



Legal Practitioners

Conduct Board

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FACT SHEET 2

GENERAL INFORMATION ABOUT LAWYERS REPRESENTING ANOTHER PARTY

Can the Board investigate complaints about the conduct of a lawyer representing another party in my case?

Yes, the role of the Board is to investigate complaints of unsatisfactory or unprofessional conduct as defined by the [Legal Practitioners Act, 1981](#).

“Unprofessional conduct”, in relation to a legal practitioner, means:

- a) an offence of a dishonest or infamous nature committed by the legal practitioner in respect of which punishment by imprisonment is prescribed or authorised by law;
- b) any conduct in the course of, or in connection with, practice by the legal practitioner that involves substantial or recurrent failure to meet the standard of conduct observed by competent legal practitioners of good repute.

“Unsatisfactory conduct”, in relation to a legal practitioner, means conduct in the course of, or in connection with, practice by the legal practitioner that is less serious than unprofessional conduct but involves a failure to meet the standard of conduct observed by competent legal practitioners of good repute.

In this information sheet, the term **“misconduct”** refers to both **“unprofessional”** and **“unsatisfactory”** conduct and is used interchangeably.

What can the Board do when it receives a complaint about the conduct of a lawyer representing another party in a case?

- The Board can investigate conduct which may suggest undue influence, duress, intimidation or abusive behavior.
- The Board can investigate the complaint and determine whether or not the lawyer has deliberately, or knowingly, misled a Court, Tribunal or opponent in the proceedings.
- The Board can only investigate the complaint in relation to professional conduct issues.

- The Board cannot reach conclusions about the truth, or otherwise, of the evidence presented in Court by the lawyer.

If I am unrepresented, can the Board help me with my court or tribunal case?

No. The Board cannot give you legal advice about your matter, nor can the Board give you advice about any remedy you may have.

Can I talk directly with the opposing lawyer?

- If you are unrepresented, you and the lawyer representing the other party can speak directly to each other.
- If you have a lawyer representing you in the proceedings, you should not approach the other lawyer directly. Your lawyer will speak to the lawyer representing the other party.
- It is not appropriate for a lawyer representing the other side to speak to you directly when you are represented by a lawyer.

What is the role of my lawyer?

- Your lawyer's role is to protect your interests and to act on your reasonable instructions. Your lawyer must advise you of the best course of legal action for you within the boundaries of the law and the ethical standards of the legal profession.
- A lawyer owes no duty to act in the interests of other parties. That means that the lawyer acting for another party has no duty to act in your interests. Our legal system is adversarial. Lawyers for the other party will say, or do, things which go against your interests.

What can I do if I do not agree with what the lawyer for the other party says or does?

- You may disagree with the instructions that the other party in your legal proceedings gives to their lawyer.
- You may disagree with the advice the lawyer gives the other party in relation to the conduct of the legal proceedings.
- You cannot interfere, however, in the professional relationship between the other party and their lawyer.
- What takes place between a lawyer and their client is confidential.

What if the lawyer representing another party says something to the court that I think is untrue?

- It is the responsibility of the presiding Judge or Magistrate to determine whether the language, and behavior, of any person, including a lawyer appearing in Court is unacceptable.
- A lawyer must not knowingly mislead the Court. A lawyer must not knowingly make a false statement to the Court.
- A lawyer must not knowingly make a false statement about the case to another party in the proceedings.
- You may disagree with the evidence presented by a lawyer representing another party. You, or your lawyer, have a right to challenge the evidence in Court.
- The lawyer representing the other party may make allegations with which you disagree. This may amount to misconduct if the allegations are entirely irrelevant or without foundation. If a lawyer has been instructed by their client to make an allegation, it is unlikely that the lawyer will be found to have acted without foundation.
- A lawyer may unknowingly make a false statement and later become aware that the statement is false. In these circumstances, the lawyer must take all necessary steps to inform the Court and all parties to the case as soon as possible.

What if I do not like how the opposing lawyer behaves?

- Any behavior or language that is abusive or intimidatory, or constitutes undue influence or duress against you can amount to misconduct.

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Information Sheets on other topics are available from the Board.