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Legal Service Provision & Client Care

POLICY & PROCEDURE

The following policy sets the expectations and procedure for matters related to the provision of legal services including legal supervision, legislative principles and rules, general client care and administration, guidelines for processing different query types (including open files), outreach service, legal education, and delegation of work to volunteers. This policy is in addition to the general code of conduct.

NOTE most principles and policy around client care and professional responsibility are strict requirements pursuant the Lawyers and Conveyancers Act 2006 and the Lawyers and Conveyancers Act (Lawyers Conduct and Client Care) Rules 2008. This policy does not cover the full provisions / regulations around client care and professional conduct.

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LEGAL SUPERVISION & PROFESSIONAL DEVELOPMENT

LEGISLATIVE REQUIREMENTS

- The Lawyers and Conveyancers Act, section 31(4), sets out the strict requirement for supervision at a community law centre.
- All solicitors and barristers must be directly supervised by a lawyer qualified to practise on his or he own account and the supervising lawyer must be employed by the centre.
- The governance board must also comprise of at least one lawyer qualified to practise on his or her own account.

OTHER SUPERVISION REQUIREMENTS

• The Ministry of Justice may from time to time issue guidelines as part of a contractual relationship. Refer to the Appendix for any such guide.

SUPERVISION STRUCTURE AND REPORTING

- All employees and volunteers subject to legal supervision will be supervised by a "qualified lawyer" employed by the CLW ("supervising lawyer").
- The Legal Services Manager is responsible for supervision of legal staff.
- The General Manager provides back up support for supervision of legal staff.
- All solicitors must follow instructions from the supervising lawyer(s).
- No instructions will contravene any professional rules and or obligations.
- Both the Legal Services Manager & General Manager practice on their own account, and are employed back to CLW.
- Supervision will be guided by the attached table (refer Supervision Policy). This is in conjunction with all other relevant practice and procedure in this policy manual.

CONTINUING PROFESSIONAL DEVELOPMENT ("CPD")

- All employed solicitors must comply with any continuing professional development prescribed by any Statute, Rules and or Regulations.
- CLW will ensure that practicing lawyers have access to appropriate and adequate professional development.
- Solicitors are responsible for maintaining their own CPD records.
- Solicitors are responsible for meeting their required CPD for the year, in consultation with the Legal Services Manager who will approve courses/payment.
- If you are approved/required to attend a course the following applies:
 - o Register & send the invoice to the administrative support staff member to pay
 - If it is a webinar:
 - send a calendar request (usually via teams) to all the legal/applicable staff
 - Save a copy of the materials to the applicable Teams channel in Training (or add a new channel if required)
 - Email any prepopulated details & refection to Solicitors so they can enter it in their
 CPD file
 - Print out a CPD verification template for attendees (see template in Teams)
 - Set up the front room ready for attendees at the webinar

- o If you are physically going to the course:
 - Save a copy of the materials to the applicable Teams channel in Training (or add a new channel if required)
 - Organise a meeting with all legal/applicable staff shortly after you have attended the seminar (aim for the next 2 weeks)
 - Present to all legal staff what you have learned at the seminar
 - Email details & refection to Solicitors so they can enter it in their CPD file (the CPD is your presentation on the subject)
 - Print out a CPD verification template for attendees (see post on Teams)

EXTERNAL MENTORS

- CLW may instruct / contract an external mentor(s) as it sees fit. If applicable, the supervising lawyer will issue instructions for contact and process.
- Irrespective of the availability of an external mentor(s), any/all contact must be authorised by a supervising lawyer.
- Client privacy / confidentiality must be maintained. See Privacy policy.

PRACTICAL OBSERVATIONS

- The supervising lawyer(s) will direct / approve appropriate observations for a solicitor(s) in training. This may include observing an experienced solicitor at mediations, client interviews, Court appearances, outreach clinics, and other relevant practice.
- The timing, frequency, and nature of observations will be directed by the supervising lawyer(s).

CLIENT CARE AND FILE MANAGEMENT

LAWYERS AND CONVEYANCERS ACT AND CLIENT CARE RULES

• Solicitors must be fully familiar with their legal obligations and parameters. Solicitors must abide by the Lawyers and Conveyancers Act 2006 and Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

SHARED LEGAL RESOURCE & TEMPLATES

- All legal staff members are required to actively contribute to the
 - Shared Legal Resource
 - Template Subs & Letters
- This is located in Teams.
- All employees must also ensure that they are constantly monitoring the information that is recorded in this resource.
- All solicitors must ensure that they are keeping abreast of current legal issues and developments in case law and legislation.

CONFLICTS & INDEPENDENCE

- Conflicts or potential conflicts between clients and previous clients are screened by reception when initial appointments are scheduled (this applies equally for outreach appointments).
- If the client is interviewed by a caseworker, the conflict check will be repeated at the start of the interview.
- Irrespective of the above, it is the solicitor's responsibility to ensure that no conflicts exist when acting for a client(s). This applies equally for conflicts that may arise or become apparent during the course of instructions.

CLIENT INSTRUCTIONS (PUBLIC DUTY, REFUSAL, TERMINATION)

- Subject to legislative provisions, only the supervising lawyer(s) is responsible for decisions about accepting, refusing, and terminating client instructions. If any of these issues arise during the course of assigned work, the solicitor must liaise with his or her supervisor.
- Generally, a lawyer must be available to the public and must not, without good cause, refuse to
 accept instructions from any client or prospective client for services within the reserved areas of
 work that are within the lawyer's fields of practice.
- Good cause to refuse instructions includes a lack of available time, the instructions falling outside
 the lawyer's normal field of practice, instructions that could require the lawyer to breach any
 professional obligation (such as a conflict of interest), and the unwillingness or inability of the
 prospective client to pay the normal fee of the lawyer concerned for the relevant work. Note the
 merits of the matter upon which the lawyer is consulted is not a ground for refusing instructions.
- A lawyer who declines instructions must give reasonable assistance to the person concerned to find another lawyer.
- A lawyer has a duty to complete instructions unless the client discharges the lawyer or the lawyer terminates the engagement upon the grounds in the current Lawyers Conduct and Client Care Rules.
- Make sure instructions are clearly noted. If not verbal instructions, make adequate file notes.

LCA CLIENT INFORMATION AND TERMS OF ENGAGEMENT

- All clients must receive "information for clients" (defined by regulation) prior to receiving any legal service for example legal advice (legal information excluded).
- For appointments booked in with a caseworker, reception will email initial "information for clients" to the client if they have an email address. If the client does not have an email address, reception will provide this to the client in hardcopy form with the registration form.
- Solicitors are responsible for providing clients with "information for clients" at all non-caseworker appointments. This includes outreach clinics & phone appointments. If there is any doubt the information has been provided to a client in a caseworker appointment, the Solicitors should inquire and provide this information if required.
- All clients must receive "terms of engagement" (defined by regulation) prior to receiving significant work for example legal assistance.
- When opening a file, a Solicitor must ensure terms of engagement are sent out with the introduction letter. The aim is to provide this to clients within two days of the file opening.
- When files are 'follow up', it is the Solicitors responsibility to ascertain whether further work is required and terms of engagement need to be sent out to the client. The Solicitor also needs to consult with the supervising lawyer so a file can be opened.

COMMUNICATION

- Solicitors must treat clients with respect and without discrimination.
- Solicitors must respond to inquiries from a client in a timely manner. Solicitors should aim to respond to client voice mails the same day, and emails within 48 hours, even if just to advice the email has been received.
- Where a Solicitor has responded to a client on several occasions within 48 hours, and the client continues to email the Solicitor with information or queries which may be irrelevant to the matter at hand, or which the client perceives as urgent, but in the Solicitors opinion are not urgent, the Solicitor can delay responding to the client within 48 hours. However, the Solicitor first needs to outline to the client what the reasonable expectations are in regard to contact and their inability to respond to all of their emails within the clients expected timeframes.
- Solicitors must inform a client of any material and or unexpected delays.
- Solicitors must keep clients updated on the progress of their files. This includes timely
 communication to the client of information received, and updates to the client. Solicitors should
 aim to keep their clients updated at least once every fortnight.
- When a matter is completed, the lawyer must provide the client with a closing letter/email. This
 will advise the client the matter is now finalised, provide a brief summary of the work undertaken
 (to the extent that this has not previously been provided) and, where appropriate, identify any
 necessary future action by the client or the Solicitor. Templates are provided.

WITNESSING DOCUMENTS

- Subject to his or her availability, a lawyer holding a practising certificate as a barrister and solicitor must administer oaths and take declarations.
- The process to be followed is outlined in the Oaths and Declarations Act 1957 and the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008. All Solicitors must be familiar with this.

PRIVACY AND CONFIDENTIALITY

(Refer to the Privacy Policy – below are key points)

PRIVACY WAIVER & AUTHORITY

• Ensure a signed authority form is on file. If not, ensure this is requested via the Letter of Engagement.

FILE RELEASE / DISCLOSURE

- During or after the course of your instructions from your client, they may request a copy of their file or request that a copy of their file be sent to a third party. The process for this is as follows:
 - Obtain the client's written authority
 - o Give the file to a supervising lawyer to be checked before release
 - o Copy the file or documents that your client has requested
 - Release file to the appropriate person, taking reasonable measures to ensure identity

HARD COPY FILES & DOCUMENTATION

- Removing hardcopy client files and or documentation should be avoided where possible.
- For practical purposes, removal may be appropriate for mediations, hearings, and other practice. Information may also be received at an outreach clinic.

- Where removal is necessary, extreme care must be taken to protect / maintain client privacy. This
 includes not leaving any material unattended (for example in a meeting room or in a vehicle) and
 ensuring that documents are contained in an enclosed binder/document case.
- Removal of files and or documentation for any other reason such as working remotely requires approval by a supervising lawyer.

ELECTRONIC FILES & DOCUMENTATION

See ICT policy.

QUERY MANAGEMENT & ADMINISTRATION

- Solicitors must screen incoming assignments DAILY (including registration/follow up files, assigned client files, any other work delegated from the supervising lawyer(s)).
- Aim to complete a follow up registration form within 24 hours when advice needs follow up or correction. If it to take longer than this, communicate with the supervising lawyer(s).
- Follow-up files are opened administratively to type up advice, complete initial advice, wait for
 documents to give initial advice. They are files where there is no extensive work anticipated
 and clients have only received initial terms of engagement. If this changes, the Solicitor will
 need to communicate this with the legal supervisor(s) as the file may need to be
 opened/further terms of engagement sent.
- Aim to complete follow up files within the month they are opened. If this is not possible, communicate with the supervising lawyer(s))
- Solicitors need to keep work spaces (offices, desks, in trays, shelves, electronic drives, client files) in a tidy, and sensibly ordered manner.
- When opening a file, the Solicitor needs to check all the relevant documentation has been scanned in and recorded correctly.
- When saving correspondence electronically, a backward numbering system applies. For example, date of 15 April 2019 would be recorded 20190415 followed by an accurate description of the document i.e. Intro and TOEs.
 - Hardcopy printing should be kept to a minimum. All relevant documents (i.e. letters, research, file notes) must be attached in the file immediately (instead of saving a pile of filling). The same applies to electronic client files.
 - Avoid double ups (for example email trails)
- Emails related to client files should be saved in the client's electronic folder. When the file is closed, these can be deleted from your email account as they have been saved in the clients electronic folder.
- Time spent on work must be recorded in Action Step.
- Client instructions, communications, and work carried out must be CLEARLY recorded on all files using the file note system. Email & letter correspondence must be saved to follow up files also.

EMAIL QUERIES

- Email queries will be assigned on the same basis as other work. Reception send the query and registration form to the supervisors who then assigns it to a lawyer.
- If you are sent an email direct, forward it to a supervising lawyer.

- ALL communication (notes of telephone discussions or email advice) must be recorded in the files notes.
- Reception will generally provide the client with the mandatory *Client Information* when processing the query at the start.

TELEPHONE QUERIES / INTERVIEWS

- Where a solicitor has to complete a telephone interview, the solicitors must fill out a registration form for each client. This can be done using the electronic link.
- The query and advice must be recorded in the Action Step.
- MUST provide each client with *Client Information* when conducting a phone interview. Solicitors can refer clients to the CLW Facebook page, email the client information as an attachment or relay the information over the phone.

OPEN / ASSIGNED FILES

- Screen assigned files daily. Identify urgent matters and general order of priority.
- Complete a full screen / overview of assigned files within two days. A full screen includes:
 - o Check for deadlines & record
 - Check for ATA (note to request if required)
 - o Check all documents referred to in query/advice are included
 - o COI check
 - Legal analysis Identify Issues and Action Plan (including an estimate of timing for action
 & any client clarifications/instructions that need to be sorted)
- Discuss with supervising lawyer (if part of your supervision requirement or if unsure of anything)
- Contact client with action plan & advice them TOEs on the way.
- Send intro & TOEs (should be done within 2 days, if cannot contact client consider whether to send TOEs) & attach ATA if required.

CLOSING PROCESS

- As soon as instructions are complete (or where there is nothing further that can be done), files need to be closed. Do not leave finished files sitting in Actionstep.
- When closing a file check:
 - All relevant documents and emails are in the Actionstep file.
 - Any original documents have been returned to the client and all correspondence has been forwarded to the client.
 - o File notes completed.
 - Closing note completed.
 - o Time entered.
 - o Closing letter/email sent & uploaded to Actionstep.
 - Donation request sent to client if applicable.
 - o Any relevant information put into the Shared Resource
 - Service Type updated to Representation if required.
 - Matter type updated (particularly Employment matters).
- Close the file in Action Step. Tick "Survey Completed", "Client happy with the Service". Select "Case Resolved" and if referred select appropriate option or "Other".

TIMEFRAME FOR COMPLETING INSTRUCTIONS

- Appropriate action on an assigned file will be dependent on the nature of the issue, and generally
 any substantive action should be completed within 14 days of receiving the assignment. NOTE
 certain action require immediate action such as disclosure requests, clarifying facts/client
 instructions. Such action must be completed within seven days of receiving the assignment.
- Any deviations from this timeframe for completing client instructions must be discussed and approved by a supervising lawyer. Furthermore, client communication is as outlined above a strict professional obligation. Any delays /progress must be relayed to the client.
- Where solicitors are unsure about the appropriate course of action, a supervising lawyer must be consulted immediately.

RESEARCH

- Do not accumulate unnecessary volume of research (extract and record key points)
- Use the Shared Legal Resource OR other solicitors as a starting point

FILE NOTES

- All points of action for a file must be recorded on the file notes. For example a phone call to a
 client, a letter posted to an employer, or a mediation attended. A summary can be provided of
 multiple actions over one day (for example, tried to call client x 3 no answer).
- Status updates can also be helpful (where a client file is at).

BANK ACCOUNTS

• If a client gives you a bank account number you must receive this in writing; it can take any form (for example email will suffice) provided it is in writing. You need to then confirm the bank account number with the client by phone. This is to avoid the risk of any intercepted emails/hacking changing bank accounts.

INTERNALLY PREPARED AFFIDAVITS AND STATUTORY DECLARATIONS

 All internally prepared affidavits and statutory declarations must be taken/completed by a solicitor/Justice of the Peace independent from our office and staff. In other words where solicitors prepare affidavit(s) for a client, it must be referred to another solicitor for signing. Asking a volunteer solicitor when they arrive may be the most expedient solution

DEADLINES AND COMMUNICATION

- The assigned solicitor is responsible for meeting all deadlines; this includes those self-imposed, given to clients/courts/colleagues. A failure to meet a legislative deadline may be treated as serious misconduct resulting in disciplinary action.
- Timely communication with the client is a must. Where a client initiates contact either in person, telephone or by written correspondence, the solicitor must respond to the client within 24 hours.
- Solicitors must update clients regularly on the progress of their file. This includes sending all correspondence received to a client within 24 hours.

DELEGATION TO RECEPTION

- Scanning can be delegated to reception, with clear instructions and timeframes given.
- Letters can be emailed to reception to post, with appropriate instructions.

- New/returning clients can be forwarded to reception to book in.
- Client material to pick up can be left with reception, but will be returned to you to follow up within the week if the client has not collected.

WORKING WITH VOLUNTEERS

- All solicitors who sign off volunteer case workers based on their abilities must be accountable. The
 solicitor must be able to provide detailed reasons as to the outcome of their assessment of the
 case worker if requested by management. The observation form must be completed as a record
 of caseworkers' training.
- All solicitors must ensure that the volunteers have collected the correct information from the client on the initial interview and that they have made proper notes. Following the dictation of advice to the case worker the solicitor must check the notes and advice written prior to signing them off.
- If a caseworker query is outside of a solicitor's expertise, the solicitor must accompany the caseworker to another solicitor and listen to the advice provided by the other solicitor.
- If a solicitor or other employee finds a gap in procedure or performance of the volunteer they must immediately notify management so that timely feedback and guidance can be provided to the volunteer to assist with their development. It is important that every solicitor takes these issues seriously as we are responsible for their learning and by ignoring a gap in their performance could lead to perpetuating incorrect behaviour.
- All solicitors are expected to respond, where possible, to two caseworker queries throughout each
 day. Solicitors must give advice to the first caseworker who approaches them. It is not appropriate
 to tell the caseworker you are busy (being busy is an ordinary aspect of your job) unless you have
 an imminent deadline or are about to leave the office for a work related matter. After you have
 responded to the first caseworker you may refer them to the next solicitor (provided there is
 another solicitor(s) available).
- All solicitors are required to fill in or replace a volunteer solicitor from time to time as necessary.
 The receptionist will provide solicitors with as much notice as possible where this happens with the preference being that all solicitors who are able to remain behind share the duty. This makes for a much quicker process.
- Solicitors are required to appropriately delegate tasks to reception and volunteers on a regular basis, and in a timely manner.
- Any correspondence / documentation prepared by a volunteer must be read by the Solicitor prior to signing and furnishing to the client.
- Tasks to be delegated will be determined from time to time by management and in consultation with staff involved.
- The task must be clearly communicated by the delegator to the delegate. Feedback should be provided once the task is complete. Feedback must be provided if the task does not meet expectations, this should also be reported to the legal services manager.
- Any issues with delegation must be reported to the legal services manager.
- Delegated tasks must be within the expertise of the delegate. Such examples of work that can be
 delegated from a Solicitor to a volunteer include closing letters, mediation requests, facts for
 personal grievances, following up letters/calls, research, filing, photocopying and any other
 basic/general correspondence.

CIVIL FEE ASSISTANCE

Community Law Waikato may provide assistance to clients in situations where they do not have
the financial means to pay a civil/application fee. The Solicitor needs to outline in writing why the
client needs the assistance, and their ability to repay this in future (for example, \$5 per week, or
on receipt of a benefit). This is to be emailed to the Legal Services Manager who will contact the
Board to seek approval.

LEGAL EDUCATION

- All Solicitors are required to present legal education. This is scheduled by management and/or Community Liaison.
- When you are booked in to prepare legal education, you are required to check the materials to ensure they are current and whether any legal updates need to be added. If it is a new topic, you need to create the power point & handout. The materials if changed or created, need to be sent to the legal services manager for review, well in advance of the presentation. At a minimum, two working days before the presentation.
- The Solicitor will need to organise printing out the materials (this can be delegated to Billie if she is given advance notice of 48 hours and she is available to do so).
- You will also need to check the equipment you need to take, and organise this, such as a laptop and projector.
- You need to take feedback forms with you, and have these filled out by the seminar attendees.

SUPERVISION & TRAINING POLICY

(Reviewed 2020)

The objectives:

- To ensure compliance with legislative provisions, in particular the Lawyers and Conveyancers Act and Client Care and Conduct Rules
- To promote compliance with any other quality or best practice standards
- To facilitate employee professional development and confidence
- To achieve client & public satisfaction and confidence

Person(s) responsible for supervision and training:

- Management
- Supervising Lawyers/solicitors
- Trustees (where applicable)
 - *Any employee assigned with supervision of legal work must be compliant with section 31(4) of the Lawyers and Conveyancers Act

Supervision and training functions/responsibilities:

- Inductions including Health and Safety
- Ongoing coaching/training in relation to all employees & volunteers
- Appropriate delegation and issue of instructions/assignments
- Continuous monitoring of all employees
- Daily approval of all initial legal queries
- Legal file reviews (as necessary but minimum fortnightly)
- Performance reviews

NOTE: The above list of responsibilities may not be an exhaustive list and the daily supervision functions may extend to other matters as necessary.

1. INDUCTIONS & INITIAL TRAINING (EMPLOYEES):

All new employees must receive an induction session to cover the following matters:

- Job Description including hours of work
- Reporting structure
- Supervision
- Health and Safety
- All other policy

2. Solicitor Training & Supervision

The table below sets out three levels of professional development. Training and on-going supervision will be in accordance with these levels. Note that variations will apply depending on experience, progress, competence and management discretion.

	Junior	Intermediate	Senior	Supervisor(s)
Experience:	Less than 1 year & new employees	1 to 3 years	3 years +	Qualified to POOA
Reports to/supervised by:	Management & Supervising Lawyer(s)	Management & Supervising Lawyer(s)	Management & Supervising Lawyer(s)	Reports to Board of Trustees
Practical Supervision & Training:	All legal work must be reviewed DAILY All advice & correspondence must receive prior approval	 Fortnightly File Reviews Random File Reviews Other liaison as required for example complex or non- routine matters 	 Fortnightly File Reviews Random File Reviews Other liaison as required for example complex or nonroutine matters 	As required
External Training:	As required & compliant with CPD requirements	As required & compliant with CPD requirements	As required & compliant with CPD requirements	As required & compliant with CPD requirements

- ONLY solicitors holding a current practicing certificate may provide legal advice / services
- Administrative employees can provide **information only**
- Transition from Junior to Intermediate may take less / more than 1 year and will be as management see fit

3. Delegation & Issuing instructions:

Where delegation applies, below are some key points:

- a) Ensure that delegatee has required level of experience for task
- b) Delegate early to ensure delegatee has sufficient time to do a quality job
- c) Clearly explain the objectives and expectations provide written instructions if necessary and or examples
- d) Confirm timeframes and deadlines and factor in time for review
- e) Ensure that delegatee has access to all necessary resources to complete task
- f) Let the delegatee know that you are there for support or questions
- g) Finally ask the delegatee to summarise what they understood from your instructions

4. LEGAL FILE REVIEWS:

- a) Fortnightly File Reviews apply to all solicitors
- b) Management must schedule the review and allow sufficient time
- c) A file list will be printed from the database

- d) Review notes will be recorded and where necessary be made available to the solicitor for follow up action
- e) The review will cover all current files including complex legal issues, progress, outcomes, workload, and overall performance

5. VOLUNTEER CASEWORKERS AND SOLICITORS:

- a) Management is responsible for the induction and practical training of all volunteers
- b) Each volunteer must have a thorough understanding of all matters outlined in the Caseworker Manual/Volunteer Solicitor Manual as well as the Health & Safety Manual
- c) Ongoing supervision and training of caseworkers forms part of all solicitors' roles however overall responsibility rest with management
- d) Where issues are noted in relation to individual caseworkers, management must address it immediately either in person with that caseworker or in writing (for example insufficient notes, incomplete advice, messy registration forms, inappropriate dress/behaviour etc)