

Legal Profession Complaints Committee

Current Issues

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Making the Withdrawal of a Complaint a Term of Settlement

In some cases where a complaint is made, the complaint will be related to proceedings the complainant has taken against the practitioner or vice versa. In those circumstances, the Committee reminds practitioners that making the withdrawal of a complaint a term of a settlement is not appropriate and may be seen as unsatisfactory professional conduct or professional misconduct on the part of the practitioner involved.

Professional Courtesy

The Court of Appeal has recently noted an increase in appeals against conviction based upon the assertion that the trial miscarried because of the incompetence of trial counsel. The Committee reminds practitioners who deal with such matters to be aware of the need to treat professional colleagues with the utmost courtesy and fairness at all times, particularly when considering issues such as notifying the relevant practitioner of the appeal grounds.

Use of Letterhead

In the recent matter of *LPCC v Segler* [2009] WASAT 91, the State Administrative Tribunal examined whether a letter written by a legal practitioner could amount to unprofessional

conduct by reason of it containing threats and inappropriate and intimidating demands. The Tribunal found that the letter in question did amount to unprofessional conduct. During the decision the Tribunal stated:

"It is important that legal practitioners avoid circumstances which might be seen as overbearing members of the community by the use of the lawyer's status to gain personal advantage or to intimidate."

The Committee reminds practitioners to take care when using professional letterhead when writing about a personal matter. The Committee also reminds practitioners to take care to avoid circumstances in which the use of a practitioner's status as a lawyer might be seen as being used to gain a personal advantage or intimidate a member of the community.

Legal Aid

Many practitioners deal with matters involving a grant of Legal Aid, particularly practitioners who practise in criminal or family law. The Committee reminds practitioners of the importance of providing full costs disclosure to *all* clients, including those who are in receipt of a grant of Legal Aid. This includes clarifying the limits of Legal Aid assistance to such clients.
