

PRACTICE STANDARDS FOR IRO APPROVED LAWYERS

1. Purpose and Scope

These practice standards supplement existing obligations for legal practitioners under relevant current legislation, regulation and rules governing the legal profession nationally and in New South Wales.

2. Principles

These Practice Standards set out:

- Guidelines to assist IRO Approved Lawyers and their staff in the delivery of quality legal services to their clients, and
- What is expected of IRO Approved Lawyers and their staff in dealings with the Independent Review Office.

These Practice Standards apply to Australian legal practitioners certified to practice as a solicitor who have been approved by the Independent Review Officer (IRO) to apply for funding under the Independent Legal Assistance and Review Service (ILARS) to provide legal advice, assistance and representation to injured workers in New South Wales (Approved Lawyers). These standards inform how the IRO monitors the effective and efficient delivery of high quality legal services to injured workers.

These Practice Standards represent the minimum standards expected of Approved Lawyers and are intended to ensure accountability for work done under a grant of funding. These standards also aim to help injured workers (clients) understand what they can expect from their lawyer. For many practitioners the Practice Standards will reflect the way they currently practice.

Approved Lawyers with doubts about how the standards apply, or what they mean, should contact the IRO to discuss them.

3. Practice Standards

The following standards apply to all Approved Lawyers. Failure to comply with these standards may impact on the legal practitioner's eligibility to be an IRO Approved Lawyer.

These Practice Standards may be amended at any time by the IRO.

3.1 Responsibilities as an Approved Lawyer

An Approved Lawyer will:

- 3.1.1 Comply with these practice standards.
- 3.1.2 Comply with the provisions of the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (as amended from time to time).
- 3.1.3 Comply with the terms of the Application and Agreement to be an IRO Approved Lawyer.
- 3.1.4 Read and comply with all IRO guidelines, policies, practice guides and administrative requirements relating to grants as amended from time to time.

- 3.1.5 Be honest in all written and oral dealings with IRO Principal Lawyers and other IRO staff.
- 3.1.6 Be courteous and act in a professional manner in all written and oral dealings with IRO Principal Lawyers and other IRO staff. Approved Lawyers must not use insulting, offensive, discriminatory or intimidatory language or conduct.
- 3.1.7 Not engage in unreasonable conduct which is any conduct which, because of its nature, frequency or seriousness, raises substantial health and safety issues for the IRO's staff or significantly impacts on the IRO's resources and ability to equitably provide these services to other people who are receiving or may seek these services.
- 3.1.8 Be responsible for the matter the subject of the grant and accountable to the IRO for any breach of these practice standards including for any work undertaken in the matter by another lawyer of the Approved Lawyer's law practice or employee of the Approved Lawyer's law practice.
- 3.1.9 In respect of any matter for which funding is sought, or has been granted, maintain dealings with the IRO, clients, other legal practitioners, the Personal Injury Commission and any Court, that facilitate the just, quick and cheap resolution of any claim or dispute.
- 3.1.10 In any proceedings for which funding is granted, ensure that they are present with the client in order to obtain the client's instructions and to instruct counsel and to take all steps necessary to act on their client's instructions.
- 3.1.11 Ensure that any applications for a grant of funding and requests for review of the IRO's funding decisions are lodged promptly with all relevant information and supporting material to enable a decision to be made without delay.
- 3.1.12 Keep the IRO advised of the progress of the matter and provide promptly any information reasonably requested by the IRO.
- 3.1.13 Comply with all the IRO's tax invoicing requirements when forwarding a tax invoice at the resolution of a matter.
- 3.1.14 Ensure prompt payment to experts, witnesses and other third parties who have undertaken work pursuant to a grant of funding for that work.
- 3.1.15 Notify the IRO immediately if the Approved Lawyer is unable for any reason to provide legal services in an ILARS grant matter.
- 3.1.16 Notify the IRO immediately of any change in employment and facilitate the provision of such information as may be requested from time to time by the IRO to ensure that the client subject of an ILARS grant of funding is afforded continuous legal services.
- 3.1.17 Notify the IRO immediately in writing if the Approved Lawyer ceases to hold a current practising certificate or if, as a consequence of disciplinary proceedings, the Approved Lawyer is prevented from acting as a legal practitioner.
- 3.1.18 Notify the IRO immediately of any circumstances that could give rise to a claim for professional negligence and provide a detailed statement in relation to the matter.
- 3.1.19 Notify the IRO immediately in writing of any criminal (except in relation to minor traffic

offences), bankruptcy or professional disciplinary proceedings that have been commenced against the Approved Lawyer.

- 3.1.20 Ensure that files are maintained in an orderly manner so that the IRO may effectively audit the file if required, and ensure that another lawyer assuming conduct of the matter may quickly and easily understand its factual basis, the client's instructions, the stage the matter has reached and all further action required to run the matter in line with the practice standards.
- 3.1.21 Ensure the transfer of a file without delay to another lawyer assuming conduct of the matter and assist the IRO in determining the apportionment of costs where applicable.

3.2 Responsibilities to Clients

An Approved Lawyer representing an injured worker as a client will:

- 3.2.1 Provide representation in accordance with the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015.
- 3.2.2 Obtain from the client adequate instructions and information to apply for a grant of funding from the IRO.
- 3.2.3 Explain to the client the purpose, function and scope of an ILARS grant of funding.
- 3.2.4 Observe the principles governing the lawyer/client relationship and the privacy of instructions provided by the client.
- 3.2.5 Communicate with the client in a way that the client understands using language appropriate to the age, maturity, education and cultural and linguistic background of the client.
- 3.2.6 Confirm as early as possible their initial advice regarding prospects of success and relevant limitation periods in writing and in plain English.
- 3.2.7 Ensure that the advice to the client is fulsome, correct and complete, and that evidence of the advice is retained.
- 3.2.8 Comply promptly with reasonable requests by a client for information regarding their matter.
- 3.2.9 Provide a meaningful reply to all correspondence, reply promptly to all urgent matters and advise clients that a detailed response for advice may require more time.
- 3.2.10 Respond to all reasonable telephone inquiries promptly.
- 3.2.11 Keep their clients informed of the progress of their matter in a timely manner and ensure that the client is aware of the stages through which a matter progresses in the Personal Injury Commission and other courts.
- 3.2.12 Give advice and explain all available options to the client together with the consequences of any decision made by the client.
- 3.2.13 Explain to the client a matter to the extent reasonably necessary to permit them to make informed decisions regarding the matter and to advise their clients of what they

are expected to do to assist their case.

- 3.2.14 Advise the client at the first reasonable opportunity if a possible delay in the progress of the matter becomes apparent.
- 3.2.15 Ensure the client is aware of medical appointments, conferences and hearing dates and understands the importance of attending promptly and on time.
- 3.2.16 Consider options for settlement at every stage of the proceedings.
- 3.2.17 Provide or make available to the client copies of relevant documents filed in the proceedings and any decisions or terms of agreement.
- 3.2.18 Observe the client's instructions and make procedural decisions with a view to advancing the client's matter.
- 3.2.19 Advise the client about the appeal process, appeal prospects, time limits for appeal and any financial risks with respect to legal costs.
- 3.2.20 Refrain from charging or recovering any costs from a client for work that is conducted in an ILARS grant matter except with the express written approval of the IRO.

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