



Legal Practitioners Conduct Board

LAWYERS REPRESENTING ANOTHER PARTY

Information Sheet No. 2 for a person who has contacted the Legal Practitioners Conduct Board regarding the conduct of a lawyer representing another party in their case

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

Yes. It is the role of the Board to investigate complaints of unsatisfactory or unprofessional conduct as defined by the *Legal Practitioners Act, 1981*.

“Unprofessional conduct”, 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; or
- (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” 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.”

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 behaviour, or which may otherwise amount to misconduct.
- The Board can investigate the complaint and determine whether or not the lawyer has deliberately or knowingly misled a court or tribunal.

- The Board can investigate the complaint in relation to conduct issues only.
- The Board is unable to reach conclusions about the truth or otherwise of information presented in court by a lawyer.

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

The Board cannot give you legal advice about your matter or any remedy you may have. It cannot be your legal advisor.

Can I talk directly with the opposing lawyer?

- If you are unrepresented, you and the lawyer representing another party can speak directly to each other.
- If you have your own lawyer representing you in the proceedings, you should not approach the other lawyer directly. Your lawyer is permitted to speak to a lawyer representing another party about their behaviour.

What is the role of a lawyer?

- The role of a lawyer is to protect her or his own client's interests and to act on her or his client's instructions. A lawyer must advise her or his own client on the best course of legal action for the client within the boundaries of the law and the ethical standards of the profession.
- A lawyer owes no duty to act in the interests of other parties. That means that the lawyer about whom you have complained has no duty to act in your best interests. Our legal system is adversarial. This means that lawyers can be expected to say or do things which go against the interests of other parties.

What if I don't agree with what the lawyer representing another party is saying?

- It may be that the other party in your legal proceedings is giving instructions to her or his own lawyer with which you disagree.
- You may disagree with the advice that the lawyer is giving the other party in relation to the conduct of your legal proceedings.
- However, you cannot interfere in the professional relationship between another party and their lawyer. What takes place between a lawyer and a client is confidential.

What if the lawyer representing another party says something to the court that I don't think is true?

- It is the responsibility of the judge or magistrate to determine whether the language and behaviour of any person appearing in her or his court, including a lawyer, is acceptable.
- A lawyer has a duty not to mislead the court. A lawyer must not make a false statement to the court, knowing that it is false. A lawyer must not make a false statement about the case to another party in the proceedings, knowing that it is false.
- 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 another party may make certain allegations with which you disagree. This may amount to misconduct if the allegation is entirely irrelevant or without foundation. If a lawyer has been instructed by her or his client to make an allegation, it is unlikely that a 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. If so, she or he must take all necessary steps to inform the court and other parties to the case as soon as possible, and to correct the statement.

What if I don't like the way the opposing lawyer behaves?

- Behaviour or language that is abusive or intimidatory, or that constitutes undue influence or duress against you, particularly if you are unrepresented, may amount to misconduct.
- This is different to a situation where you do not like the style of a lawyer representing another party. The other party's lawyer is entitled to represent their client as they see fit.

January 2003

<p style="text-align: center;">Legal Practitioners Conduct Board L3, 33 Franklin Street, Adelaide SA 5000 GPO Box 230, Adelaide SA 5001 Phone: (08) 8212 7924 Fax: (08) 8231 0747 Email: lpcb@lpcb.com.au</p>
--

Information Sheets on other topics are available from the Board.