

Working with lawyers

What makes a lawyer?

- Legal education at university
- Law and rules about practice and ethics
- Practical legal training and experience

Ethical duties of Lawyers

- to court
- to clients
- to the profession

What is involved in the duty to the client?

- Lawyer must act in the best interests of their client
 - not in interests of someone else, like a company, government, or their employer
 - not in the lawyer's own interests
- Lawyer must act on instructions
- Lawyer must avoid conflict of interest
- Duty of confidentiality
- Fiduciary obligation

What if the lawyer doesn't behave in an appropriate way?

- Complaints can be made
- Lawyer can be struck off

Legal professional privilege

- Covers conversations and documents done for purpose of giving legal advice or for litigation
 - e.g. anthropologist's and other reports
- It is the client's privilege. The lawyer cannot tell anyone about privileged matters without client's instructions
- Allows proper advice to be given and proper preparation of case

What sort of work do lawyers do?

- Take instructions about the client's legal issue and legal action that might be needed
- Provide advice about the best legal strategy and possible outcomes
- Prepare documents for Court or dealing with the other party:
 - Objections
 - Comments
 - Affidavits
 - Submissions
- Negotiate with lawyers for the other parties
- Draft contracts
- Argue the case before the Court or NNTT on the hearing of objections or determination applications, if necessary

Structure of legal profession

Solicitor:

- Takes initial instructions
- First contact for client – looks after all of client's legal interests
- Does a lot of the preparatory work

Barrister:

- Briefed by solicitor for specific matter
- Often specialists in particular area of law
- Expert advocates in Court
- Independent – do not work for anyone

Costs

- How is the lawyer to be paid?
- Is there a costs agreement that controls how much the lawyer is paid?
- What about paying the other side's costs if we lose?