

**Colin
Biggers
& Paisley**

Get to the Points.

**Conduct Rules and
in-house counsel**

David Miller
17 February 2026



Contents.

- Purpose and effect of the Rules
- Paramount duty to the court and the administration of justice
- Other fundamental ethical duties
- Standard of conduct - dishonest or disreputable conduct
- Undertakings in the course of legal practice
- Client instructions
- Confidentiality
- Conflicts concerning former clients
- Independence - avoidance of personal bias
- Responsible use of court process and privilege
- Communication with opponents
- Public comment during current proceedings
- Another solicitor's or other person's error
- Inadvertent disclosure
- Unfounded allegations
- Communication with another solicitor's client
- Dealing with other persons

Purpose and effect of the Rules.

- 2.1 The purpose of these Rules is to assist solicitors to act ethically and in accordance with the principles of professional conduct established by the common law and these Rules.
- 2.2 In considering whether a solicitor has engaged in unsatisfactory professional conduct or professional misconduct, the Rules apply in addition to the common law.
- 2.3 A breach of these Rules is capable of constituting unsatisfactory professional conduct or professional misconduct, and may give rise to disciplinary action by the relevant regulatory authority.



Paramount duty to the court and the administration of justice.

- 3.1 A solicitor's duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty.



Other fundamental ethical duties.

- 4.1 A solicitor must:
 - 4.1.1 act in the best interests of a client in any matter in which the solicitor represents the client,
 - 4.1.2 be honest and courteous in all dealings in the course of legal practice,
 - 4.1.3 deliver legal services competently, diligently and as promptly as reasonably possible,
 - 4.1.4 avoid any compromise to their integrity and professional independence, and
 - 4.1.5 comply with these Rules and the law.

Sydney lawyer convicted of defrauding non-profit struck from roll



<https://www.lawyerly.com.au/sydney-lawyer-convicted-of-fraud-against-non-profit-is-struck-from-roll/>

'F--k off': Lawyer facing strike-off stuns tribunal

Pictures of middle fingers, all-capped profanity, and bizarre threats to take things to the "nth degree" were all included in an angry solicitor's emails with the NSW Law Society during his disciplinary proceedings.



Naomi Neilson • 13 August 2024 • **BIG LAW**

 **SHARE**

<https://www.lawyersweekly.com.au/biglaw/40546-struck-off-nsw-lawyer-robbed-470k-from-clients>

Standard of conduct - dishonest or disreputable conduct.

- 5.1 A solicitor must not engage in conduct, in the course of legal practice or otherwise, which -
 - 5.1.1 demonstrates that the solicitor is not a fit and proper person to practise law, or
 - 5.1.2 is likely to a material degree to -
 - (i) be prejudicial to, or diminish the public confidence in, the administration of justice, or
 - (ii) bring the profession into disrepute.



NSW Lawyer Struck Off for Stealing Nearly \$1 Million to Gamble

The solicitor (Green) was convicted of fraud and sentenced to 2 years and 3 months imprisonment. The three-justice bench found that the criminal conduct was “very serious” in nature, as it saw the misappropriation of close to \$1 million in client money, taking deliberate advantage of the trust and confidence that’s placed in the role of a solicitor in our society.

The Court found that Green was not a fit and proper person to practice law and she was struck from the roll.

<https://nswcourts.com.au/articles/lawyer-struck-off-for-stealing-nearly-1-million-to-gamble/>

Undertakings in the course of legal practice.

- 6.1 A solicitor who has given an undertaking in the course of legal practice must honour that undertaking and ensure the timely and effective performance of the undertaking, unless released by the recipient or by a court of competent jurisdiction.
- 6.2 A solicitor must not seek from another solicitor, or that solicitor's employee, associate, or agent, undertakings in respect of a matter, that would require the co-operation of a third party who is not party to the undertaking.

Solicitor publicly reprimanded for failing to respond to communications

A solicitor has been found guilty of unsatisfactory professional conduct due to a failure to respond to urgent communications on behalf of his clients.



Naomi Neilson • 26 August 2019 • SME LAW

SHARE

A QLD solicitor was found to have breached r 5(3) as his clients were subject to an implied undertaking to the Court and the other parties "to proceed in an expeditious way". The Tribunal found this resulted in unsatisfactory professional conduct.

<https://www.lawyersweekly.com.au/sme-law/26355-solicitor-publicly-reprimanded-for-failing-to-respond-to-communications>

Case Reference: ***Legal Services Commissioner v Cruise***
[2019] QCAT 182

Client instructions.

8.1 A solicitor must follow a client's lawful, proper and competent instructions

Lawyer reprimanded, fined for leaving client files in shambles

An NSW lawyer was reprimanded and banned from working as a principal for five years for a number of offences, including meddling with official documents and leaving client files that dealt with purchases worth millions of dollars in shambles.



Naomi Neilson • 29 July 2024 • [BIG LAW](#)

[SHARE](#)

Case Reference: ***Council of the Law Society of New South Wales v Lee*** [2024] NSWCATOD 108 (25 July 2024)

Solicitor publicly reprimanded for failing to respond to communications

A solicitor has been found guilty of unsatisfactory professional conduct due to a failure to respond to urgent communications on behalf of his clients.



Naomi Neilson • 26 August 2019 • [SME LAW](#)

[SHARE](#)

Found to have breached r 5(3) as his clients were subject to an implied undertaking to the Court and the other parties "to proceed in an expeditious way".

<https://www.lawyersweekly.com.au/sme-law/26355-solicitor-publicly-reprimanded-for-failing-to-respond-to-communications>

Case Reference: ***Legal Services Commissioner v Cruise*** [2019] QCAT 182

Confidentiality.

- 9.1 A solicitor must not disclose any information which is confidential to a client and acquired by the solicitor during the client's engagement to any person who is not
 - 9.1.1 a solicitor who is a partner, principal, director, or employee of the solicitor's law practice, or
 - 9.1.2 a barrister or an employee of, or person otherwise engaged by, the solicitor's law practice or by an associated entity for the purposes of delivering or administering legal services in relation to the client,
- EXCEPT as permitted in Rule 9.2.
- 9.2 A solicitor may disclose information which is confidential to a client if -
 - 9.2.1 the client expressly or impliedly authorises disclosure,
 - 9.2.2 the solicitor is permitted or is compelled by law to disclose,
 - 9.2.3 the solicitor discloses the information in a confidential setting, for the sole purpose of obtaining advice in connection with the solicitor's legal or ethical obligations.

Sydney lawyer with alleged crime gang links accused of sharing sexual assault victim details

NSW police charge solicitor who allegedly published details of a sexual assault complainant while representing the man charged in the case

<https://www.theguardian.com/australia-news/article/2024/may/14/sydney-lawyer-with-alleged-gang-links-accused-of-sharing-sexual-assault-victim-details-ntwnfb>

Confidentiality (cont).

- 9.2.4 the solicitor discloses the information for the sole purpose of avoiding the probable commission of a serious criminal offence,
- 9.2.5 the solicitor discloses the information for the purpose of preventing imminent serious physical harm to the client or to another person, or
- 9.2.6 the information is disclosed to the insurer of the solicitor, law practice or associated entity.



Conflicts concerning former clients.

- 10.1 A solicitor and law practice must avoid conflicts between the duties owed to current and former clients.
- 10.2 A solicitor or law practice who or which is in possession of information which is confidential to a former client where that information might reasonably be concluded to be material to the matter of another client and detrimental to the interests of the former client if disclosed, must not act for the current client in that matter UNLESS -
 - 10.2.1 the former client has given informed consent to the disclosure and use of that information, or
 - 10.2.2 an effective information barrier has been established.

Solicitor's reprimand challenge backfires with tougher penalty for acting in conflict

The founder of an NSW boutique firm was hit with a harsher penalty after appealing the reprimand she received for acting in conflict by representing both a longstanding client and her family members.



Naomi Neilson • 31 May 2024 • **BIG LAW**

SHARE

<https://www.lawyersweekly.com.au/biglaw/39792-solicitor-s-reprimand-challenge-backfires-with-tougher-penalty-for-acting-in-conflict>

Independence - avoidance of personal bias.

- 17.1 A solicitor representing a client in a matter that is before the court must not act as the mere mouthpiece of the client or of the instructing solicitor (if any) and must exercise the forensic judgments called for during the case independently, after the appropriate consideration of the client's and the instructing solicitor's instructions where applicable.
- 17.2 A solicitor does not breach the solicitor's duty to the client, and will not have failed to give appropriate consideration to the client's or the instructing solicitor's instructions, simply by choosing, contrary to those instructions, to exercise the forensic judgments called for during the case so as to -
- 17.2.1 confine any hearing to those issues which the solicitor believes to be the real issues,
 - 17.2.2 present the client's case as quickly and simply as may be consistent with its robust advancement, or
 - 17.2.3 inform the court of any persuasive authority against the client's case.



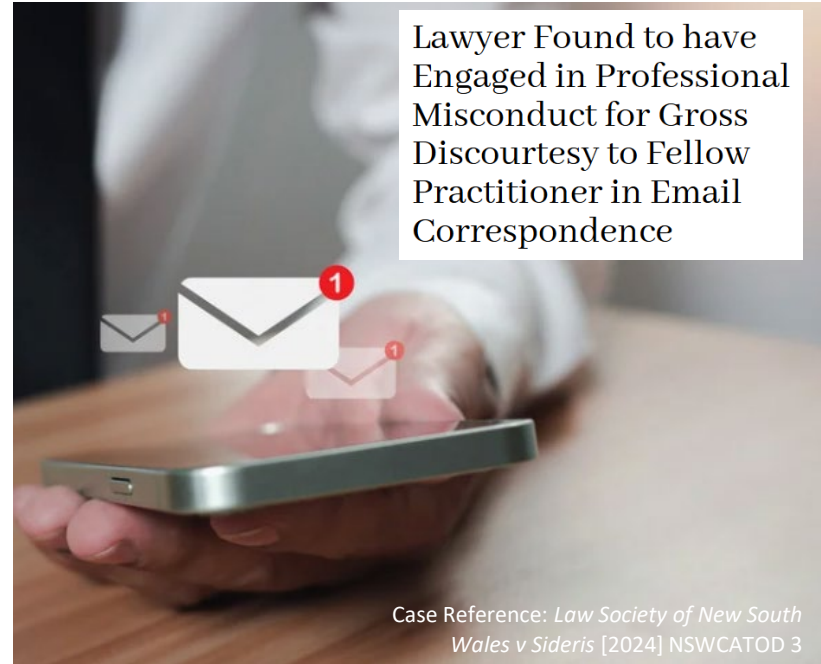
Responsible use of court process and privilege.

- 21.1 A solicitor must take care to ensure that the solicitor's advice to invoke the coercive powers of a court -
 - 21.2.1 is reasonably justified by the material then available to the solicitor,
 - 21.2.2 is appropriate for the robust advancement of the client's case on its merits,
 - 21.2.3 is not given principally in order to harass or embarrass a person, and
 - 21.2.4 is not given principally in order to gain some collateral advantage for the client or the solicitor or a third party out of court.



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).
- 22.5 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.



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.

Lawyer fined \$2k for Facebook posts

28 March 2024



By Sally Crosswell

A solicitor has been reprimanded and fined \$2000 after posting comments on his client's Facebook page about ongoing criminal proceedings.

Anthony De Fraine was charged by the Legal Services Commissioner (LSC) with engaging in conduct likely to a material degree to bring the legal profession into disrepute over the posts he made in April 2021.

Those comments including that his client was “too pretty for jail”, “not going to jail on my watch” and that “In the hoods where I’ve run people know DeFraine keeps all the boys out of jail”.

<https://www.qlsproctor.com.au/2024/03/lawyer-fined-2k-for-facebook-posts/>

Another solicitor's 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.



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.

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.

Perth lawyer reprimanded over threats to another practitioner

A former Perth lawyer has been publicly reprimanded for making a baseless accusation of misconduct against another legal practitioner.



Naomi Neilson • 17 June 2024 • [BIG LAW](#)



<https://www.lawyersweekly.com.au/biglaw/39893-perth-lawyer-reprimanded-over-threats-to-another-practitioner>

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 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.



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.



Presented by



David Miller

Partner

david.miller@cbp.com.au

**Colin
Biggers
& Paisley**

Thank you.

© 2026 Colin Biggers & Paisley Lawyers

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means—electronic, mechanical, photocopying, recording, or otherwise—without the permission of Colin Biggers & Paisley Lawyers.

This document provides an outline of a presentation and is incomplete without the accompanying oral commentary and discussion.

COMPANY CONFIDENTIAL

cbp.com.au