



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.

3 important reasons why sometimes it's not OK do the things I am often asked to do by my colleagues

As an in-house corporate lawyer:

1. my paramount duty is to the administration of justice in this State
2. I must act within the law, with honesty, and with independence
3. my duty is to my corporate employer, NOT my colleagues (not even the Chair or the CEO)

This means that I cannot, under ANY circumstance :

- witness a signature that I did not physically witness, no matter how well I know you, or how many times I have seen you sign something before
- certify a copy of something as a true copy, if you haven't brought me the original to compare it with
- backdate a document or a record to a date that fell prior to the actual date of the document or event, even by a day
- breach confidentiality, even if 'everybody knows'
- give you personal legal advice as if YOU were my client, even hypothetically

This **DOESN'T** mean I can't help you solve these challenges - we simply need to tackle them in the right way

