - (ii) which misleads or intimidates the other person,
 - 34.1.2. threaten the institution of a criminal or disciplinary complaint against the other person if a civil liability to the solicitor's client is not satisfied; or
 - 34.1.3. use tactics that go beyond legitimate advocacy and which are primarily designed to embarrass or frustrate another person.
- 34.2. In the conduct or promotion of a solicitor's practice, the solicitor must not seek instructions for the provision of legal services in a manner likely to oppress or harass a person who, by reason of some recent trauma or injury, or other circumstances, is, or might reasonably be expected to be, at a significant disadvantage in dealing with the solicitor at the time when the instructions are sought.

35. CONTRACTING WITH THIRD PARTIES

- 35.1. If a solicitor instructs a third party on behalf of the client, and the solicitor is not intending to accept personal liability for payment of the third party's fees, the solicitor must advise the third party in advance.

LAW PRACTICE MANAGEMENT

36. ADVERTISING

- 36.1. A solicitor or principal of a law practice must ensure that any advertising, marketing, or promotion in connection with the solicitor or law practice is not:
- 36.1.1. false;
 - 36.1.2. misleading or deceptive or likely to mislead or deceive;
 - 36.1.3. offensive; or
 - 36.1.4. prohibited by law.
- 36.2. A solicitor must not convey a false, misleading or deceptive impression of specialist expertise and must not advertise or authorise advertising in a manner that uses the words “accredited specialist” or a derivative of those words (including post-nominals), unless the solicitor is a specialist accredited by the relevant professional association.

37. SUPERVISION OF LEGAL SERVICES

- 37.1. A solicitor with designated responsibility for a matter must exercise reasonable supervision over solicitors and all other employees engaged in the provision of the legal services for that matter.

38. RETURNING JUDICIAL OFFICERS

- 38.1. A solicitor who is a former judicial officer must not appear in:
- 38.1.1. any court if the solicitor has been a member thereof or presided therein; or
 - 38.1.2. any court from which appeals to any court of which the solicitor was formerly a member may be made or brought,
- for a period of two years after ceasing to hold that office unless permitted by the relevant court.

39. LEGAL AND NON-LEGAL SERVICES

- 39.1. Where a solicitor or law practice:
- 39.1.1. shares an office with or is otherwise affiliated with an entity or business engaged in another calling to provide services other than legal services to a client, and
 - 39.1.2. a client is receiving services concurrently from both the law practice and the other entity,
- the solicitor, or law practice, as the case requires, must take all reasonable steps to ensure that the client is clearly informed about the nature and the terms of the services being provided to the client by the solicitor or law practice, including (if applicable) that the services provided by the other entity are not provided by solicitor or the law practice as legal services.

40. SHARING RECEIPTS

40.1. A solicitor must not, in relation to the conduct of the solicitor's practice, or the delivery of legal services, share, or enter into any arrangement for the sharing of, the receipts arising from, or in connection with, the provision of legal services by the solicitor, with:

40.1.1. any disqualified person; or

40.1.2. any person:

(i) who has been found guilty of an indictable offence; or

(ii) who has had a guilty plea accepted in relation to an indictable offence that involved dishonest conduct, whether or not a conviction was recorded.

41. [OMITTED]

42. ANTI-DISCRIMINATION AND HARASSMENT

42.1. A solicitor must not in the course of, or in connection with, legal practice or their profession, engage in conduct which constitutes:

42.1.1. discrimination,

42.1.2. sexual harassment,

42.1.3. any other form of harassment, or

42.1.4. workplace bullying.

43. DEALING WITH THE REGULATORY AUTHORITY

43.1. Subject only to their duty to the client, a solicitor must be timely, open, and frank in their dealings with a regulatory authority.

43.2. Omitted.

GLOSSARY OF TERMS

"**associate**" in reference to a solicitor means:

- a) a partner, employee, or agent of the solicitor or of the solicitor's law practice;
- b) a corporation or partnership in which the solicitor has a material beneficial interest;
- c) in the case of the solicitor's incorporated legal practice, a director of the incorporated legal practice or of a subsidiary of the incorporated legal practice;
- d) a member of the solicitor's immediate family; or
- e) a member of the immediate family of a partner of the solicitor's law practice or of the immediate family of a director of the solicitor's incorporated legal practice or a subsidiary of the incorporated legal practice.

"**associated entity**" means an entity that is not part of the law practice but which provides legal or administrative services to a law practice, including but not limited to:

- a) a service trust or company; or
- b) a partnerships of law practices operating under the same trading name or a name which includes all or part of the trading name of the law practice.

"**Australian legal practitioner**" means an Australian lawyer who holds or is taken to hold an Australian practising certificate.

"**Australian practising certificate**" means a current practising certificate granted under the legal profession legislation of any Australian jurisdiction.

"**Australian-registered foreign lawyer**" has the same meaning as set out in legal profession legislation.

"**Australian roll**" means a roll of practitioners maintained under the legal profession legislation of any Australian jurisdiction.

"**Authorised Deposit-taking Institution**" has the same meaning as an Authorised Deposit-taking Institution within the meaning of the *Banking Act 1959* (Cth).

"**barrister**" means an Australian legal practitioner whose Australian practising certificate is subject to a condition that the holder is authorised to engage in legal practice as or in the manner of a barrister only.

"**case**" means:

- a) the court proceedings for which the solicitor is engaged; or
- b) the dispute in which the solicitor is advising.

"**client**" with respect to the solicitor or the solicitor's law practice means a person (not an instructing solicitor) for whom the solicitor is engaged to provide legal services for a matter.

"**client documents**" means a document of a client.

"**community legal service**" means an organisation or body that is a community legal service, a community legal centre, or a complying community legal centre for the purposes of the legal profession legislation of a jurisdiction.

"**compromise**" includes any form of settlement of a case, whether pursuant to a formal offer under the rules or procedure of a court, or otherwise.

“corporate solicitor” means an Australian legal practitioner who engages in legal practice only in the capacity of an in-house lawyer for their employer or a related entity.

"costs" includes disbursements.

"court" means:

- a) any body described as such;
- b) any tribunal exercising judicial, or quasi-judicial, functions;
- c) a professional disciplinary tribunal;
- d) an industrial tribunal;
- e) an administrative tribunal;
- f) an investigation or inquiry established or conducted under statute or by a Parliament;
- g) a Royal Commission;
- h) an arbitration or mediation or any other form of dispute resolution.

"current proceedings" means proceedings which have not been determined, including proceedings in which there is still the real possibility of an appeal or other challenge to a decision being filed, heard or decided.

“discrimination” means discrimination that is unlawful under the applicable state, territory or federal anti-discrimination or human rights legislation.

"disqualified person" means any of the following persons whether the thing that has happened to the person happened before or after the commencement of this definition:

- a) a person whose name has (whether or not at their own request) been removed from an Australian roll and who has not subsequently been admitted or re-admitted to the legal profession under legal profession legislation or a corresponding law;
- b) a person whose Australian practising certificate has been suspended or cancelled under legal profession legislation or a corresponding law and who, because of the cancellation, is not an Australian legal practitioner or in relation to whom that suspension has not finished;
- c) a person who has been refused a renewal of an Australian practising certificate under legal profession legislation or a corresponding law, and to whom an Australian practising certificate has not been granted at a later time;
- d) a person who is the subject of an order under legal professional legislation or a corresponding law prohibiting a law practice from employing or paying the person in connection with the relevant practice;
- e) a person who is the subject of an order under legal profession legislation or a corresponding law prohibiting an Australian legal practitioner from being a partner of the person in a business that includes the solicitor’s practice; or
- f) a person who is the subject of any order under legal profession legislation or corresponding law, disqualifying them from managing an incorporated legal practice or from engaging in partnerships with certain partners who are not Australian legal practitioners.

"document" means any record of information, and includes:

- a) anything on which there is writing, and
- b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them, and
- c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else, and
- d) a map, plan, drawing or photograph,

and a reference to a document includes a reference to –

- e) any part of the document, and
- f) any copy, reproduction or duplicate of the document or any part of the document, and
- g) any part of such a copy, reproduction or duplicate.

"engagement" means the appointment of a solicitor or of a solicitor's law practice to provide legal services for a matter.

"employee" means a person who is employed or under a contract of service or contract for services in or by an entity whether or not:

- a) the person works full-time, part-time, or on a temporary or casual basis; or
- b) the person is a law clerk or articled clerk.

"employer" in relation to a corporate solicitor means a person or body (not being another solicitor or a law practice) who or which employs the solicitor whether or not the person or body pays or contributes to the solicitor's salary.

"former client" for the purposes of Rule 10.1, may include a person or entity that has previously instructed:

- a) the solicitor;
- b) the solicitor's current law practice;
- c) the solicitor's former law practice, while the solicitor was at the former law practice;
- d) the former law practice of a partner, co-director or employee of the solicitor, while the partner, co-director or employee was at the former law practice,

or, has provided confidential information to a solicitor, notwithstanding that the solicitor was not formally retained and did not render an account.

"harassment" means harassment that is unlawful under the applicable state, territory or federal anti-discrimination or human rights legislation.

"immediate family" means the spouse (which expression may include a de facto spouse or partner of the same sex), or a child, grandchild, sibling, parent or grandparent of a solicitor.

"instructing solicitor" means a solicitor or law practice who engages another solicitor to provide legal services for a client for a matter.

"insurance company" includes any entity, whether statutory or otherwise, which indemnifies persons against civil claims.

“law practice” means:

- a) an Australian legal practitioner who is a sole solicitor,
- b) a partnership of which the solicitor is a partner,
- c) a multi-disciplinary partnership,
- d) a community legal service,
- e) an unincorporated legal practice, or
- f) an incorporated legal practice.

“legal costs” means amounts that a person has been or may be charged by, or is or may become liable to pay to, a law practice for the provision of legal services including disbursements but not including interest.

“legal profession legislation” means a law of a State or Territory that regulates legal practice and the provision of legal services.

“legal services” means work done, or business transacted, in the ordinary course of legal practice.

“managed investment scheme” has the same meaning as in Chapter 5C of the *Corporations Act 2001* (Cth).

“matter” means any legal service the subject of an engagement or required to be provided by the solicitor or the solicitor’s law practice to fulfil an engagement and includes services provided for:

- a) a case;
- b) a dealing between parties that may affect, create or be related to a right, entitlement or interest in property of any kind; or
- c) advice on the law.

“multi-disciplinary partnership” means:

- a) a partnership between one or more solicitors and one or more other persons who are not solicitors, where the business of the partnership includes the provision of legal services in this jurisdiction as well as other services;

but does not include:

- b) a partnership consisting only of one or more solicitors and one or more Australian- registered foreign lawyers.

“office” is not limited to physical business premises and includes the media through which a law practice provides legal services to clients away from a central, physical location.

“opponent” means:

- a) the practitioner appearing for a party opposed to the client of the solicitor in question; or
- b) that party, if the party is unrepresented.

“order” includes a judgment, decision or determination.

“party” includes each one of the persons or corporations who or which is jointly a party to any matter.

“practitioner” means a person or law practice entitled to practise the profession of law.

“principal” means a solicitor who is the holder of a principal practising certificate, within the meaning of legal profession legislation.

“professional misconduct” includes:

- a) unsatisfactory professional conduct of an Australian legal practitioner, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; and
- b) conduct of an Australian legal practitioner whether occurring in connection with the practice of law or occurring otherwise than in connection with the practice of law that would, if established, justify a finding that the solicitor is not a fit and proper person to engage in legal practice.

“prosecutor” means a solicitor who appears for the complainant or Crown in criminal proceedings.

“regulatory authority” means an entity identified in legal profession legislation which has responsibility for regulating the activities of solicitors in that jurisdiction.

“serious criminal offence” means an offence that is:

- a) an indictable offence against a law of the Commonwealth or any jurisdiction (whether or not the offence is or may be dealt with summarily),
- b) an offence against the law of a foreign country another jurisdiction that would be an indictable offence against a law of this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or
- c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this jurisdiction if committed in this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction).

“sexual harassment” means an unwelcome sexual advance, request for sexual favours, or otherwise engaging in other unwelcome conduct of a sexual nature to the person harassed in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

“solicitor” means:

- a) an Australian legal practitioner whose Australian practising certificate is not subject to a condition that the holder is authorised to engage in legal practice as or in the manner of a barrister only; or
- b) an Australian registered foreign lawyer who practises as or in the manner of a solicitor.

“solicitor with designated responsibility” means the solicitor ultimately responsible for a client’s matter or the solicitor responsible for supervising the solicitor that has carriage of a client’s matter.

“substantial benefit” means a benefit which has a substantial value relative to the financial resources and assets of the person intending to bestow the benefit.

“trustee company” is as defined in relevant jurisdictional legislation: the *Trustee Companies Act 1964* (NSW), the *Trustee Companies Act 1968* (QLD), the *Trustee Companies Act 1984* (VIC), the *Trustee Companies Act 1988* (SA), the *Trustee Companies Act 1953* (TAS), the *Trustee Companies Act 1987* (WA) and the *Trustee Companies Act 1947* (ACT).

“unsatisfactory professional conduct” includes conduct of an Australian legal practitioner occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner.

“workplace bullying” means bullying that is unlawful under the applicable state or territory anti-discrimination or human rights legislation or constitutes bullying at work under Commonwealth legislation. If no such legislative definition exists, it is conduct within the definition relied upon by the Australian Human Rights Commission to mean workplace bullying. In general terms, it includes the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that could be expected to intimidate, offend, degrade or humiliate.