



THE LAW SOCIETY
OF NEW SOUTH WALES

Guide to ethical obligations of in-house lawyers – for non-lawyer colleagues

Outline

- Lawyers' Ethics Statement
- Role of in-house lawyers
- Duties of lawyers
- Common issues in-house lawyers face



Lawyers' Ethics Statement

- Serve the interests of justice and the client
- Act competently and put client's interests above their own
- Avoid conflicts of interest
- Maintain high standards of integrity, honesty and fairness



Role of in-house lawyers

- Same ethical rules apply as for all other lawyers
- Primary obligation is to uphold the law as an officer of the court
- In-house (corporate) lawyers do not have range of clients, but provide legal services to their employer corporation
- Their fiduciary duties are to their client, their corporate employer, not to persons who manage their client
- Duty to ‘protect the company from legal risk’ if company ‘officer’



Duties of lawyers

- Paramount duty is to the court in priority to their client
- Loyalty to their client
- Confidentiality (similar as for a non-lawyer employee)
- Put at the client's disposal all information within the lawyer's knowledge
- Give priority to client's interests
- In-house lawyer is unable to talk directly to other side without consent.
- Cannot provide legal services to related entities if that would conflict with the interest of the employer entity



Common issues in-house lawyers face

- Must attest true copy only from original
 - Can only witness if see person sign
 - Documented information may be discoverable
 - Documents which may be used in litigation must not be destroyed.
 - Assist clients in making legitimate claims for privilege
 - Role and advice to client must be independent – please refer to the independence statement in ‘Handy Hints’ for In-House Lawyers
 - Lawyers cannot provide legal advice to individual staff members on personal matters
- Do not backdate document – consider an effective date.