

1A: Introduction

Lawyers As Ethical Decision Makers

- Lawyers ethical obligations in their professional practice can be said to come from 3 main interrelated sources:
 1. Extrinsic sources - such as the Australian Solicitors Conduct Rules (ASCR) and the Legal Profession Acts in each state and territory.
 2. Intrinsic sources - which include personal values and principles of honesty, courtesy, loyalty and competence that the legal profession regards as representative of best standards of ethical, professional practice
 3. Common law - as stated most often in disciplinary hearings (e.g. QLD legal services commission discipline register)
- O'Dair has said that study of legal ethics should involve examination of: *'the arrangements made by society for delivery of legal services (macro legal ethics); the role and responsibilities of individual lawyers in provision of legal services together with the ethical implications of those roles (micro legal ethics); and wider social context in which lawyers work'*

Common Ethical Scenarios in Legal Practice

Your client has told you they intend to assault someone, and you believe them. What should you do?

- General rule - duty of confidentiality between a solicitor and client (see ASCR Rule 9). However, this situation constitutes an exception to that rule.
- Rule 9.2.5, e.g. states that you may disclose confidential client information for the purpose of preventing imminent serious physical harm to the client or another
- Rule 9.2.4 may be relevant in that you may disclose info for the sole purpose of avoiding the probable commission of a 'serious criminal offence'
- **NOTE:** whilst these provisions allow you to act if you decide, they do not require you to act. You must ensure that the threat is a credible one - which is a matter of judgement. You should seek advice in ethical situations from a senior colleague or ethics help line through NSW Law society

Your client wants to give you a gift, can you accept it?

- It depends. First: consider the nature of the gift and Second: whether you continue to represent the client. If your retainer has ended, then a small gift given in gratitude is acceptable, not money or a voucher, it should be a modest gift. Preserve your independence! - Consider ASCR Rules 4 and 12

You are involved in a high profile matter. Can you talk to the media?

- Rule 28.1: 'A solicitor must not publish or take steps towards the publication of any material concerning current proceedings which may prejudice a fair trial or the administration of justice'
- Also, should always seek client's former client's approval even if comment is only about details available to public

Your client has confessed to you that they are guilty, but they want to plead not guilty. What should you do?

- Rule 20 of ASCR concern 'Delinquent or Guilty Clients'. They state:
 - 20.2 A solicitor whose client in criminal proceedings confesses guilt to the solicitor but maintains a plea of not guilty:
 - 20.2.1 may cease to act, if there is enough time for another solicitor to take over the case properly before the hearing, and the client does not insist on the solicitor continuing to appear for the client;
 - 20.2.2 in cases where the solicitor continues to act for the client:
 - i) must not falsely suggest that some other person committed the offence charged;
 - ii) must not set up an affirmative case inconsistent with the confession;
 - iii) may argue that the evidence as a whole does not prove that the client is guilty of the offence charged;
 - iv) may argue that for some reason of law the client is not guilty of the offence charged (for example the defence of insanity); and
 - v) may argue that for any other reason not prohibited by (i) and (ii) the client should not be convicted of the offence charged;
 - 20.2.3 must not continue to act if the client insists on giving evidence denying guilty or requires the making of a statement asserting the client's innocence

If your client seems vague and incoherent in the way they are communicating

- Clients must have the necessary mental capacity to give you instructions i.e. must be proper and competent. If not, they can't ethically act on their instructions. (Rule 8 ASCR)
- It is presumed that a person has capacity, but if you have reasons to doubt the competence then it's a wise decision to get a medical assessment

Police walked into office doing search without search warrant/ subpoena?

- Must maintain confidentiality of professional relationship with client and legal professional privilege. Don't disclose any information even informally unless clients authority or applicable exception

Running out of storage space and partner says to start charging clients for storage of their documents. Is this ethical?

- Rule 16: solicitor must not charge for storage of documents, files or other property on behalf of client or former clients; (16.1.1) or for retrieval from storage; (16.1.2); unless client or former client has agreed in writing to charge
- In Rose (2007) solicitor was found guilty for this

Four ethical principles that are foundation to ethical duties: fidelity, honesty, propriety and competency

- **Fidelity:** lawyers owe a duty of loyalty to clients - serving client's best interests uninfluenced by any other motivation.
- **Honesty:** telling truth, although it can also indicate an absence of deceit (in terms of what lawyers do not say)
- **Propriety:** quality of characters. 'Fit and proper' person. Recognised as being a suitable character to warrant the court's

confidence.

- **Competency:** having ability (knowledge, skills and expertise) to do legal work accurately and effectively. Practitioners should only accept matters that they have the competence to conduct.

Four Different Ethical Approaches to Lawyering by Parker and Evans:

- **Adversarial Advocate:** the dominant and traditional conception of a lawyer's ethical role. Lawyer should advance their client's partisan interests with maximum zeal permitted by law.
 - Lawyer's duty is to advocate client's interests as zealously as possible within the bounds of the law, without regard for other impacts or interests.
- **Responsible lawyering:** the idea of a lawyer being an officer of the court and a trustee of the legal system
 - Lawyer's duties of advocacy tempered by duty to ensure integrity of an compliance with the spirit of the law and to make law work as fairly and justly as possible
- **Moral Activist:** the lawyer is an agent for justice
 - Lawyer's duty is to improve social and political justice through public interest lawyering and law reform activities to improve access to justice and to make the law more substantively just, and client counselling
- **Ethics of care:** Key responsibility of lawyers to people, communities and relationships.
 - A lawyer's duty to preserve/ avoid harm to relationships and responsibilities to people, communities, relationships are more important than impersonal justice.

Role-differentiated morality

- Getting from ethics to legal ethics: *"if this seems wrong to you, or you feel a tension between what is required as a lawyer and what otherwise you might believe you ought to do, then you recognise the problem of role-differentiated morality. A lawyer is obligated by rules of professional ethics to do something that appears unjust from the point of view of ordinary common, everyday morality"* - Wendel

Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015

1. Application and Interpretation
2. Purpose and effect of the rules
 - 2.1. Purpose of these Rules is to assist sols to act **ethically** and in accordance with principles of **professional conduct** established by common law and these Rules
 - 2.2. In considering whether sol has engaged in professional misconduct, these Rules apply
 - 2.3. A breach of these Rules is capable of constituting unsatisfactory professional conduct and may give rise to disciplinary action
3. Paramount duty to court and administration of justice
 - 3.1. A solicitor's duty to court and administration of justice is paramount and prevails to extent of inconsistency with any other duty
4. Other fundamental ethical duties
 - 4.1. A solicitor must also -
 - 4.1.1. Act in best interests of client in any matter in which they represent client
 - 4.1.2 be honest and courteous
 - 4.1.3 deliver legal services competently, diligently and as promptly as possible
 - 4.1.4 avoid any compromise to integrity and professional independence, and
 - 4.1.5 comply with these Rules and the law
5. Standard of conduct - dishonest or disreputable conduct
 - 5.1. A solicitor must not engage in conduct, which -
 - 5.1.1. Demonstrates they are not a fit and proper person to practice law, or
 - 5.1.2 is likely to a material degree to- (i) be prejudicial to, or diminish public confidence in administration of justice or (ii) bring profession into disrepute
6. Undertakings in course of legal practice
 - 6.1. A solicitor who has given an undertaking in course of legal practice must honour that undertaking and ensure that timely and effective performance of their undertaking, unless released by the recipient or by a court of competent jurisdiction
 - 6.2 A solicitor must not seek from another solicitor, or that solicitor's employee, association or agent, undertakings, that would require the cooperation of a 3rd party who is not party to the undertaking

Legal Profession Uniform Conduct (Barristers) Rules 2015

8. General

A barrister must not engage in conduct which is:

- a) Dishonest or otherwise discreditable to a barrister,
- b) Prejudicial to the administration of justice, or
- c) Likely to diminish public confidence in legal profession or administration of justice or otherwise bring the legal profession into disrepute

9. Another vocation

A barrister must not engage in another vocation which:

- a) Is liable to adversely affect the reputation of the legal profession or the barrister's own reputation,
- b) Is likely to impair or conflict with the barrister's duties to clients, or
- c) Prejudices a barrister's ability to attend properly to the interests of the barrister's clients

10. Use of professional qualification

A barrister must not use or permit the use of the professional qualification as a barrister for the advancement of any other occupation or activity in which they directly or indirectly engaged, or for private advantage, unless that use is usual or reasonable in the circumstances

11. Work of a barrister

A barristers work consists of a) appearing as an advocate, b) preparing to appear as an advocate, c) negotiating for a client with an opponent to compromise a case, d) representing a client in or conduct a mediation or arbitration or other method of ARD, e) giving legal advice etc

12. A barrister must be a sole practitioner and must not:

- a) Practice in partnership with any person

- b) Practice as the employer of any legal practitioner who acts as a legal practitioner;
- c) Practices as the employee of any person,
- d) Be a director of an incorporated legal practice,
- e) Practice by or through an unincorporated legal practice

1B: Accountability

Module 2 Accountability (Complaints and Disputes)

Office of the NSW Legal Services Commissioner

- An independent statutory body that deals with complaints against lawyers under the **Legal Profession Uniform Law** and **Legal Profession Uniform Law Application Act 2014 (NSW)**.
- It supports the Legal Services Commissioner, and the Commissioner's disciplinary decision can only be challenged through:
 - The 'ordinary process of administrative law' i.e. an appeal or review under LPUL Part 5.6 or;
 - A challenge in the NSW Supreme Court claiming that the Commissioner's decision arose from an:
 - Error in finding of a fact (e.g. something was said that did not occur),
 - An error on a question of law (e.g. conduct was said to constitute 'professional misconduct' but did not actually meet the legal requirements of this, or
 - A jurisdictional error (e.g. the complaint was not in fact made about a legal professional, or anyone claiming to be a legal professional)
- The OLSC is the **first port of call for all complaints against lawyer** in NSW. Includes consumer matter complaints (those not involving 'unsatisfactory professional conduct' and 'professional misconduct') and disciplinary matters ('those not involving 'unsatisfactory professional conduct' and 'professional misconduct')
- **Mendonca v Legal Services Commissioner (2020)**
 - **'Absolute Discretion'**: LSC's power to decide whether to conduct an internal review is characterized as an 'absolute discretion' under LPUL. Courts generally reluctant to interfere with this power unless there is evidence of legal error such as acting beyond jurisdiction
 - **Limited standing of complainants**: Complainants in legal disciplinary matters are considered to have a limited role. They serve as conduits to bring issues to attention of LSC but don't have a person stake in outcome of disciplinary proceedings.

Making a complaint:

- All complaints first go to **Commissioner**, even if first contact is with the Law Society or Bar Association. Commissioner may then refer complaints to Law Society or Bar Association, but reserve the right to retain any complaints.
- Trust account matters are almost always referred to Law Society, as they have sophisticated trust auditing systems
- Commissioner may commence disciplinary proceedings in Occupational Division of NCAT (**LPUL s300**). Lawyer can also appeal decision made by Law Society, Bar Association or Commissioner to NCAT (**LPUL s314**). Finally NCAT decisions can be appealed to Supreme Court (**LPUL s302(6)**)
- Complaint about a lawyer's conduct (including services) must be made within **3 years** of alleged conduct unless the OLSC determines it is **fair and just to extend the timeframe**, or the complaint concerns **an allegation of professional misconduct** and it is in the public interest to investigate the complaint
- Cost disputes must be lodged within **2 months** of receiving a bill, but this time may be extended **by 4 months** in certain circumstances (**LPUL s272**)

272 Time limits on making complaints

- (1) Subject to subsection (2), a complaint must be about conduct alleged to have occurred within the period of 3 years immediately before the complaint is made, but the designated local regulatory authority may waive the time requirement if satisfied that—
 - (a) it is just and fair to deal with the complaint having regard to the delay and the reasons for the delay; or
 - (b) the complaint involves an allegation of professional misconduct and it is in the public interest to deal with the complaint.
- (2) To the extent that a complaint involves a costs dispute, the complaint must be made within the required period referred to in subsection (3), but the designated local regulatory authority may waive the time requirement if satisfied that—
 - (a) the complaint is made within 4 months after the required period; and
 - (b) it is just and fair to deal with the complaint having regard to the delay and reasons for the delay; and
 - (c) the lawyer or law practice has not commenced legal proceedings in respect of the legal costs.
- (3) For the purposes of subsection (2), the required period is the period of—
 - (a) 60 days after the legal costs become payable, except as provided by paragraph (b); or
 - (b) if an itemised bill was requested in respect of those costs in accordance with section 187(2)—30 days after the request was complied with.
- (4) The designated local regulatory authority's decision to waive or refuse to waive a time requirement under this section is final and cannot be challenged in any proceedings by the complainant or the respondent.

Who can make a complaint?

- Any person or body or a person on behalf of any person or body, who has concerns about the conduct of a solicitor or a barrister practising in the jurisdiction of NSW can make a complaint
- **The OLSC, Law Society and Bar Association may make complaints in relation to disciplinary matters only**
- Reason for this is to make it easy for individuals to bring forward complaints against experienced lawyers who have money and resources on their side

266 Who may make a complaint?

- (1) Any person or body may make a complaint.
- (2) The designated local regulatory authority may initiate a complaint containing a disciplinary matter only.

Complaints OLSC may not deal with

- The NSW Legal Services Commissioner and staff cannot provide legal advice or representation. They act impartially, so don't represent client nor lawyer but take each parties views into account.
- They cannot order a lawyer to hand over their file for a client's legal matter
- They cannot assist in debt recovery matters
- They cannot assist in resolving civil claims, commercial disputes or disputes in relation to a contract e.g. contract for sale and purchase of land.
- Negligence allegations may be considered as a consumer matter if they relate to the provision of legal services to a complainant by a lawyer or law practice.
- Cannot comment on Legal Aid NSW policies and guidelines nor compel Legal Aid to issue a grant of legal aid
- Cannot make an order restraining a lawyer from appearing in a matter
- May not concurrently investigate a complaint where there are pending Court of Tribunal Proceedings.
- Cannot vary, enforce or otherwise change findings and decisions made by a Court of a Tribunal
- May not be able to assist if lawyer has sued or is suing you for unpaid legal costs

The Complaint Process

- Preliminary Assessment:
 - Commissioner may request further info from complainant or any other person they see fit (LPUL s276)
 - Commissioner may recommend a practising certificate be immediately suspended in public interest (s278)
 - A complainant may be closed for a range of reasons including that it's frivolous, misconceived or lacking in substance (s277)
- Review/ appeal
 - Commissioner may conduct internal review and consider whether decision, or one made by LS or BA was dealt with appropriately on reasonable grounds
 - They make confirm original decision, make new one or refer matter back to OG decision maker (LPUL s313)
 - Parties can appeal to NCAT for compensation order for more than \$10k in consumer matter or in relation to a disciplinary matter (s314)
- Optional Referral of matters for cost assessment
 - Commissioner may refer matters for costs assessment for purposes of investigation (s284)
- Notification to lawyer about complaint
 - Commissioner must notify lawyer who is subject of complaint and provide lawyer with opportunity to respond (LPUL s279 and 281)
 - Lawyer's submissions are generally due 21 days after notice to lawyer was sent (s280 and 279(2))
 - Commissioner must notify the parties as soon as practicable after determination is made and give a statement of reasons (s318)
- Determination and making of orders
 - For consumer matters, Commission may make determination that is fair and reasonable and any order specified in LPUL s290
 - For matters of unsatisfactory professional conduct, Commissioner may make any order in s299
- Investigation
 - Commissioner may investigate all or part of the complaint (LPUL s282). Scope of investigation may be extended to conduct revealed during investigation (s282)

What are the types of complaints that may be brought against a legal practitioner?

- Consumer matters (including costs disputes) relating to the provision of legal services (s269 LPUL) and;
- Disciplinary matters (s270 LPUL)
- A complaint may contain both consumer and disciplinary matter (s268(1) LPUL) and if so, OLSC may give priority to resolving consumer matter as soon as possible and if necessary and appropriate, separately from disciplinary matter (s271 LPUL)

269 Consumer matters (including costs disputes) - LPUL

(1) A consumer matter is so much of a complaint about a lawyer or a law practice as relates to the provision of legal services to the complainant by the lawyer or law practice and as the designated local regulatory authority determines should be resolved by the exercise of functions relating to consumer matters.

(2) A costs dispute is a consumer matter involving a dispute about legal costs payable on a solicitor-client basis where the dispute is between a lawyer or law practice and a person who is charged with those legal costs or is liable to pay those legal costs (other than under a court or tribunal order for costs), whether as a client of the lawyer or law practice or as a third party payer.

Note: Section 291 enables the designated local regulatory authority to deal with costs disputes within certain monetary limits.

- Less serious as they DON'T involve an issue of unsatisfactory professional conduct or professional misconduct
- Minor Cost Disputes
 - Occurs when client has received bill that's in excess of the estimate originally provided by solicitor. Caused by solicitor failing to properly explain the estimate, or has failed to inform the client of an increase in costs during the matter. (LPUL s172) costs must be fair and reasonable.
 - Where costs are 'grossly excessive' it can amount to a disciplinary matter of either UPC or PM
 - Commissioner can make binding orders in cost disputes (LPUL s292) and compensation order in favour of complainant (LPUL s306)
 - OLSC will deal with a cost dispute if total bill for legal costs is less than \$100,000, or total bill for legal costs is equal to or more than \$100,000 but total amount in dispute is less than \$10,000. The relevant test is **what the LSC determines is fair and reasonable, in all circumstances**. If outside those amounts, Commissioner must inform both parties of their right to apply for costs assessment. (LPUL s291)
- Delay
 - Includes failure to return phone calls or answer correspondence, delay in drafting documents, delaying in entering negotiations with opposing counsel, delay in returning a file to a client or passing it on to another practitioner (see Liens)
 - Where the practitioner claims a lien for unpaid costs, and client wishes to transfer file to a different practitioner, delay in transfer can seriously impact the client. Where practitioner has a valid lien, all parties can enter a tripartite

agreement where new practitioner will undertake to hold sufficient funds in trust at completion of matter to cover any outstanding costs of original solicitor

- Where original practitioner doesn't have a valid lien (e.g. where costs have been paid or amount claimed in costs is excessive) matter would be treated as a consumer dispute and attempt at resolution would occur

- **Poor communication**

- Failure to properly explain type of matter at hand or processes involved to client → can almost amount to breach of ASCR (r7) or lack of courtesy and rudeness (r4).

- **7 Communication of advice - ASCR**

- 7.1 A solicitor must provide clear and timely advice to assist a client to understand relevant legal issues and to make informed choices about action to be taken during the course of a matter, consistent with the terms of the engagement
- 7.2 A solicitor must inform the client or the instructing solicitor about the alternatives to fully contested adjudication of the case which are reasonably available to the client, unless the solicitor believes on reasonable grounds that the client already has such an understanding of those alternatives as to permit the client to make decisions about the client's best interests in relation to the matter.

- **4 Other fundamental ethical duties**

- 4.1.2 be honest and courteous in all dealings in the course of legal practice,

- **When a complaint is characterised as a consumer matter, 3 special considerations apply to its determination or resolution:**

1. **Prerequisites to resolution action**

Under s286, the LSC must be satisfied that

- At least one of the parties has made a reasonable attempt to resolve the matter and the attempt has been unsuccessful; or
- It would be unreasonable to expect the complainant to be involved in such an attempt

2. **Informal means and expedition**

- The LSC must use informal means (informal mediation) as soon as practicable to resolve the complaint: s287. It is the duty of LSC to deal with complaints and investigations as efficiently and expeditiously as is practicable s317

3. **Optional mediation and settlement**

- The LSC may order the parties to attend a formal mediation: s288. (this is very rare, almost all mediations are informal). If mediation successful for a consumer matter, complaint is resolved. If not, LSC may proceed to a determination. If the parties reach an agreement, the LSC may prepare a written record of the settlement agreement s289

- **Regulatory Orders** which can be made by Commissioner (LPUL s290(2))

- a. an order **cautioning** the respondent or a legal practitioner associate of the respondent law practice;
- b. an order requiring an **apology** from the respondent or a legal practitioner associate of the respondent law practice;
- c. an order requiring the respondent to **redo the work** that is the subject of the complaint **at no cost or to waive or reduce the fees** for the work;
- d. an order requiring- (i) the respondent Australian legal practitioner; or (ii) the respondent law practice to arrange for a legal practitioner associate of the law practice - to **undertake training, education, counselling or be supervised**;
- e. a **compensation order** against the respondent in accordance with Part 5.5.
 - i. Under s309, the LSC must be satisfied in order to make a compensation order that:
 - a) The aggrieved person has suffered loss because of the conduct concerned;
 - b) It is in the interests of justice that the order be made; and
 - c) A compensation order has not been made to by the court or compensation paid or payable from a fidelity fund of any jurisdiction

270 Disciplinary matters

A disciplinary matter is so much of a complaint about a lawyer or a law practice as would, if the conduct concerned were established, amount to **unsatisfactory professional conduct** or **professional misconduct**.

- Much more serious

296 Unsatisfactory professional conduct

For the purposes of this Law, **unsatisfactory professional conduct** includes conduct of a **lawyer occurring in connection with the practice of law** that falls short of the **standard of competence and diligence** that a member of the public is entitled to expect of a **reasonably competent lawyer**.

- This is judged from standard of a **member of public**, not peers or professional associations. Conduct must occur in **connection with**, not external to, practice of law
- Includes: threatening or abusive behaviour, failure to comply with an undertaking, poor advice or representation, serious delay, non disclosure of costs - just a failure to meet the standard of a reasonable lawyer, and happened within the law
- Penalties
 - Caution: not publicly recorded but is in regulatory records of OLSC
 - Public reprimand: appears on public website, remains against practitioner's name forevermore
 - May be referred to tribunal if serious

297 Professional misconduct

(1) For the purposes of this Law, professional misconduct includes—

- (a) unsatisfactory professional conduct of a lawyer, where the conduct involves a **substantial or consistent failure** to reach or maintain a **reasonable standard of competence and diligence**; and
- (b) conduct of a lawyer whether occurring in connection with the practice of law **or occurring otherwise** than in connection with the practice of law that would, if established, justify a finding that the lawyer is **not a fit and proper person to engage in legal practice**.

(2) For the purpose of deciding whether a lawyer is or is not a fit and proper person to engage in legal practice as referred to in

subsection (1)(b), regard may be had to the matters that would be considered if the lawyer were an applicant for admission to the Australian legal profession or for the grant or renewal of an Australian practising certificate and any other relevant matters.

- Much more serious, breaching standards of **diligence and competence** and doing something **disgraceful or dishonest to the profession**
- To determine whether someone is a fit and proper person, regard may be had to matters that would be considered if a lawyer were an applicant for admission to Australian legal profession or for renewal of practising certificate. It evaluates an individual's character, integrity and suitability to uphold responsibilities and ethical standards. NCAT found that it depends on 'context of circumstance of conduct together with [the practitioner's] personal qualities and other circumstances which bear upon the conduct' including any mental illness (*Waterstreet 2024*)

298 Conduct capable of constituting unsatisfactory professional conduct or professional misconduct

Without limitation, the following conduct is capable of constituting unsatisfactory professional conduct or professional misconduct—

- (a) conduct consisting of a contravention of this Law, whether or not—
 - (i) the contravention is an offence or punishable by way of a pecuniary penalty order; or
 - (ii) the person has been convicted of an offence in relation to the contravention; or
 - (iii) a pecuniary penalty order has been made against the person under Part 9.7 in relation to the contravention;
- (b) conduct consisting of a contravention of the Uniform Rules;
- (c) conduct involving contravention of the Legal Profession Uniform Law Act of this jurisdiction (other than this Law), whether or not the person has been convicted of an offence in relation to the contravention;
- (d) charging more than a fair and reasonable amount for legal costs in connection with the practice of law;
- (e) conduct in respect of which there is a conviction for—
 - (i) a serious offence; or
 - (ii) a tax offence; or
 - (iii) an offence involving dishonesty;
- (f) conduct as or in becoming an insolvent under administration;
- (g) conduct in becoming disqualified from managing or being involved in the management of any corporation under the Corporations Act;
- (h) conduct consisting of a failure to comply with the requirements of a notice under this Law or the Uniform Rules;
- (i) conduct in failing to comply with an order of the designated tribunal made under this Law or an order of a corresponding authority made under a corresponding law (including but not limited to a failure to pay wholly or partly a fine imposed under this Law or a corresponding law);
- (j) conduct in failing to comply with a compensation order made under this Chapter.

Regulatory orders and sanctions for disciplinary matters

Made by Commissioner or NCAT (s299)

299 Determination by local regulatory authority—unsatisfactory professional conduct

(1) The designated local regulatory authority may, in relation to a disciplinary matter, find that the respondent lawyer or a legal practitioner associate of the respondent law practice has engaged in unsatisfactory professional conduct and may determine the disciplinary matter by making any of the following orders—

- (a) an order cautioning the respondent or a legal practitioner associate of the respondent law practice;
- (b) an order reprimanding the respondent or a legal practitioner associate of the respondent law practice;
- (c) an order requiring an apology from the respondent or a legal practitioner associate of the respondent law practice;
- (d) an order requiring the respondent or a legal practitioner associate of the respondent law practice to redo the work that is the subject of the complaint at no cost or to waive or reduce the fees for the work;
- (e) an order requiring—
 - (i) the respondent lawyer; or
 - (ii) the respondent law practice to arrange for a legal practitioner associate of the law practice—
to undertake training, education or counselling or be supervised;
- (f) an order requiring the respondent or a legal practitioner associate of the respondent law practice to pay a fine of a specified amount (not exceeding \$25 000) to the fund referred to in section 456;
- (g) an order recommending the imposition of a specified condition on the Australian practising certificate or Australian registration certificate of the respondent lawyer or a legal practitioner associate of the respondent law practice.

Striking off the role is ordered when lawyer's misconduct is so serious that they are determined to be probably permanently unfit to practice (*Potkonyak 2018*). If they wish to practice against, they must apply for re-admission. This can ONLY be ordered by the supreme court either following a recommendation from the Tribunal.

300 Initiation and prosecution of proceedings in designated tribunal

(1) The designated local regulatory authority may initiate and prosecute proceedings against a respondent lawyer in the designated tribunal if the designated local regulatory authority is of the opinion that—

- (a) the alleged conduct may amount to unsatisfactory professional conduct that would be more appropriately dealt with by the designated tribunal; or
- (b) the alleged conduct may amount to professional misconduct.

(2) As soon as practicable after deciding to initiate proceedings under this section, the designated local regulatory authority must give the complainant and the respondent to the complaint written notice of the decision.

- Can initiate proceedings in NCAT if alleged conduct may amount to **unsatisfactory professional conduct** that would be more appropriately dealt with by Tribunal or if it amounts to a **professional misconduct s300**. A lawyer may initiate proceedings by way of appeal.

Order made by only NCAT (s302)

302 Determination by designated tribunal—disciplinary matters

(1) If, after it has completed a hearing under this Part into the conduct of a respondent lawyer, the designated tribunal finds that the lawyer is guilty of unsatisfactory professional conduct or professional misconduct, the designated tribunal may make any orders that it thinks fit, including any of the orders that a local regulatory authority can make under section 299 in relation to a lawyer and any one or more of the following—

- (a) an order that the lawyer do or refrain from doing something in connection with the practice of law;
- (b) an order that the lawyer cease to accept instructions as a public notary in relation to notarial services;
- (c) an order that the lawyer's practice be managed for a specified period in a specified way or subject to specified conditions;

- (d) an order that the lawyer's practice be subject to periodic inspection by a specified person for a specified period;
- (e) an order that the lawyer seek advice in relation to the management of the lawyer's practice from a specified person;
- (f) an order recommending that the name of the lawyer be removed from a roll kept by a Supreme Court, a register of lawyers kept under jurisdictional legislation or the Australian Legal Profession Register;
- (g) an order directing that a specified condition be imposed on the Australian practising certificate or Australian registration certificate of the lawyer;
- (h) an order directing that the lawyer's Australian practising certificate or Australian registration certificate be suspended for a specified period or cancelled;
- (i) an order directing that an Australian practising certificate or Australian registration certificate not be granted to the lawyer before the end of a specified period;
- (j) an order that the lawyer not apply for an Australian practising certificate or Australian registration certificate before the end of a specified period;
- (k) a compensation order against the lawyer in accordance with Part 5.5;
- (l) an order that the lawyer pay a fine of a specified amount not exceeding \$100 000 if the lawyer is found guilty of professional misconduct.

Common Law PM Tests

- PM behaviour that would reasonably be regarded as disgraceful or dishonourable by the lawyer's professional brethren of good repute and competency (**Allinson 1984**).
- Misconduct can be **in connection with or outside practice of law**. However, PM has a greater bearing on fitness to practice than personal misconduct (**Ziems**).
- Mere negligence is not PM, but gross negligence or recklessness may be (**Myers**).
- Conduct must be demonstrated on **balance of probabilities**. There must be 'reasonable satisfaction' or 'comfortable satisfaction' (**Briginshaw**).
- Aim is the protection of the public, not the punishment of the lawyers (**Westbrook 1910**).

3A: The Legal Profession and Entry to the Profession

The Legal Profession

Ethics and Legal Professionalism in Australia - Baron and Corbin

- In the case of **ACCC v Murray**, court held that if a provider, who does not hold a practising certificate, simply makes forms available for a consumer, then that would not amount to the provision of legal advice. However if the provider helps the consumer select the appropriate form and assists by explaining terminology, then provider would be considered to be breaching s10 of Uniform law which dictates that **only qualified lawyers or entities may engage in legal practice**
- The QLS recently discovered that company, Stenton and Moore was running a legal practice without a lawyer. Supreme Court may orders restraining firm from engaging in legal practice and has since ordered firm to be taken over by receivers. Presidents of QLS warned that *"the Society will not stand for any form of fake lawyer endangering the public"*
- Relevant legislation thus reinforces the view that law is a profession - purpose of lawyering is to protect public interest and *'to help citizens maximise their legal rights'*. These are different aims to that of a business, where purpose of lawyers is considered *'in terms of its commercial opportunities (as a vehicle for maximizing client interests with a view to making money for both the client and the lawyer)'*
- The Law Council of Australia argues that the practice of law is a profession, by which it means:
 - It involves the exercise of some special skill not held by the general public, based on an organised body of learning, imparted systematically by an institution;
 - Members usually enjoy some form of exclusive right to provide their services to the public for reward;
 - The profession avows obligations of service to the community, and the community accepts that such obligations constrain their pursuit of self interest;
 - Members are permitted, and actively pursue, a substantial degree of self regulation.
- Chief Justice of QLD stated *"the relationship between lawyer and client is not like the relationship of supplier to consumer, vendor to purchaser. It is a relationship specifically characterised by the expectation and correlative duty, of confidentiality and privilege and of exemplary professional ethics."*
- Justice Kirby stated that *"in the practice of the law the pursuit of profit is subordinated to the maintenance of a strict and uncompromising body of rules that sets the practice of the law apart from almost every other professional calling on earth. Our ethics take priority over profits"*

Is the law a profession or a business?

- Profession
 - A profession is an 'occupation in which a professed knowledge on some subject, field science is applied; a vocation or career, especially one that involves prolonged training and a formal qualification' (James Allsop in Modern Legal Practice)
 - Core attributes of a profession are education requirements, moral values, moral status and self-regulation
- A business
 - 'Is an occupation or calling in which the primary object is the pursuit of pecuniary gain. Honesty and honourable dealing are, expected of every man, whether the be engaged in professional practice or in any other gainful occupation. But in a profession, pecuniary success is not the only goal.' Re Foster Street CJ
 - In regulating law as a business, self-regulation is not necessary to defend individuals and society from power of State. The legal profession has frequently failed to effectively regulate itself i.e. lawyers do not know how to regulate themselves. Self-regulating professions are really just those occupations that have succeeded in establishing a means for controlling the market for their services (monopoly). The burden of self regulation e.g. constantly defending professional independence in complaints handling against charges of bias, conflict, may be more onerous than its supposed advantages

Legal Profession Uniform Law (NSW)

- S9 Objectives
 - a) To ensure, in the interests of the administration of justice, that legal work is carried out only by those who are properly qualified to do so; and
 - b) To protect clients of law practices by ensuring that persons carrying out legal work are entitled to do so
- S10 Prohibition on engaging in legal practice by unqualified entities.
 - 1) An entity must not engage in legal practice in this jurisdiction, unless it is a qualified entity. Penalty: 250 penalty units or imprisonment for 2 years, or both.

- S11 Prohibition on advertisements or representations by or about unqualified entities.
 - 1) An entity must not advertise or represent, or do anything that states or implies, that it is entitled to engage in legal practice, unless it is a qualified entity. Penalty: 250 penalty units.
 - 2) A director, partner, officer, employee or agent of an entity must not advertise or represent... Penalty: 50 penalty units.
- S12 Entitlement of certain persons to use certain titles, and presumptions with respect to other persons.
 - 1) Titles This section applies to - includes, lawyer, legal practitioner, barrister, solicitor, attorney, counsel or proctor
 - 2) A person is entitled by force of this section to take or use a title to which this section applies if -
 - a) The person is of a class authorised by the Uniform Rules for the purposes of this section to take or use that title; and
 - b) Where the Uniform Rules so provide - the person does so in circumstances, or in accordance with restrictions, specified in the Uniform Rules for the purposes of this section
 - 3) The taking or use of a title to which this section applies by a person gives rise to a rebuttable presumption that the person represented that they are entitled to engage in legal practice
- S13 Protection of lay associates
- S14 Function of local regulatory authority with respect to offence
- S42 Objectives (start of Part 3.3)
 - a) To provide a system for the grant and renewal of Australian practising certificates in this jurisdiction to eligible and suitable persons who are already admitted to the Australian legal profession in any jurisdiction; and
 - b) To facilitate the national practice of law by ensuring that the holders of Australian practising certificates can engage in legal practice in this jurisdiction regardless of their home jurisdiction
- S43 Entitlement to practise
- S44 Grant or renewal of Australian practising certificates in this jurisdiction. (2) subject to conditions imposed by this law
- S45 Prerequisites for grant or renewal of Australian practising certificates in this jurisdiction.
- S46 Notification of principal place of practice

Legal Profession Uniform Admission Rules 2015

- S3 Objectives and authorising provision
 - 1) The objectives of these Rules is to provide for aspects of admission to the legal profession in participating jurisdictions including:
 - a) Specifying the academic qualifications prerequisite and practical legal training prerequisite for admission,
 - b) Accrediting law courses and providers of practical legal training, and
 - c) Procedural requirements for admission to the legal profession
- S5 Specified academic qualification prerequisite
 - 1) For the purposes of s17(1)(a) of the Uniform Law, the specified academic qualifications prerequisite is successfully completing a tertiary academic course in Australia, whether or not leading to a degree in law, which:
 - a) Includes the equivalent of at least 3 years' full time study of law,
 - b) Is accredited by the Board, and
 - c) The Board determines will provide for a student to acquire and demonstrate appropriate understanding and competence in each element of the academic areas of knowledge set out in Schedule 1, or otherwise determined by the Admissions Committee after consulting each of the Boards
- S6 Specific practical legal training prerequisite
- S10 Determining whether someone is a fit and proper person
- S14 Application for readmission
 - (1) An application for a compliance certificate by a person whose name has previously been removed from the Supreme Court roll must, in addition to meeting the requirements of rule 12, set out—
 - (a) the circumstances which led to the applicant's name being removed from the Supreme Court roll,
 - (b) the applicant's views about those circumstances and the decision to remove the applicant's name from that roll,
 - (c) events which tend to re-establish the applicant's good fame and character,
 - (d) the applicant's law-related experience since the applicant's name was removed from that roll,
 - (e) any other matters that the applicant considers relevant to the application.
 - (2) The Board must provide a copy of any application made under subrule (1) to the designated local regulatory authority responsible for issuing practising certificates in this jurisdiction.
 - (3) If the Board issues a compliance certificate to a person referred to in subrule (1), it may provide a written report to the Supreme Court setting out the nature of the application and the Board's reasons for issuing the certificate.
- S15 Evidence of qualifications
- S16 Evidence of character
- S17 Disclosure statement
- S18 Police reports
- S26 Compliance Certificates
 - A compliance certificate issued by the Board under section 19 of the Uniform Law must be in a form jointly determined by the Boards.

Admission

15 Objective - LPUL

The objective of this Part is to **protect the administration of justice and the clients of law practices** by providing a system under which persons are eligible for admission to the Australian legal profession only if—

- (a) they have **appropriate academic qualifications** and practical legal training, whether obtained in Australia or elsewhere; and
- (b) they are **fit and proper persons** to be admitted.

Note: Admission does not of itself entitle a person to engage in legal practice, but is a prerequisite for being able to apply in this jurisdiction for an Australian practising certificate, which entitles the holder to engage in legal practice.

16 Admission

(1) The Supreme Court of this jurisdiction may admit an individual aged 18 years or over to the Australian legal profession as an Australian lawyer, but only if—

- (a) the designated local regulatory authority has provided the Supreme Court with a compliance certificate in respect of the person and the certificate is still in force; and
- (b) the person is not already admitted to the Australian legal profession; and
- (c) the person takes an oath of office, or makes an affirmation of office, in the form required by the Supreme Court.

(2) Residence in, or any other connection with, this jurisdiction is not a requirement for admission by the Supreme Court.

(3) Any person may, in accordance with any applicable rules of court, object to the Supreme Court to the admission of a particular person.

(4) Nothing in this section is intended to interfere with the inherent jurisdiction of the Supreme Court to refuse admission.

17 Prerequisites for compliance certificates

(1) The prerequisites for the issue of a compliance certificate in respect of a person are that he or she—

- (a) has attained the academic qualifications specified under the Admission Rules for the purposes of this section (the specified academic qualifications prerequisite); and
 - (b) has satisfactorily completed the practical legal training requirements specified in the Admission Rules for the purposes of this section (the specified practical legal training prerequisite); and
 - (c) is a fit and proper person to be admitted to the Australian legal profession.
- (2) In considering whether a person is a fit and proper person to be admitted to the Australian legal profession—
- (a) the designated local regulatory authority may have regard to any matter relevant to the person's eligibility or suitability for admission, however the matter comes to its attention; and
 - (b) the designated local regulatory authority must have regard to the matters specified in the Admission Rules for the purposes of this section

19 Compliance certificates

- (1) A person may apply, in accordance with the Admission Rules, to the designated local regulatory authority for a compliance certificate if the person proposes to be admitted in this jurisdiction.
- (2) The designated local regulatory authority may require an applicant for a compliance certificate to provide further information to it within a specified time.
- (3) The designated local regulatory authority may issue and provide to the Supreme Court a compliance certificate stating that the applicant has satisfied it that he or she—
- (a) has satisfied the specified academic qualifications prerequisite and the specified practical legal training prerequisite (or is exempted under section 18); and
 - (b) is a fit and proper person to be admitted to the Australian legal profession (as referred to in section 17(1)(c)).
- (4) The designated local regulatory authority may revoke a compliance certificate issued in respect of a person if satisfied that the certificate was issued on the basis of information provided by the person that was false, misleading or incomplete in a material particular or that the certificate was issued in error. The designated local regulatory authority must notify the person of the revocation of the compliance certificate.
- (5) However, revocation of a compliance certificate under this section does not of itself affect the person's admission if he or she is already admitted.
- (6) The designated local regulatory authority must ensure that notice is given, in accordance with the Admission Rules, on an appropriate website of an application for admission.
- (7) Any person may object to the designated local regulatory authority against the issue by it of a compliance certificate to a particular person.
- (8) The designated local regulatory authority is not to issue a compliance certificate until after it—
- (a) has given notice under subsection (6) of the application; and
 - (b) has afforded a reasonable opportunity for persons to object to the issue of the certificate; and
 - (c) has—
 - (i) given the applicant a copy of each objection that is received within a reasonable period and that the designated local regulatory authority considers affects the applicant's eligibility or suitability for admission; and
 - (ii) afforded the applicant an opportunity to respond to each objection referred to in subparagraph (i) within a reasonable period specified by the designated local regulatory authority and notified to the applicant; and
 - (d) has considered all objections received within a reasonable period as contemplated by paragraph (b) and all responses received from the applicant within the specified period as contemplated by paragraph (c).
- (9) Failure to give notice under subsection (6), or to give notice in accordance with the Admission Rules, does not affect the validity of the applicant's admission

26 Right of appeal about compliance certificates

- (1) An applicant for a compliance certificate may appeal to the Supreme Court against the refusal of the designated local regulatory authority to issue a compliance certificate.
- (2) A person for whom a compliance certificate has been issued by the designated local regulatory authority may appeal to the Supreme Court against the revocation of the compliance certificate.
- (3) A foreign lawyer for whom a compliance certificate has been issued by the designated local regulatory authority recommending that the foreign lawyer be admitted subject to any conditions referred to in section 20(1) may appeal to the Supreme Court against the recommendation.
- (4) The Supreme Court may make any order it considers appropriate on an appeal under this section.
- (5) If the Supreme Court decides that an appeal under subsection (1) should be granted, the order may include a direction that the order has the same effect as a compliance certificate provided to the Court by the designated local regulatory authority.

10 Determining whether someone is a fit and proper person - admission rules

- (1) For the purposes of section 17 (2) (b) of the Uniform Law, the following matters are specified as matters to which the Board must have regard—
- (a) any statutory declaration as to the person's character, referred to in rule 16,
 - (b) any disclosure statement made by the person under rule 17,
 - (c) any police report provided under rule 18,
 - (d) any student conduct report provided under rule 19,
 - (e) any certificate of good standing provided under rule 20,
 - (f) whether the person is currently of good fame and character,
 - (g) whether the person is or has been a bankrupt or subject to an arrangement under Part 10 of the Bankruptcy Act or has been an officer of a corporation that has been wound up in insolvency or under external administration,
 - (h) whether the person has been found guilty of an offence including a spent offence in Australia or in a foreign country, and if so—
 - (i) the nature of the offence, and
 - (ii) how long ago the offence was committed, and
 - (iii) the person's age when the offence was committed,
 - (i) whether the person has been the subject of any disciplinary action, howsoever expressed, in any profession or occupation in Australia or in a foreign country,
 - (j) whether the person has been the subject of disciplinary action, howsoever expressed, in any profession or occupation that involved a finding adverse to the person,
 - (k) whether the person is currently unable satisfactorily to carry out the inherent requirements of practice as an Australian legal practitioner,
 - (l) whether the person has a sufficient knowledge of written and spoken English to engage in legal practice in this jurisdiction.
- (2) The Board may require a person to—
- (a) take an examination, and

- (b) obtain a result in that examination, specified by the Board for the purposes of subrule (1) (i).

The Admissions Process

- LPAB makes a determination as to the Applicant's fitness to practice and makes recommendations to the Supreme Court as to whether the person should be admitted
 - LPAB issues a Compliance Certificate **r26 LPUAR**
 - Supreme Court can rely on the recommendation of the LPAB if satisfied the Applicant is a 'fit and proper person' to be admitted
 - Admits the solicitor/ barrister to the Roll if satisfied the person is 'fit and proper'
 - Applicant applies for a Practising Certificate from Law Society or NSW BA
- If LPAB refuses to issue a compliance certificate
 - Applicant may appeal to the Supreme Court **s26 LPUL**
 - Supreme court has power to conduct its own open ended inquiry into an Applicant's moral fitness

Prothonotary of the Supreme Court of NSW v P (2003)

- Facts:**
 - The solicitor 'P' pleaded guilty to importing cocaine in her underwear during a flight
 - She had a 6 year history of cocaine and heroin addiction (1994-2000) but had been drug free for nearly 5 years by the time of the hearing
 - She served a 3 month prison sentence and complied with post release conditions
 - Prior to the conviction, she had a successful legal career as a senior associated specialising in personal injury law, with no prior disciplinary issues
 - She provided extensive character evidence, including references from a former District Court judge, all of whom were fully informed of her offence
- Legal Issue:** Whether the solicitor's conviction for a serious criminal offence rendered her unfit to remain on the Roll of Legal Practitioners under the **Legal Profession Act 1987 (NSW)**, considering:
 - Whether the conduct constituted professional misconduct.
 - Whether she was a 'fit and proper person' to practise law, given her rehabilitation and post-conviction conduct
- Key Reasoning:**
 - The core issue:** Whether P was currently a "fit and proper person" to remain on the Roll of Legal Practitioners after her conviction for a serious criminal offence.
 - The argument raised was that her conviction for drug importation (a grave breach of the law) called her integrity and fitness into question.
 - However, her capacity as a fit and proper person was **impaired in the past** (by her addiction and the offence), but she had since rehabilitated
 - The focus was on **rehabilitation, present character, and risk to the public and profession**—not only the gravity of the original offence.
 - Held:** The application to strike P off the Roll was **dismissed**; she remained on the Roll.
 - Condition:** P undertook to submit to drug testing if granted a practising certificate in the future.
 - Most salient reasons:**
 - Compelling evidence of rehabilitation:** Drug-free for almost five years, ongoing counselling, remorse, and positive conduct post-release (including charity work and steady employment).
 - No present risk to the public or the profession.**
 - The offence was **unrelated to professional work**; clients suffered no harm.
 - Striking her off would serve no protective purpose.*
 - Ziems (1957):** Criminal conviction doesn't in itself warrant removal; the focus is on current fitness to practice.
 - Cummins (2001):** Conduct outside practice may demonstrate unfitness only if it shows lack of integrity; here, no systemic dishonesty or harm to clients.
 - Evatt (1967):** The burden of proof is on the applicant seeking removal (the Prothonotary), who must show clear present unfitness.

Re Legal Profession Act 2004; re OG, a lawyer (2007)

- Facts:**
 - OG and GL were university students who worked together on a group assignment, then separately submitted individual assignments for the same subject
 - Their individual assignments were found to have 26 substantive similarities, leading university staff to suspect collusion
 - Both were awarded a 0 after meetings with uni staff. No formal disciplinary record was created, as both accepted the penalty to avoid escalation
 - When applying for admission to legal practice, OG disclosed receiving a 0 but attributed it to a 'misunderstanding' about assignment requirements, omitting mention of collusion allegations
 - GL, in contrast, candidly disclosed the collusion suspicion in his own admission process
- Legal Issue:**
 - Did OG's failure to make full and frank disclosure to the Board of Examiners render him unfit to practice law under the **Legal Profession Act 2004 (Vic)**?
- Held:**
 - The Supreme Court of Vic revoke's OG's admission and ordered his removal from the Roll of Legal Practitioners
- Key Reasoning:**
 - OG blamed "misunderstanding" but failed to mention collusion allegations behind the mark of zero.
 - Claimed it was due to writing the (supposed) group task alone—implausible, given it was an individual assignment.
 - Even after GL's admission disclosures exposed inconsistencies, OG did not update or clarify his own disclosure.
 - Breach of the duty of candour: Violated **Legal Practice (Admission) Rules 1999 r 4.03(1)(b)**, requiring full and frank honesty.
 - Re Humzy-Hancock (2007):** incomplete disclosure about academic misconduct bars admission.

Re B (1981) (Wendy Bacon Case)

- Facts:**
 - Wendy Bacon was a prominent political activist and journalist who applied for admission as a NSW barrister
 - Her background included extensive activism, campaigning against pornography laws, exposing police corruption and advocating for female prisoners
 - During this period, it was found that she had **acted dishonestly in a bail application for a friend**, she concealed the true origin of the bail funds from the court
- Held:**
 - Bacon was refused admission not because of her activism or political associations, but **because she had acted dishonestly to the court**—specifically, by misrepresenting the source of funds in the bail application.
 - The Court emphasised that **candour and honesty to the court are fundamental requirements for legal practitioners**. Bacon's willingness to deceive the court demonstrated a lack of integrity and respect for legal processes—qualities seen as "fatal" to her suitability for admission.

- The legal profession relies on absolute trust and truthfulness—the Court found this was incompatible with Bacon's conduct in the bail matter.
- While some critics at the time argued her radical politics or gender may have influenced attitudes, **the judgment itself focused squarely on the issue of honesty**. The decision makes clear that the act of misleading the court—not her activism or gender—was decisive.
- There is some suggestion that the authorities of the day were cautious of activists; however, the legal principle applied (honest candour as a precondition for admission) is neutral and longstanding.

Morrissey v NSW BA (2006)

- **Facts:**
 - Morrissey, highly skilled lawyer who moved to Australia, completed academic and practical legal requirements, taught at university and undertook government legal work
 - When applying for admission as a solicitor, he **failed to make full and frank disclosure about his past**
 - Specifically:
 - He did *not* disclose several convictions in Virginia.
 - His undisclosed misconduct resulted in his American licence being suspended for six months.
 - He had a later conviction for assault and battery.
 - Morrissey was **disbarred** in Virginia in December 2001.
 - These matters only came to light during admissions process, not because Morrissey volunteered them
- **Held:**
 - An applicant for legal admission must make full and frank disclosure of any matter relevant to their fitness, including prior convictions, disciplinary action, and character concerns—even if they occurred overseas.
 - Morrissey's case is a textbook example of how failure to disclose relevant disciplinary history and criminal convictions—even those from another jurisdiction—is viewed as a **grave breach of the duty of candour**.
 - The Supreme Court of NSW **rejected Morrissey's application** for admission as a solicitor. The Court found that his **series of convictions, disbarment, and failure to disclose these events** went directly to the heart of his character and suitability for practice.
 - Found not to be a fit and proper person.

Ge [2016]

- **Facts:**
 - Ge falsified his academic transcript and CV when applying for legal jobs at major firms, used fake documents to secure employment, first as a paralegal and later as a solicitor
- **Held:**
 - Not a fit and proper person at time of hearing
 - His actions—deliberate falsification of records and misleading potential and actual employers—were clear breaches of the fundamental standards of honesty and integrity required of legal practitioners.
 - The only significant mitigating factor identified was his young age (22). The Tribunal acknowledged young people can act foolishly and may be more vulnerable to pressure.
 - Nevertheless, they held that dishonesty for career advancement is fundamentally incompatible with legal practice.
 - The Tribunal noted that academic/emotional pressure and ambition are *common*—not unique or exculpatory. These are not excuses for dishonesty.