

**LEGAL ETHICS &  
PROFESSIONAL CONDUCT  
SUMMARY**



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## 1. General Concepts

### 1.1. THE UNIFORM LAW

- The *Legal Profession Act* is a national model that was adopted by all States and Territories to facilitate a national practice.
- However, from 1 July 2014 the *Legal Profession Act 2004* is repealed and replaced by the *Legal Profession Uniform Law Application Act 2014*, or 'Uniform Law' in Victoria and from 24 November 2015 in NSW. The Uniform Law package includes *Legal Profession Uniform Rules* (or Uniform Rules).
- Victoria and New South Wales are the first states to adopt and implement the Uniform Law and Uniform Rules.
- The Legal Profession Act will continue to operate in the other States and Territories until they implement the Uniform Law.
- The Uniform Law Framework is made up of a Legal Profession Uniform Law; Uniform General Rules; Uniform CPD, Legal Practice and Professional Conduct Rules for solicitors; Uniform CPD and Professional Conduct Rules for Barristers; and Uniform Admission Rules.
- An inter-jurisdictional Legal Services Council has been established to oversee and promote a uniform approach to regulating the legal profession and the delivery of legal services across New South Wales and Victoria, together with a Commissioner for Uniform Legal Services Regulation.
- Day-to-day regulation will remain the responsibility of the existing New South Wales and Victorian regulatory bodies.
- The objective of the reforms is to create a common legal services market across New South Wales and Victoria underpinned by a uniform regulatory system.
- The Uniform Law governs matters such as practising certificate types and conditions, maintaining and auditing of trust accounts, continuing professional development requirements, complaints handling processes, billing arrangements and professional discipline issues.
- The Uniform Law Framework preserves the existing rights of legal practitioners from other States and Territories to practise in New South Wales and Victoria.

- This is an important step towards a national legal profession. For the first time there will be a common market for legal services across NSW and Victoria, encompassing 70 per cent of Australia's legal practitioners.
- It will extend to law practices elsewhere when more States and Territories join the scheme.
- The Uniform Law harmonises regulation of the legal profession, cuts red tape and creates a single system to govern legal practice. The scheme also promotes informed consumer choice and has strong consumer protection measures.
- A legal practising certificate issued by one State or Territory will be recognised by all the others. This will elevate the issue of having to be admitted in each State that a practitioner wishes to undertake practice.

#### Objectives of the Uniform Law

To promote the administration of justice and an efficient and effective Australian legal profession through:

- Consistency between States in the law applying to the Australian legal profession;
- Ensuring legal practitioners are competent and maintain high ethical and professional standards;
- Enhancing the protection of clients and the public;
- Empowering clients to make informed choices about their legal options;
- Efficient, effective, targeted and proportionate regulation; and
- A co-regulatory framework with an appropriate level independence for the legal profession.

The Uniform Law harmonises regulation of the legal profession, cuts red tape and creates a single system to govern legal practice. The scheme also promotes informed consumer choice and has strong consumer protection measures.

#### Overall framework

The Uniform Law establishes a new five member Legal Services Council and the office of the Commissioner for Uniform Legal Services Regulation. The Council sets the rules and policy to underpin the Uniform Law, ensuring it is applied consistently across participating States. The Commissioner oversees the dispute resolution and compliance functions. Existing Legal Services Commissioners and professional bodies continue to carry out complaints and

investigation functions, grant practising certificates and provide professional development. The Admissions Committee develops Admission Rules used by the local admission boards and advises the Council on admissions policy.

Benefits for consumers

Clients of law practices have the same protections, rights and remedies in Victoria and NSW.

Important new obligations to promote better communication with clients

and help to avoid disputes include:

- Legal costs must be fair and reasonable, and
- Law practices must avoid unnecessary delay that results in increased costs;
- A law practice must provide information that enables their clients to make informed choices about costs and their legal options;
- Principals of law practices are responsible for the legal costs charged;
- There are new low cost ways to resolve complaints and costs disputes with law practices;
- Access to pro bono legal services is improved with more flexible practising entitlements and the creation of a low cost volunteers practising certificate.



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