

Working effectively with your lawyer

When you hire a lawyer to represent you, it is ultimately to assist you to resolve your legal matter. In order to get the most favourable outcome it is important to know what your lawyer must do for you and what you can do to assist your lawyer help you.

What must your lawyer do for you?

Keep conversations, correspondence and documents confidential: This means that, except in the most exceptional circumstances, everything was discussed between you and your lawyer can only be disclosed to someone else with your permission or by a court order. An exception may be if you threaten to hurt yourself or someone else.

Act in an ethical manner: This means your lawyer must not allow their interests or the interests of others to conflict with your interests. For example, a lawyer must not act for you if they have previously provided legal advice to the person you are in dispute with. In such cases, your lawyer **MUST** advise you as soon as possible of any potential conflict. If you believe there may be a conflict you should also raise it with your lawyer.

Follow your instructions: Your lawyer cannot make any decisions without your permission or consent. Your lawyer must carry out your instructions as promptly and efficiently as possible in accordance with the law. However, if the lawyer believes that your instructions are not in your best interest or that there is an ethical issue with your instructions, your lawyer may stop representing you.

Communicate with you: Your lawyer must provide advice about all your options, including the best course of action. Your lawyer must also treat you with respect, be polite, patient and assist in your understanding of the law.

Disclose costs: Your lawyer must disclose in writing how much they charge, including disbursements (expenses the lawyer pays on your behalf like court costs that you must pay) before they begin any work on your matter. This is often done in writing or with a costs agreement. This is an important document and a copy should be kept. During your matter, your lawyer should send you regular bills setting out in detail the work they did for you. You can negotiate how much and when you pay before paying the bill.

Handle your money appropriately: Your lawyer may ask you to pay some of their fees in advance to cover any expenses they incur during their work for you. This money must be held in trust and cannot be paid to anybody for any expenses without your specific permission, which you may provide in your original retainer or costs agreement.

What other duties must your lawyer perform?

Whilst observing duties to their clients, lawyers must also:

- Not mislead the Court.
- Act with competence, honesty and courtesy towards other lawyers, parties and witnesses.
- Be independent (free from personal bias).

- Be frank in their responses and disclosures to the Court.
- Be diligent in their observance of undertakings given to the Court or other parties.

How you can help your lawyer with your case

Give full and clear instructions: To represent you successfully your lawyer needs all relevant information. Being honest about your matter, including its history and what you are trying to achieve, will help your lawyer provide better advice. It is important for a lawyer to know all details as soon as possible so they are not surprised; especially if a court case is involved. It is a lawyer's duty to maintain the strictest confidentiality about their clients so you need not feel embarrassed or afraid or conceal facts that are not favourable to you.

Be honest and lawful: Lawyers have a duty not to mislead the Court. If you provide false information in an affidavit or false evidence during a case and you do not allow your lawyer to correct the misinformation, your lawyer must withdraw from the case.

Be prepared before you speak with your lawyer: Before you speak with or visit a lawyer, it is a good idea to write down a summary of your matter, including questions and the contact details of all persons involved. You will also need to collate any documents and show them to your lawyer. If you are not sure what is relevant, it is best to take along all documents related to your matter and let your lawyer decide what is important. Being prepared will save your lawyer's time and help to reduce your costs. But remember too that you may be charged for every time you contact your lawyer, including times you speak to other people in your lawyer's office.

Promptly do what you are asked: Follow advice given by your lawyer as soon as possible to avoid delays. For instance, your lawyer may request more information or documentation. Use or ask for a checklist of what you need to provide and when.

Make sure you understand the fees and costs structure: As the client you have a duty to promptly pay a fair and reasonable price for legal services. If you fail to pay, your lawyer can stop working for you. However, if you are disputing the costs, this should be raised immediately with your lawyer. Do not delay in raising any issues about costs as there are strict time limitation periods in relation to commencing proceedings about costs.

If you require further information about disputing costs or feel that you could make a complaint about your lawyer, you can contact the Office of the Legal Services Commissioner on **02 9377 1800** or **1800 242 958** (regional NSW) or visit the website <http://www.olsc.nsw.gov.au/>

Ask questions: If you are confused or have any questions, ask your lawyer for an explanation as soon as possible. Don't sign any document until you fully understand what it is about. Get your lawyer to address any concerns you have.

Finally, keep your lawyer updated with any changes to the circumstances of your case, your contact details and keep copies of all documents in relation to your case.

This fact sheet is intended as a general guide to the law. It should not be relied on as legal advice and it is recommended that you talk to a lawyer about your particular situation. At the time of writing, the information shown is correct but may be subject to change. If you need more help, contact LawAccess NSW on 1300 888 529.