MLP235 Legal Practice Ethics & Policy — Sample

Legal Practice Ethics & Policy (Sample)

MLP235

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EXAM STUDY GUIDE

Table of Contents

00 T00 — The Ethics Method: IRAC, the Four Sources, and the Reasonable-Practitioner Standard 3

01 T01 — Introduction: Ethics, Morality and the Legal Profession 16

02 T02 — Admission to Legal Practice 30

03 T03 — The Retainer and the Duty of Competence 50

04 T04 — Conflicts of Interest 72

05 T05 — Confidentiality and Legal Professional Privilege 90

06 T06 — Trust Money and Costs 105

07 T07 — Duty to the Court and the Administration of Justice 125

08 T08 — Prosecutors and Defence Counsel 148

09 T09 — Duties to the Profession and Other Responsibilities 172

10 T10 — Complaints, Discipline and Regulatory Sanctions 196

11 T11 — Revision and Synthesis 218

T00 — The Ethics Method: IRAC, the Four Sources, and the Reasonable-Practitioner Standard

1. Overview

Every legal-ethics problem is solved by *method*. Unlike a contested question of substantive doctrine, an ethics problem rarely turns on a single authority: it turns on a disciplined sequence of moves that identifies which duty is engaged, traces the duty to its source, applies the governing test to the facts, and yields a defensible conclusion. The four-move IRAC scaffold — Issue, Rule, Application, Conclusion — is the spine; the four sources of obligation (statute, case law, codes/rules, equity/fiduciary) are the source map; and the reasonable-practitioner standard is the measure of conduct by which the conclusion is tested. This chapter is the analytical scaffolding every later chapter relies on, and the vocabulary established here (sources, concurrent operation, reasonable practitioner, issue-spotting) is referenced by name throughout T02–T11.[1]

> **Reading Guide:** First pass — the IRAC pipeline at §5.1, the four-sources map at §5.2, and the reasonable-practitioner test at §5.3. Deep revision — the procedural steps at §6 and the cue table at §5.4. Critical thinking — the Critical Perspectives table at §5.5 engages the long-running contest between rules-as-codes and fiduciary judgment.

> **Exam Weight:** Ethics is method-heavy. The IRAC scaffold is examined directly through almost every problem question, and the four-sources framework is the only reliable way to ensure completeness — missing a source is the most common way a strong answer slips below the credit line. The reasonable-practitioner standard is the unit's recurring measure of conduct and is present in nearly every topic from T03 (the retainer and the duty of competence) onward.

2. Key Definitions

TERM	DEFINITION	AUTHORITY
IRAC	The four-move scaffold for problem answers: Issue (which duty is engaged), Rule (source and elements), Application (facts mapped to elements), Conclusion (defensible judgment).	Analytical method, not itself a source of law; the obligations it organises are those in *Legal Profession Uniform Law (Vic)* ss 296–297 and the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* ('ASCR') r 4.1
The four sources of obligation	The four concurrent sources from which a practitioner's obligation may arise: statute, case law, codes/rules, and equity/fiduciary law.	*Legal Profession Uniform Law (Vic)* ss 296–297; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1; *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J)
Reasonable-practitioner standard	The statutory measure of conduct: the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner. It is objective; the practitioner's own subjective belief is not the measure.	*Legal Profession Uniform Law (Vic)* s 296; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.3; *Rogers v Whitaker* (1992) 175 CLR 479, 487
Issue-spotting	The diagnostic step of locating the duty or duties engaged in a fact pattern: where in the practitioner–client–court triangle is the alleged breach?	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1; *Legal Profession Uniform Conduct (Barristers) Rules 2015* ('Barristers' Rules') r 4
Multi-source compliance	The concurrent operation of obligation: a single act or omission may breach several sources at once, raising distinct tests and remedies for each.	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 2.2 (the Rules apply in addition to the common law); *Legal Profession Uniform Law (Vic)* ss 296–297
Officer's duty	The paramount duty owed by a practitioner to the court and the administration of justice, which prevails to the extent of any inconsistency with the duty to the client.	*Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ); *Civil Procedure Act 2010* (Vic) s 16; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 3.1

3. Doctrinal Framework

The four sources of obligation are the spine of every ethics problem. The table below maps each source to its authority type and an example instrument; the methods chapter treats all four as concurrently operative.

SOURCE	AUTHORITY TYPE	EXAMPLE INSTRUMENT
Statute	Primary legislation — the Uniform Law applied in Victoria by the *Legal Profession Uniform Law Application Act 2014* (Vic), together with the procedural statutes that bind practitioners in litigation	*Legal Profession Uniform Law (Vic)* ss 296–297 (as at 1 July 2026); *Civil Procedure Act 2010* (Vic) s 16
Case law	Judicial decisions of the High Court, the Court of Appeal, and the Supreme Court developing the common law and equitable obligations of practitioners	*Giannarelli v Wraith* (1988) 165 CLR 543, 556 (paramount duty to the court); *Rogers v Whitaker* (1992) 175 CLR 479, 487 (professional standard set by the court)
Codes / rules	Uniform Rules that set out the detail of professional conduct; they apply in addition to the common law rather than in place of it	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 2.2, 3.1, 4.1; *Legal Profession Uniform Conduct (Barristers) Rules 2015* rr 4, 23
Equity / fiduciary	Equitable obligations adopted by Australian courts — the equitable duty of confidence and the *proscriptive* fiduciary obligations against unauthorised conflict and unauthorised profit	*Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J); *Breen v Williams* (1996) 186 CLR 71, 113 (Gaudron and McHugh JJ)

A single act or omission may engage several sources simultaneously. A practitioner who discloses a client's confidential information without authority may breach the professional duty of confidentiality in the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 9.1 (codes/rules) — the permitted disclosures being confined to rr 9.2.1–9.2.6 — the equitable duty of confidence (equity), and the statute, where the breach is capable of amounting to unsatisfactory professional conduct or professional misconduct. Each source supplies its own test and its own remedy, and the analysis must run through each.[2]

4. Key Doctrinal Tests

This chapter mobilises three tests rather than the doctrine of any one topic. The reasonable-practitioner test is the unit's measure of conduct; the four-sources test is its diagnostic for completeness; the IRAC scaffold is its writing engine. Each is set out below with the provision or authority that supplies it.

TEST	QUESTION	FORM	AUTHORITY
The reasonable-practitioner test	Did the conduct fall short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner?	Objective, and set by the court rather than by professional practice. Subjective belief is not the measure. A single shortfall answers s 296; a substantial or consistent failure, or conduct going to fitness, answers s 297.	*Legal Profession Uniform Law (Vic)* ss 296–297; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.3; *Rogers v Whitaker* (1992) 175 CLR 479, 487
The four-sources test	Which of the four sources of obligation is engaged, and how should each be applied to the facts?	Concurrent operation. Identify ALL sources breached; do not stop at the first.	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 2.2; *Legal Profession Uniform Law (Vic)* ss 296–297; *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J)
The IRAC scaffold	Issue → Rule → Application → Conclusion	The four-move writing engine. Analytical method, not a source of law.	Applied to the duties in *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1 and the standard in *Legal Profession Uniform Law (Vic)* s 296

5. Substantive Content

5.1 IRAC adapted to ethics problems

The IRAC scaffold is the same in substance as it is in any other doctrinal problem and is adapted to ethics in three small ways.[3] The **Issue** is the duty engaged — which duty has the practitioner allegedly breached? The **Rule** is the source of the duty and its elements — where does the obligation come from, and what does it require? The **Application** maps the facts to the elements of the rule. The **Conclusion** is a defensible judgment on the practitioner's likely exposure to disciplinary, civil, or criminal liability — in disciplinary terms, whether the conduct is capable of amounting to unsatisfactory professional conduct or professional misconduct. Where the problem raises more than one issue, the IRAC scaffold is sequenced issue by issue: the answer is a series of IRAC paragraphs, one per issue, not a single monolithic application.[4]

The first move of every ethics problem is therefore diagnostic: identify the issue, then locate the source. A problem that on its face is about a fee dispute is in truth a question about retainer terms (codes/rules) and equitable obligations (equity), and the IRAC paragraph must trace both. The Issue is the duty; the Rule is the source plus elements; the Application is the fit; the Conclusion is the judgment.

5.2 The four sources of obligation: concurrent operation

A practitioner in Australia is regulated by four sources of obligation that operate concurrently and may be invoked at the same time in respect of the same conduct. **Statute** — the *Legal Profession Uniform Law (Vic)*, applied in Victoria by the *Legal Profession Uniform Law Application Act 2014* (Vic), together with the procedural statutes that bind practitioners in litigation such as the *Civil Procedure Act 2010* (Vic) — sets the floor of mandatory obligations and, in ss 296–297, the standard against which conduct is measured. **Case law** — the common law and equitable obligations developed by the courts — fills the gaps where the statute is silent and supplies the principles the statute assumes. **Codes/rules** — the *Legal Profession Uniform Conduct (Barristers) Rules 2015* and the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* — give the detail of professional conduct, and by r 2.2 they apply *in addition to* the common law rather than in place of it. **Equity / fiduciary** — the equitable duty of confidence and the proscriptive fiduciary obligations against unauthorised conflict and unauthorised profit — constrain the practitioner independently of any rule.[5]

The four sources are not alternatives. A single act may breach several sources at once, and the analysis must run through each. A practitioner who misappropriates client money breaches the statute (the *Legal Profession Uniform Law (Vic)* s 147 requires trust money to be held exclusively for the person on whose behalf it is received), the codes (the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*), and equity (the fiduciary rule against unauthorised profit, together with the trustee's duty to account). The four-sources test is therefore a completeness test: identify *all* the sources engaged, then apply the test for each, then state the conclusion for each.[6]

The equitable source carries one caution, because the case the unit leans on to define it is a dissent. In *Hospital Products Ltd v United States Surgical Corporation* the majority (Gibbs CJ, Wilson and Dawson JJ) held that the distributorship agreement gave rise to **no** fiduciary relationship at all. It is Mason J's formulation in dissent, at 96–7, that later courts adopted as the indicia of a fiduciary relationship, and that is the only proposition the case should be cited for. The related caution is that Australian fiduciary duties are **proscriptive, not prescriptive**: they forbid unauthorised conflict and unauthorised profit but impose no free-standing positive duty to act in the client's interests, which comes instead from the retainer and from the conduct rules.[7]

> The critical feature of these relationships is that the fiduciary undertakes or agrees to act for or on behalf of or in the interests of another person in the exercise of a power or discretion which will affect the interests of that other person in a legal or practical sense.
>
> — Mason J (dissenting), *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7.

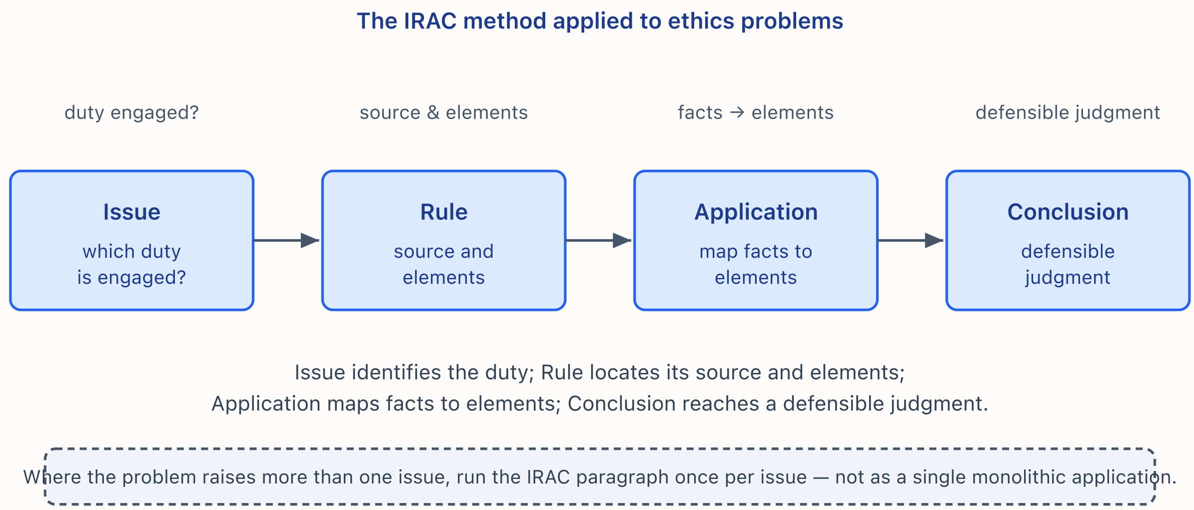

Figure 0.1: The IRAC method applied to ethics problems. *Every ethics problem is solved in four steps: identify the duty engaged (Issue), locate its source and elements (Rule), map the facts to the elements (Application), and reach a defensible judgment (Conclusion).*

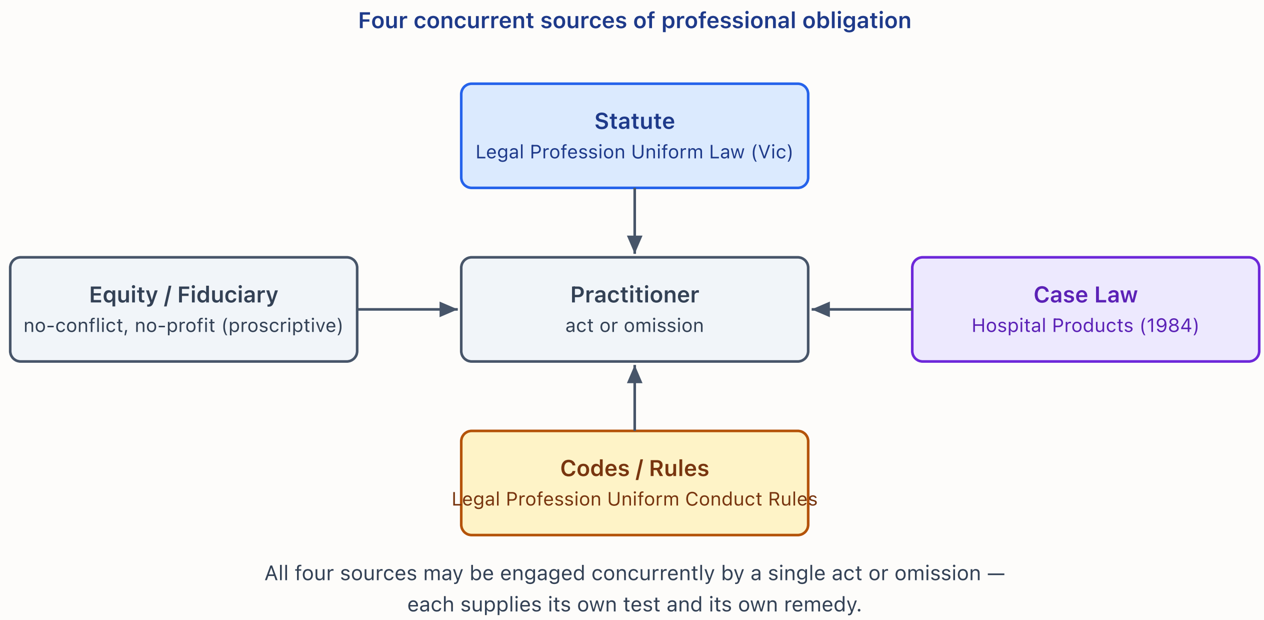

Figure 0.2: The four sources of professional obligation. *A practitioner's act or omission engages up to four concurrent sources of obligation — statute, case law, codes/rules, and equity/fiduciary law — and may breach several simultaneously. Each source supplies its own test and its own remedy.*

5.3 The reasonable-practitioner standard

The reasonable-practitioner standard is the unit's recurring measure of conduct, and its source is statutory. Section 296 of the *Legal Profession Uniform Law (Vic)* defines unsatisfactory professional conduct as conduct 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 Australian legal practitioner. Section 297 sets the higher threshold: unsatisfactory professional conduct involving a substantial or consistent failure to reach or maintain that standard is professional misconduct, as is conduct — whether or not occurring in connection with practice — that would justify a finding that the practitioner is not a fit and proper person to engage in legal practice.[8] The conduct rules state the same obligation prospectively: a solicitor must deliver legal services competently, diligently and as promptly as reasonably possible.

The standard has three working components. First, it is **objective** — the inquiry is what a reasonably competent practitioner would have done, not what this practitioner believed they were doing. A sincere but mistaken belief is not a defence; equally, the practitioner is not a guarantor of perfection, and a reasonable error of judgment is not a breach unless it falls below the standard. Second, it is **set by law, not by professional practice** — evidence that a body of respectable practitioners would have done the same thing is relevant but not decisive, because the content of a professional standard is a question for the court. Third, it is **referable to the work undertaken** — the content of the obligation is fixed by the scope of the retainer and the task the practitioner accepted, so the standard is applied to the work actually undertaken rather than to legal practice at large.[9]

Two consequences follow for an exam answer. The standard is a threshold rather than a spectrum: a single shortfall is enough for s 296, while s 297 requires either a substantial or consistent failure or conduct going to fitness to practise. And the measure is what a member of the public is *entitled to expect*, not what the most scrupulous member of the profession would have done — a point worth stating expressly, because a conclusion that merely asserts "the practitioner fell below the standard" without naming the statutory formula loses the marks the formula carries.

5.4 Issue-spotting: practitioner–client–court triangle

Every ethics problem is located in the practitioner–client–court triangle. The practitioner owes three substantive sets of duties — to the client (to act in the client's best interests and to deliver legal services competently and diligently), to the court (a paramount duty of honesty and candour to the court and the administration of justice), and to the profession (compliance with the conduct rules and the maintenance of the standing of the profession). Most fact patterns engage two or three of these concurrently, and the breach usually lies in the priority assigned where they conflict: the duty to the court and the administration of justice is paramount and prevails to the extent of any inconsistency with any other duty. Issue-spotting is the diagnostic step of locating the duty or duties engaged in the fact pattern: where in the practitioner–client–court triangle is the alleged breach?[10]

> The performance by counsel of his paramount duty to the court will require him to act in a variety of ways to the possible disadvantage of his client. Counsel must not mislead the court, cast unjustifiable aspersions on any party or witness or withhold documents and authorities which detract from his client's case.
>
> — Mason CJ, *Giannarelli v Wraith* (1988) 165 CLR 543, 556.

The reliable cue table is short. A cue in the problem — pressure to suppress evidence, a fee dispute, a conflict of interest, an inadvertent disclosure — is matched to the duty typically engaged. Pressure to suppress evidence or to advance a version the practitioner knows to be false engages the duty to the court, which is breached by deceiving or knowingly or recklessly misleading the court. A fee dispute engages the duty to the client and the costs provisions of the conduct rules. A conflict of interest engages the duty to the client and the proscriptive fiduciary rules against unauthorised conflict and unauthorised profit. An inadvertent disclosure engages the duty to the client, the professional duty of confidentiality and the equitable duty of confidence. The diagnostic step is mechanical: state the cue, state the duty, and proceed to the four-sources test.[11]

5.5 Critical Perspectives

The unit's method is not the only available account. The contest between rules-as-codes and fiduciary judgment runs through every topic.

PERSPECTIVE	SOURCE	ARGUMENT	COUNTER-ARGUMENT
Rules-as-codes	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 2.1, 2.2	Professional ethics is regulatory: codes provide certainty, identify the standard of conduct, and make breach provable.	The codes cannot anticipate every situation, and by r 2.2 they apply *in addition to* the common law rather than in place of it — so compliance with the letter of a rule does not exhaust the practitioner's obligations.
Fiduciary judgment	*Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J); *Breen v Williams* (1996) 186 CLR 71, 113	Professional ethics is relational and equitable: the practitioner is a fiduciary, and the rules against unauthorised conflict and unauthorised profit are not exhaustively captured by any code.	Fiduciary standards are fact-sensitive and offer less certainty; and because Australian fiduciary duties are proscriptive only, equity supplies no positive answer to what the practitioner *should* do — that must come from the retainer, the rules and the statute.
Is ethics "real law"?	*Legal Profession Uniform Law (Vic)* ss 296–297	Ethics is positive law embodied in statute and codes, enforced by the Legal Services Board and Commissioner and carrying real disciplinary consequences.	The equitable duty of confidence and the fiduciary duties are not codified; they are developed by the courts and may be modified by case law, so the statute is not the whole of the obligation.

6. Procedural Steps

The method is a decision tree, not a checklist: each move ends in a question whose answer decides what happens next. Run the branches in order, and record the answer to each branch question in the written answer — the branch you took is itself worth marks.

1. **Spot the duty.** Identify the practitioner–client–court relationship engaged by the facts, name the duty (to the client, to the court, to the profession) and state the alleged breach. *Is any duty engaged at all?* — If **no**, say so expressly and stop; the conclusion is that the conduct is unobjectionable. If **yes**, go to step 2.[12]
2. **Identify the source(s).** Run the four-sources test: statute, case law, codes/rules, equity/fiduciary. *Is more than one source engaged?* — If **yes**, run steps 3 to 5 separately for each source and conclude separately on each; do not merge them into one paragraph. If **no**, carry the single source forward.[13]
3. **Test for a conflict of duties.** *Does the duty to the court conflict with the duty to the client?* — If **yes**, the duty to the court and the administration of justice is paramount and prevails to the extent of the inconsistency; the answer is what the practitioner must do, not what the client wants, and the practitioner's options narrow to refusing the instruction, advising against it, or ceasing to act. If **no**, go to step 4.[14]
4. **Apply the standard.** For each source, state the elements of the rule and map the facts to them, then test the conduct against the standard of competence and diligence a member of the public is entitled to expect of a reasonably competent Australian legal practitioner. *Did the conduct fall short?* — If it fell short **once**, unsatisfactory professional conduct is the natural characterisation. If the failure was **substantial or consistent**, or the conduct would justify a finding that the practitioner is not a fit and proper person, professional misconduct is available instead.[15]
5. **Conclude, source by source.** State the defensible judgment on the practitioner's likely exposure — disciplinary, civil, or criminal — for each source identified at step 2. *Do the sources point to different conclusions?* — If **yes**, say so and conclude on each; divergence between sources is a finding, not a defect in the answer.[16]

7. Exam Application

7.1 Common Fact Patterns

The method applies to every fact pattern, but the cues recur. The table below maps four common patterns to the duty typically engaged, the sources to run and the test that supplies the answer. The patterns are original illustrations written for this guide, not reproductions of any past paper or tutorial problem.[17]

FACT PATTERN	ISSUE TRIGGERED	SOURCE TO APPLY	TEST
Junior practitioner pressured by the client to conceal documents from the court	Whether the duty to the client yields to the duty to the court	Paramount duty to the court (ASCR r 3.1; *Civil Procedure Act 2010* (Vic) s 16); ASCR r 19.1; Barristers' Rules r 23	The duty to the court and the administration of justice is paramount and prevails to the extent of any inconsistency; the practitioner must not deceive or knowingly or recklessly mislead the court, and must not withhold material the court is entitled to see.
Practitioner learns of another practitioner's misconduct through information given in confidence by a client	Whether the practitioner may disclose what they know, and on what basis any allegation may be made	Confidentiality (ASCR rr 9.1, 9.2.1–9.2.6); ASCR r 32.1; *Legal Profession Uniform Law (Vic)* ss 265–271 (complaints)	Confidentiality is the starting point: disclosure is permitted only where the client authorises it or one of the exceptions in rr 9.2.1–9.2.6 applies. Rule 32.1 is prohibitory, not a duty to report — an allegation of unsatisfactory professional conduct or professional misconduct must not be made unless it is made bona fide and on reasonable grounds that the material provides a proper basis for it.
Client asks for advice that would require the practitioner to advance a version of events the practitioner knows to be false	Whether the practitioner may give the advice or run the case as instructed	ASCR rr 3.1, 19.1; Barristers' Rules r 23; the criminal law of perjury and subornation	The practitioner must not advise or assist a course that would mislead the court or procure false evidence; the paramount duty to the court prevails, and the practitioner's options are to refuse the instruction, advise against it, or cease to act.
Practitioner inadvertently discloses a client's confidential information to a third party	Whether the disclosure is a breach and what remedy applies	Equity (duty of confidence); ASCR rr 9.1, 9.2.1–9.2.6; *Legal Profession Uniform Law (Vic)* ss 296–297	The four-sources test: the equitable duty is breached by an unauthorised disclosure regardless of intent, the professional duty in r 9.1 is breached unless a r 9.2 exception applies, and the same act is capable of amounting to unsatisfactory professional conduct. Each source supplies its own remedy.

7.2 Sample Paragraph (IRAC demonstration)

The following sample paragraph demonstrates the IRAC scaffold applied to a confidentiality problem.

> **Issue.** Whether a practitioner who inadvertently discloses a client's confidential information to a third party has breached an obligation to the client, and if so, what remedy is available.
>
> **Rule.** The practitioner owes the client a duty of confidentiality arising from two concurrent sources: the equitable duty of confidence, and the professional duty in the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 9.1, which prohibits disclosure of any information confidential to a client and acquired during the client's engagement unless the client authorises the disclosure or one of the exceptions in rr 9.2.1–9.2.6 applies.[18] The equitable duty is strict: an unauthorised disclosure is a breach regardless of intent, though the remedy may vary with the conduct. The statute supplies the disciplinary measure: conduct falling short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner is unsatisfactory professional conduct, and a substantial or consistent failure to reach that standard is professional misconduct.
>
> **Application.** The practitioner disclosed the client's confidential information to a third party without the client's authority. The disclosure was inadvertent. The equitable duty is breached: an unauthorised disclosure is a breach regardless of intent. Rule 9.1 is breached: the disclosure was not authorised and falls within none of the exceptions in rr 9.2.1–9.2.6. The statutory standard is also engaged: a reasonably competent practitioner would have taken precautions against precisely this kind of inadvertent disclosure, so the conduct falls short of the standard a member of the public is entitled to expect.
>
> **Conclusion.** The practitioner has breached the equitable duty of confidence and r 9.1. The remedy lies in equity (an injunction or equitable compensation) and in discipline: on a single inadvertent disclosure the conduct is capable of amounting to unsatisfactory professional conduct under s 296 of the *Legal Profession Uniform Law (Vic)*, and would rise to professional misconduct under s 297 only on a substantial or consistent failure. *(Excerpt — sample paragraph demonstrating IRAC structure for this duty. Not a model answer to a past paper.)*

8. Exam Tips & Traps

✓ Do

- Run the four-sources test on every fact pattern. Identify *all* sources engaged, not just the first.[19]
- State the reasonable-practitioner standard in its statutory words — "the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner". The marker is looking for the formula as well as the conclusion.
- Use IRAC issue by issue. A multi-issue problem is a series of IRAC paragraphs, not a single monolithic application.
- Distinguish the duty to the client from the duty to the court. Where they conflict, the duty to the court and the administration of justice is paramount and prevails to the extent of the inconsistency.

✗ Don't

- Don't reduce the analysis to a single source. The four-sources test is a completeness test; missing a source is the most common way a strong answer slips below the credit line.
- Don't apply the reasonable-practitioner standard subjectively, and don't localise it. It is objective, it is set by the court rather than by professional practice, and the statutory comparator is a reasonably competent *Australian* legal practitioner.
- Don't blend the analysis of the four sources into a single paragraph. Address each source separately and conclude on each.
- Don't ignore the duty to the court where the facts raise client pressure. The duty to the court and the administration of justice is paramount and prevails to the extent of any inconsistency with the duty to the client.

⚠️ Watch Out For

- The same fact pattern may engage several sources at once. A problem that looks like a confidentiality issue may also be a conduct-rules issue, a fiduciary issue and a disciplinary one.
- The standard is referable to the work undertaken. The content of the obligation is fixed by the scope of the retainer, so a practitioner is measured against what a reasonably competent practitioner would have done on the task actually accepted — but the comparator is still the statutory one, not a local or specialist custom.
- The codes are not exhaustive. They apply in addition to the common law, so a practitioner who complies with the letter of a rule may still breach an equitable or fiduciary obligation.
- The four sources operate concurrently, not sequentially. Stopping at the first source is a common error.

9. Connections to Other Topics

The method is the spine of every later chapter. The vocabulary established here is referenced by name throughout T02–T11.

CHAPTER	HOW THIS CHAPTER CONNECTS TO IT
T01 — Introduction: Ethics, Morality and the Legal Profession	The four sources of obligation are previewed; the practitioner–client–court triangle is established.
T02 — Regulation of the Legal Profession and Admission to Practice	The four sources are applied to the regulatory architecture; the *Legal Profession Uniform Law (Vic)* is the primary instrument.
T03 — The Retainer and the Duty of Competence	The four sources are applied to the professional duty to act in the client's best interests, the duty of competence, and the duty to act within the scope of the retainer.
T04 — Conflicts of Interest	The four sources are applied to concurrent and successive representation; the fiduciary no-conflict rule is the leading example.
T05 — Confidentiality and Legal Professional Privilege	The four sources are applied to confidentiality; the equitable duty of confidence, the professional duty in ASCR r 9.1, and the statutory privilege (*Evidence Act 2008* (Vic) ss 118–119) are the leading examples.
T06 — Trust Money and Costs	The four sources are applied to fiduciary accounting, segregated trust accounts, and the costs-disclosure and assessment regime.
T07 — Duty to the Court and the Administration of Justice	The officer-of-the-court duty is developed; the reasonable-practitioner standard is applied to candour and the cab-rank rule.
T08 — Prosecutors and Defence Counsel	The four sources are applied to criminal advocacy — the prosecutor's disclosure obligations, and the defence of a client regardless of the practitioner's personal belief in guilt.
T09 — Duties to the Profession and Other Responsibilities	The four sources are applied to inter-practitioner duties — courtesy, the no-contact rule, supervision, and reporting misconduct.
T10 — Complaints, Discipline and Regulatory Sanctions	The four sources are applied to the disciplinary process; the reasonable-practitioner standard in ss 296–297 is the measure of unsatisfactory professional conduct and professional misconduct.
T11 — Revision and Cross-Topic Synthesis	The method is reassembled into a whole-of-unit synthesis.

10. Quick Reference Card

The method in three moves.

MOVE	QUESTION TO ASK	KEY AUTHORITY
1 — Spot the duty	Where in the practitioner–client–court triangle is the breach?	ASCR rr 3.1, 4.1; *Civil Procedure Act 2010* (Vic) s 16; *Giannarelli v Wraith* (1988) 165 CLR 543, 556
2 — Identify the source(s)	Which of the four sources of obligation is engaged?	ASCR r 2.2; *Legal Profession Uniform Law (Vic)* ss 296–297; *Hospital Products* (1984) 156 CLR 41, 96–7 (Mason J)
3 — Apply the standard	Did the conduct fall short of what a member of the public is entitled to expect of a reasonably competent Australian legal practitioner?	*Legal Profession Uniform Law (Vic)* ss 296–297; *Rogers v Whitaker* (1992) 175 CLR 479, 487

The four sources of obligation.

SOURCE	AUTHORITY TYPE	EXAMPLE INSTRUMENT OR AUTHORITY
Statute	Primary legislation	*Legal Profession Uniform Law (Vic)* ss 147, 296, 297 (as at 1 July 2026); *Civil Procedure Act 2010* (Vic) s 16
Case law	Judicial decisions	*Giannarelli v Wraith* (1988) 165 CLR 543, 556; *Rogers v Whitaker* (1992) 175 CLR 479, 487; *Hawkins v Clayton* (1988) 164 CLR 539
Codes / rules	Uniform Rules	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1, 9.1, 19.1; *Legal Profession Uniform Conduct (Barristers) Rules 2015* rr 4, 23
Equity / fiduciary	Equitable obligations (proscriptive)	*Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J); *Breen v Williams* (1996) 186 CLR 71, 113

The IRAC scaffold.

MOVE	QUESTION	WHAT TO STATE
Issue	Which duty is engaged?	The practitioner–client–court duty and the alleged breach.
Rule	Where does the duty come from?	The source of the duty and its elements.
Application	Do the facts satisfy the elements?	The fit between the facts and the elements.
Conclusion	What is the defensible judgment?	The practitioner's likely exposure for each source.

The reasonable-practitioner standard.

COMPONENT	TEST	AUTHORITY
Objective	What would a reasonably competent Australian legal practitioner have done? Subjective belief is not the measure.	*Legal Profession Uniform Law (Vic)* s 296
Set by law, not by professional practice	Evidence of what other practitioners do is relevant but not decisive; the content of the standard is for the court.	*Rogers v Whitaker* (1992) 175 CLR 479, 487
Referable to the work undertaken	The obligation is measured against the task actually accepted, its content fixed by the scope of the retainer.	*Hawkins v Clayton* (1988) 164 CLR 539; ASCR r 4.1.3
Threshold, not spectrum	A single shortfall answers s 296; a substantial or consistent failure, or conduct going to fitness, answers s 297.	*Legal Profession Uniform Law (Vic)* ss 296–297

11. References

Legislation

Civil Procedure Act 2010 (Vic) s 16.

Crimes Act 1958 (Vic).

Evidence Act 2008 (Vic) ss 118, 119.

Legal Profession Uniform Law (Vic) ss 147, 265–271, 296, 297, as at 1 July 2026.

Legal Profession Uniform Law Application Act 2014 (Vic).

Legal Profession Uniform Conduct (Barristers) Rules 2015 rr 4, 23.

Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 rr 2.1, 2.2, 3.1, 4.1, 9.1, 9.2.1–9.2.6, 19.1, 32.1.

Cases

Breen v Williams (1996) 186 CLR 71.

Giannarelli v Wraith (1988) 165 CLR 543.

Hawkins v Clayton (1988) 164 CLR 539.

Hospital Products Ltd v United States Surgical Corporation (1984) 156 CLR 41.

Rogers v Whitaker (1992) 175 CLR 479.

MLP235 Legal Practice Ethics — T00. Document version 1.0.

Footnotes

1. *Legal Profession Uniform Law (Vic)* ss 296–297; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1.

2. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 2.2, 9.1, 9.2.1–9.2.6.

3. *Legal Profession Uniform Law (Vic)* ss 296–297.

4. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.

5. *Legal Profession Uniform Law (Vic)* ss 296–297; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 2.2, 4.1; *Civil Procedure Act 2010* (Vic) s 16.

6. *Legal Profession Uniform Law (Vic)* s 147; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 9.1.

7. *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J, dissenting); *Breen v Williams* (1996) 186 CLR 71, 113 (Gaudron and McHugh JJ).

8. *Legal Profession Uniform Law (Vic)* ss 296–297.

9. *Rogers v Whitaker* (1992) 175 CLR 479, 487; *Hawkins v Clayton* (1988) 164 CLR 539; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.3.

10. *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ); *Civil Procedure Act 2010* (Vic) s 16; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1.1, 4.1.3; *Legal Profession Uniform Conduct (Barristers) Rules 2015* r 4.

11. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 9.1, 19.1; *Legal Profession Uniform Conduct (Barristers) Rules 2015* r 23; *Breen v Williams* (1996) 186 CLR 71, 113.

12. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1.

13. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 2.2; *Legal Profession Uniform Law (Vic)* ss 296–297; *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J).

14. *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ); *Civil Procedure Act 2010* (Vic) s 16; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 3.1.

15. *Legal Profession Uniform Law (Vic)* ss 296–297; *Rogers v Whitaker* (1992) 175 CLR 479, 487.

16. *Legal Profession Uniform Law (Vic)* ss 296–297.

17. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 9.1, 9.2.1–9.2.6, 19.1, 32.1; *Legal Profession Uniform Law (Vic)* ss 265–271, 296–297; *Legal Profession Uniform Conduct (Barristers) Rules 2015* r 23; *Civil Procedure Act 2010* (Vic) s 16; *Crimes Act 1958* (Vic) (perjury and subornation of perjury).

18. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 9.1, 9.2.1–9.2.6; *Legal Profession Uniform Law (Vic)* ss 296–297.

19. *Legal Profession Uniform Law (Vic)* ss 296–297; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 2.2, 4.1; *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J).

T01 — Introduction: Ethics, Morality and the Legal Profession

1. Overview

The legal profession in Australia is a self-regulating profession with a special relationship to the courts and the administration of justice. Practitioners owe duties to their clients, to the courts, and to the profession itself; these duties may pull in different directions, and the management of that tension is the work of legal ethics. This chapter introduces the vocabulary of professional ethics, identifies the practitioner as an officer of the court and a fiduciary, and previews the regulatory architecture (the Legal Services Board and Commissioner, the Victorian Legal Admissions Board, the Law Institute of Victoria, and the courts) that every later chapter assumes. The four-sources framework (statute, case law, codes/rules, equity/fiduciary) is previewed here and developed in T00; the practitioner–client–court triangle is the frame for every problem in T02–T11.[1]

> **Reading Guide:** First pass — the definitions at §2 and the regulatory architecture at §3. Deep revision — the practitioner–client–court tension model at §5.4 and the four-sources preview at §5.5. Critical thinking — the Critical Perspectives table at §5.7 engages the long-running contest between self-regulation and external oversight.

> **Exam Weight:** The chapter is foundational rather than directly examined. The vocabulary it establishes — officer of the court, fiduciary, self-regulation, regulatory architecture — is examined throughout T02–T11. A candidate who cannot articulate the practitioner–client–court triangle or the four regulatory pillars will struggle to organise the rest of the unit.

2. Key Definitions

TERM	DEFINITION	AUTHORITY
Ethics	The professional standards of conduct applicable to a legal practitioner, grounded in external responsibilities and enforced by the regulatory authorities.	*Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* ('ASCR') rr 3.1, 4.1; *Legal Profession Uniform Law (Vic)* ss 296–297
Morality	The broader social norms of right and wrong conduct that may diverge from the narrower professional standards of ethics.	Not itself a legal standard; contrast ASCR r 4.1 and the fitness inquiry in *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279
Professionalism	The practitioner as officer of the court, fiduciary, and advocate — a composite role that integrates the duties owed to the client, to the court, and to the profession.	ASCR rr 3.1, 4.1; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ)
Self-regulation	The historic and continuing arrangement under which the legal profession is regulated principally by its own members and the bodies they constitute, subject to statutory oversight.	*Legal Profession Uniform Law (Vic)* Ch 5 (dispute resolution and professional discipline), ss 296–303; *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 2–3
Regulatory architecture	The four pillars of legal-profession regulation in Victoria: the Legal Services Board and Commissioner (LSB+C), the Victorian Legal Admissions Board (VLAB), the Law Institute of Victoria (LIV), and the courts.	*Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 1–3
Officer of the court	The doctrine that a practitioner, as an officer of the court, owes an overriding duty to the court and the administration of justice that prevails over the duty to the client where the two conflict.	ASCR r 3.1; *Civil Procedure Act 2010* (Vic) s 16; *Giannarelli v Wraith* (1988) 165 CLR 543, 556
Fiduciary	A person who undertakes to act for, on behalf of, or in the interests of another in the exercise of a power or discretion that affects that other person's interests, and who is on that account subject to the no-conflict and no-profit rules.	*Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J, in dissent); *Maguire v Makaronis* (1997) 188 CLR 449
Access to justice	The principle that members of the public are entitled to legal representation and the effective determination of their rights, which the legal profession exists in part to secure.	*Legal Profession Uniform Law (Vic)* s 3 (objectives); *Legal Profession Uniform Conduct (Barristers) Rules 2015* r 17 (cab-rank rule)
Proscriptive fiduciary duty	The doctrine that fiduciary duties in Australia forbid unauthorised profit and conflict but impose no positive duty to act in the beneficiary's interests; a claimed positive duty must be found in the retainer, in tort or in statute.	*Breen v Williams* (1996) 186 CLR 71, 113 (Gaudron and McHugh JJ)

3. Legislative Framework

The regulatory architecture of the legal profession in Victoria rests on four pillars, each mapped to its enabling instrument. The four sources of obligation previewed in T00 (statute, case law, codes/rules, equity/fiduciary) operate concurrently against this architecture. In what follows the *Legal Profession Uniform Law (Vic)* is the 'Uniform Law' (LPUL) and the *Legal Profession Uniform Law Application Act 2014* (Vic) the 'Application Act' (LPULAA).

PILLAR	FUNCTION	ENABLING INSTRUMENT
Legal Services Board and Commissioner (LSB+C)	The local regulatory authority: issues and renews practising certificates, monitors trust accounts, receives and investigates complaints, and prosecutes disciplinary matters.	*Legal Profession Uniform Law (Vic)* Ch 3 Pt 3.3 (ss 42–57, practising certificates), Pt 4.2 (ss 127–168, trust money), Ch 5 (ss 265–271 complaints; ss 296–303 disciplinary matters); *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 2–3
Victorian Legal Admissions Board (VLAB)	Manages the admission to practice process; assesses applications against the academic and practical training requirements and issues compliance certificates.	*Legal Profession Uniform Law (Vic)* Ch 2 Pt 2.2 (ss 15–29 admission; s 17 compliance certificates); *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Div 1
Law Institute of Victoria (LIV)	The professional association for solicitors; represents member interests, makes submissions on the Uniform Law, and provides specialist accreditation, CPD, and community resources. It exercises no disciplinary jurisdiction.	Professional association (peak body); not a statutory regulator
Courts	Admit practitioners to the roll and remove them from it; exercise the inherent supervisory jurisdiction over their own officers and the contempt jurisdiction; supervise fiduciary conduct in proceedings before them.	Inherent jurisdiction; *Supreme Court Act 1986* (Vic); *Legal Profession Uniform Law (Vic)* s 302(1)(f) (the tribunal may only recommend removal from a roll — the Supreme Court makes the order)

The *Legal Profession Uniform Law (Vic)* is the primary statute governing entry to, and the conduct of, legal practice. The Uniform Rules — including the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* and the *Legal Profession Uniform Conduct (Barristers) Rules 2015* — are made under s 427 of the Uniform Law and supply the operative conduct standards.[2]

4. Key Cases

Four cases anchor the chapter. *Giannarelli v Wraith* fixes the paramount duty to the court that every later chapter applies. *Ziems* marks the boundary between personal morality and professional fitness. *Hospital Products* supplies the indicia of a fiduciary relationship developed in T03, T04 and T06. *Breen v Williams* fixes the proscriptive limit on those fiduciary duties, which constrains T04 and T05.

CASE	CITATION	PRINCIPLE	EXAM APPLICATION
Giannarelli v Wraith	(1988) 165 CLR 543	An advocate's duty to the court is paramount and prevails over the duty to the client where the two conflict; counsel exercises an independent judgment in the conduct of a case with an eye to the administration of justice as well as to the client's success (Mason CJ at 556).	The authority for the officer-of-the-court doctrine at §5.2 and for the priority rule applied in T07 and T08.
Ziems v Prothonotary of the Supreme Court of New South Wales	(1957) 97 CLR 279	Conduct that is morally discreditable does not of itself establish professional unfitness. Personal misconduct outside professional practice bears on fitness only so far as it reveals a defect of character incompatible with the practitioner's position.	The case that separates morality from professional ethics at §5.1, and the fitness standard carried into T02 (admission) and T10 (discipline).
Hospital Products Ltd v United States Surgical Corporation	(1984) 156 CLR 41	The majority held that the exclusive distributorship gave rise to **no** fiduciary relationship. The case is cited for Mason J's formulation, in dissent at 96–7, of the critical feature of a fiduciary relationship: an undertaking to act for, on behalf of, or in the interests of another in the exercise of a power or discretion affecting that other's interests.	The source of the fiduciary indicia used in T03, T04 and T06. Cite Mason J at 96–7 and say that the passage is in dissent; do not cite the case for the outcome.
Breen v Williams	(1996) 186 CLR 71	Fiduciary duties in Australia are proscriptive, not prescriptive: equity forbids unauthorised profit and conflict but imposes no positive duty to act in the beneficiary's interests (Gaudron and McHugh JJ at 113).	The limit on fiduciary reasoning in T04 and T05. A claim framed as a positive fiduciary duty to advise, disclose or hand over material must be re-framed in contract, tort or statute.

Case Summaries

Giannarelli v Wraith (1988) 165 CLR 543

Facts: Two men were convicted of perjury on the basis of evidence they had earlier given to a royal commission. They sued the barristers who had appeared for them, alleging that counsel had negligently failed to object to the admission of that evidence at trial.

Issue: Whether an advocate is immune from an action in negligence for the conduct and management of a case in court, and what the content of the advocate's duty to the court is.

Held: The High Court held by majority that advocates' immunity formed part of the common law of Australia. In explaining why, Mason CJ located the immunity in the advocate's overriding duty to the court:

> "A barrister's duty to the court epitomises the fact that the course of litigation depends on the exercise by counsel of an independent discretion or judgment in the conduct and management of a case in which he has an eye, not only to his client's success, but also to the speedy and efficient administration of justice."
>
> — *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

Exam Application: Use the passage at 556 for the priority rule whenever a client instruction collides with the duty to the court. The immunity itself has since been confined to work intimately connected with the conduct of a case that leads to a judicial determination (*Attwells v Jackson Lalic Lawyers Pty Ltd* (2016) 259 CLR 1), but the duty proposition is untouched by that narrowing and is what this unit examines.[3]

Ziems v Prothonotary of the Supreme Court of New South Wales (1957) 97 CLR 279

Facts: A barrister was convicted of manslaughter arising from a motor vehicle collision and was sentenced to imprisonment. The Full Court of the Supreme Court of New South Wales ordered that his name be removed from the roll of barristers.

Issue: Whether a conviction for a serious criminal offence committed outside professional practice establishes, of itself, that the practitioner is not a fit and proper person to remain on the roll.

Held: The High Court allowed the appeal and set aside the order removing his name. A conviction is not automatically decisive. The question is whether the conduct shows a defect of character incompatible with the position of a practitioner, judged by reference to the functions the practitioner performs; conduct unconnected with professional practice bears on fitness only to that extent.[4]

Exam Application: The case is the clearest illustration of the §5.1 distinction. Moral fault and professional unfitness are related but not identical, and an answer that reasons straight from "this was wrong" to "this practitioner should be struck off" has skipped the fitness inquiry. The same reasoning drives the suitability assessment in T02 and the sanction analysis in T10.

> ***Hospital Products Ltd v United States Surgical Corporation (1984) 156 CLR 41***

Facts: A United States manufacturer of surgical stapling products appointed an Australian company as its exclusive distributor in Australia. The principal behind the distributor built up the Australian market and then diverted the business to companies of his own.

Issue: Whether the distributor owed the manufacturer fiduciary obligations in addition to its contractual obligations.

Held: The majority (Gibbs CJ, Wilson and Dawson JJ) held that the distributorship was an arm's-length commercial bargain that gave rise to **no** fiduciary relationship. Mason J, with whom Deane J agreed on this point, dissented, and it is Mason J's statement of the critical feature at 96–7 that later courts have adopted: "The critical feature of these relationships is that the fiduciary undertakes or agrees to act for or on behalf of or in the interests of another person in the exercise of a power or discretion which will affect the interests of that other person in a legal or practical sense."[5]

Exam Application: Cite the case for the indicia only, and identify the passage as Mason J's dissent — asserting that the High Court found a fiduciary relationship reverses the holding. That a solicitor acting under a retainer is a fiduciary does not come from this case; it rests on the retainer itself and on authority such as *Maguire v Makaronis* (1997) 188 CLR 449. Nor does the case supply any standard of competence: competence is measured by the *Legal Profession Uniform Law (Vic)* s 296 standard of a "reasonably competent Australian legal practitioner" and by the law of negligence, both developed in T03.

> ***Breen v Williams (1996) 186 CLR 71***

Facts: Ms Breen had been treated by Dr Williams, a surgeon. In connection with contemplated litigation she sought access to the medical records he held concerning her treatment, relying in part on the fiduciary character of the doctor–patient relationship.

Issue: Whether a patient has a contractual, proprietary or fiduciary right of access to the records held by the treating practitioner.

Held: No such right exists. The High Court held that the relationship generated no implied contractual term of access, no proprietary interest in the records, and no fiduciary duty to grant access. Gaudron and McHugh JJ explained at 113 that in Australia equity imposes on a fiduciary proscriptive obligations — not to obtain any unauthorised benefit from the relationship and not to be in a position of conflict — and does not otherwise impose positive duties to act in the interests of the person to whom the duty is owed.[6]

Exam Application: This is not a solicitor-retainer case, and it decides nothing about the no-profit rule or undue influence. Use it for one move only: when a problem asserts a positive fiduciary duty — to advise, to disclose, to hand over a file — say that fiduciary duties in Australia are proscriptive and relocate the claimed duty in the retainer, in the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (which do impose positive duties, such as competence under r 4.1.3), in tort, or in statute.

5. Substantive Content

5.1 Ethics vs morality vs law

Ethics, morality, and law are three distinct concepts that overlap but do not coincide. **Ethics** in the legal profession refers to the professional standards of conduct applicable to a practitioner, grounded in external responsibilities and enforced by the regulatory architecture. **Morality** is the broader social norm of right and wrong that may diverge from the professional standards of ethics: a practitioner may act ethically without acting morally, or morally without acting ethically. **Law** is the body of enforceable rules administered by the courts, including the statutory and equitable obligations of practitioners. *Ziems* is the working illustration of the gap between the second and the first — serious moral fault outside practice did not, without more, establish professional unfitness. The unit's working assumption is that ethics is a distinct discipline that overlaps with morality and law but is not reducible to either; the four sources of obligation previewed in T00 are the unit's positive-law frame for ethics.[7]

5.2 The practitioner as officer of the court

A practitioner is an officer of the court. The doctrine is foundational and gives the practitioner a status that is not purely contractual: the practitioner is admitted to the profession by the court, holds a practising certificate issued under statute, and is subject to the discipline of the court for the manner in which the practitioner conducts litigation. As an officer of the court, the practitioner owes an overriding duty to the court and the administration of justice that prevails over the duty to the client where the two conflict. A client instruction that requires the practitioner to mislead the court, to suppress evidence, or to suborn perjury must be refused; the practitioner's duty to the client does not extend to the facilitation of an abuse of the court's process.[8]

The doctrine is stated in ASCR r 3.1 — a solicitor's duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty — and, for civil proceedings in Victoria, in the *Civil Procedure Act 2010* (Vic) s 16, with the related obligations of honesty (s 17) and of not misleading or deceiving (s 21). Its common-law source is *Giannarelli v Wraith*, where Mason CJ explained that the advocate must have "an eye, not only to his client's success, but also to the speedy and efficient administration of justice". The practitioner is not solely the client's agent; the practitioner is also the court's officer, and the duty to the court is the limit on the duty to the client.[9]

5.3 Self-regulation — rationale and critiques

The legal profession in Australia has historically been self-regulating. The arrangement rests on three rationales. First, the practitioners have the technical expertise to regulate the profession in detail; the courts and the legislature do not have the working knowledge of practice to set the standard. Second, the practitioner is a fiduciary in a position of trust, and the regulatory regime is the visible manifestation of the trust. Third, the profession has historically been a public-spirited profession whose primary goal is the public service; the cab-rank principle, which requires a barrister to accept a brief within the barrister's capacity, skill and availability, is the structural expression of that identity.[10]

The critique is that self-regulation is captured by the profession and is not adequately responsive to the public interest. The Legal Services Board and Commissioner, the complaints and discipline scheme in Ch 5 of the *Legal Profession Uniform Law (Vic)* (ss 265–271, 296–303), and the Victorian Legal Services Commissioner are the structural responses to the critique: the regulatory regime is now statutory, and the local regulatory authority is independent of the professional associations.[11]

5.4 The tension model: client vs court vs profession

The practitioner sits at the intersection of three duties — to the client, to the court, and to the profession — and these duties may pull in different directions. The practitioner–client–court triangle is the frame for every problem in the unit. Most fact patterns engage two or three of the duties, and the breach usually lies in the priority assigned where the duties conflict. The tension model is the unit's diagnostic: identify the duties engaged, identify the conflict, and apply the relevant rules to the priority to be assigned.[12]

The practitioner–client–court triangle is the operative frame for the problem-question archetypes used throughout this guide. The reliable cue table is short: pressure to suppress evidence engages the duty to the court; a fee dispute engages the duty to the client; a conflict of interest engages the duty to the client and the fiduciary duty. The diagnostic step is mechanical: state the cue, state the duty, and proceed to the test.

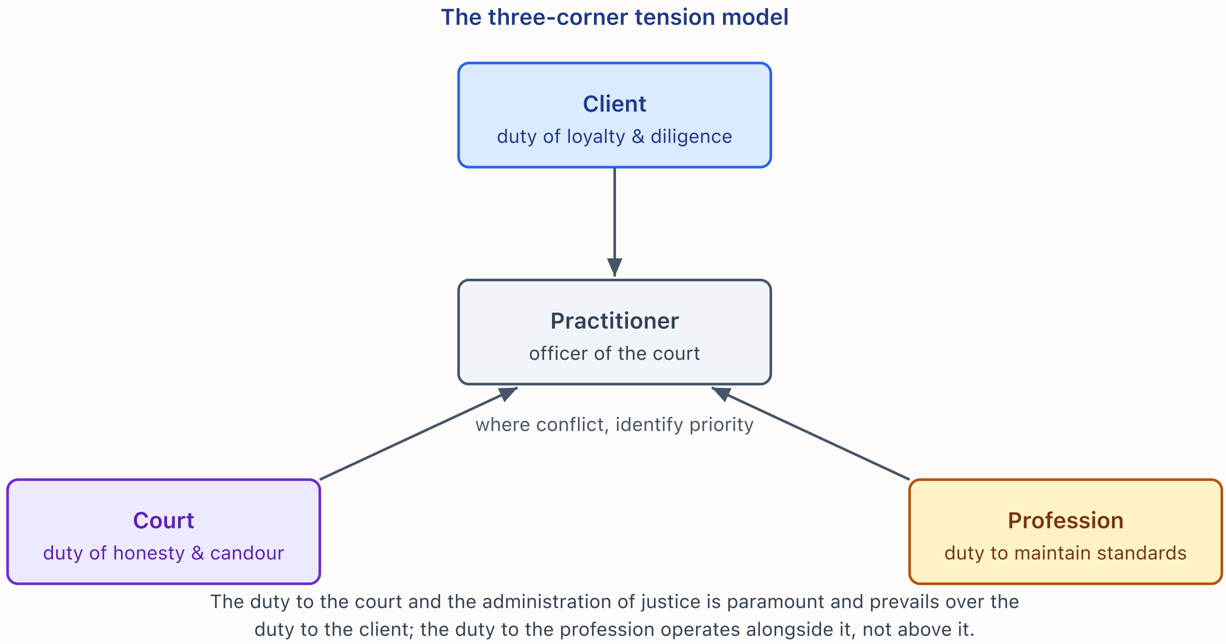

Figure 1.1: The three-corner tension model. *The practitioner sits at the intersection of three duties — to the client, to the court, and to the profession — and these duties may pull in different directions. The model is the frame for every ethics problem in this guide.*

5.5 Sources of ethical obligation (preview of T00 framework)

The four sources of obligation previewed in T00 are the unit's positive-law frame for ethics. **Statute** — the *Legal Profession Uniform Law (Vic)* and the *Legal Profession Uniform Law Application Act 2014* (Vic), with the *Civil Procedure Act 2010* (Vic) for civil litigation — sets the floor of mandatory obligations. **Case law** — the fiduciary and equitable obligations developed by the High Court, and the duty to the court explained in *Giannarelli v Wraith* — supplies the principles. **Codes/rules** — the Uniform Rules made under s 427 of the Uniform Law, principally the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* and the *Legal Profession Uniform Conduct (Barristers) Rules 2015* — give the detail. **Equity/fiduciary** — the proscriptive obligations of no-conflict and no-profit — are the equitable foundation that the codes and the statute presuppose.[13]

The four sources operate concurrently, and a single act may breach several at once. The four-sources framework is the unit's completeness test; it is developed in T00.

5.6 Regulatory architecture preview (LSB+C / VLAB / LIV / Courts)

The four pillars of legal-profession regulation in Victoria are the Legal Services Board and Commissioner (LSB+C), the Victorian Legal Admissions Board (VLAB), the Law Institute of Victoria (LIV), and the courts. The LSB+C is the local regulatory authority: it grants and renews practising certificates under Ch 3 Pt 3.3 (ss 42–57) of the *Legal Profession Uniform Law (Vic)*, oversees trust money under Pt 4.2 (ss 127–168), and receives and investigates complaints under Ch 5 (ss 265–271), with disciplinary applications determined under ss 296–303. The VLAB manages the admission process under Ch 2 Pt 2.2 (ss 15–29) and issues compliance certificates under s 17. The LIV is the professional association for solicitors and is not a statutory regulator, although it provides specialist accreditation and CPD. The courts admit and remove practitioners and exercise the inherent supervisory and contempt jurisdictions over practitioners appearing before them.[14]

The four pillars are not interchangeable. The LSB+C is the disciplinary body; the VLAB is the admission body; the LIV is the professional association; the courts are the supervisory body. The omission of any pillar in a fact pattern that involves its function is a common error.

5.7 Critical Perspectives

The introduction engages the long-running contest between self-regulation and external oversight, and the related contest between rules-as-codes and fiduciary judgment.

PERSPECTIVE	SOURCE	ARGUMENT	COUNTER-ARGUMENT
Self-regulation v external oversight	*Legal Profession Uniform Law (Vic)* Ch 5, ss 265–271, 296–303; *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 2–3	Self-regulation captures the technical expertise of the profession and the public-service identity of the practitioner.	Self-regulation is captured by the profession; the LSB+C and the Commissioner are the structural response.
Officer-of-the-court as paternalism	ASCR r 3.1; *Giannarelli v Wraith* (1988) 165 CLR 543, 556	The doctrine protects the integrity of the courts and the administration of justice.	The doctrine overrides the client's instructions; the practitioner is not the client's purely contractual agent.
Ethics as law v ethics as morality	ASCR r 4.1; *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279	Ethics is positive law embodied in statute and rules and enforced by the regulatory authorities.	Fitness turns on character as well as compliance; morality is a distinct concept that may diverge from ethics in both directions.
Rules as exhaustive	ASCR r 4.1.5; *Breen v Williams* (1996) 186 CLR 71, 113	The Rules provide certainty and identify the standard of conduct.	ASCR r 4.1.5 requires compliance with "these Rules **and the law**": the general law, equity and the Uniform Law operate alongside the Rules, and *Breen* shows that equity's content is not codified.

6. Procedural Steps

This chapter is conceptual; the procedural frameworks for particular duties appear in T02 onward. The practitioner–client–court triangle (§5.4) is the diagnostic tool for every problem question in the unit, and the five steps below are the order in which it is applied.

6.1 Decision tree — resolving a conflict of duties

1. **Identify the duties engaged.** Name each duty separately and give it a source: the duty to the court (ASCR r 3.1; *Civil Procedure Act 2010* (Vic) s 16), the duty to the client (ASCR r 4.1.1, competence at r 4.1.3, confidentiality at r 9.1), the fiduciary duties, and any duty to another practitioner or to the profession. If more than one source is engaged for the same duty, run each and conclude separately — statute, rule and equity can produce different answers on the same facts.[15]
2. **Identify the conflict.** Ask whether performing one duty would put the practitioner in breach of another. If the duties can be performed together, there is no conflict and the priority rule is not reached; say so rather than invoking it reflexively.[16]
3. **Apply the priority rule.** Where there is a genuine inconsistency, the duty to the court and the administration of justice prevails to the extent of the inconsistency. It is not weighed against the client's interests; it displaces them.[17]

4. **Identify the options.** In ascending order of severity: advise the client of the limits on what the practitioner may do; refuse the particular instruction while continuing to act; if the client has misled the court, seek the client's authority to correct the record and, failing that, decline to take any further part in the matter without disclosing the client's confidence; and terminate the engagement, which requires just cause and reasonable notice. Withdrawal is the last step, not the first.[18]
5. **State the consequence of non-compliance.** A contravention of the Uniform Law or the Uniform Rules is capable of constituting unsatisfactory professional conduct or professional misconduct, with the disciplinary consequences that follow — fines, conditions, suspension, or a recommendation to the Supreme Court that the practitioner's name be removed from the roll. An answer that identifies the breach but not its characterisation and consequence is incomplete.[19]

7. Exam Application

7.1 Common Fact Patterns

The introduction provides the foundational frame for the fact patterns encountered in T02–T11. The table below maps the common fact patterns to the duties typically engaged. Each is an original hypothetical constructed for this guide.[20]

FACT PATTERN	ISSUE TRIGGERED	DUTY ENGAGED	SOURCE TO APPLY
Junior practitioner pressured by the client to conceal documents from the court	Whether the duty to the client yields to the duty to the court	Officer-of-the-court duty	ASCR rr 3.1, 19.1; *Civil Procedure Act 2010* (Vic) s 16; *Giannarelli v Wraith* (1988) 165 CLR 543, 556
Practitioner learns of another practitioner's apparent misconduct through information given in confidence by a client	Whether confidentiality permits the disclosure, and on what footing an allegation may be made	Duty to the profession; duty of confidentiality	ASCR rr 9.1, 9.2, 32.1
Client asks for advice that can only be acted on by misleading the court	Whether the practitioner may give the advice	Officer-of-the-court duty	ASCR rr 3.1, 4.1.1, 19.1; *Civil Procedure Act 2010* (Vic) ss 16, 21
Practitioner inadvertently discloses a client's confidential information	Whether the disclosure is a breach and what follows	Duty to the client; confidentiality	ASCR rr 9.1, 9.2; equitable duty of confidence
Former client demands the practitioner's internal file notes, asserting that the practitioner "owed a fiduciary duty" to hand them over	Whether a positive duty of disclosure exists, and if so from what source	Fiduciary duty; retainer	*Breen v Williams* (1996) 186 CLR 71, 113 — fiduciary duties are proscriptive; locate any positive duty in the retainer or in statute

7.2 Sample Paragraph (IRAC demonstration)

The following sample paragraph demonstrates the IRAC scaffold applied to the practitioner–client–court tension.

> **Issue.** Whether a practitioner is bound to comply with the client's instruction to conceal documents from the court, where the documents are relevant to the proceeding.
>
> **Rule.** A practitioner is an officer of the court and owes an overriding duty to the court and the administration of justice that prevails over the duty to the client where the two conflict. The duty is stated in ASCR r 3.1, which provides that a solicitor's duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty; it is given statutory form for civil proceedings by the *Civil Procedure Act 2010* (Vic) s 16, and its common-law source is *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ). ASCR r 19.1 separately prohibits deceiving or knowingly or recklessly misleading the court. The duty to the client does not extend to the facilitation of an abuse of the court's process.
>
> **Application.** The client's instruction requires the practitioner to conceal documents from the court. The documents are relevant to the proceeding. The duty to the court is engaged: the practitioner must not facilitate the concealment of relevant evidence. The duty to the client is also engaged: the practitioner owes the client a duty of loyalty and diligence. The two duties conflict. Under r 3.1 the duty to the court prevails to the extent of the inconsistency. The practitioner must refuse the instruction, advise the client why, and — if the client persists — may terminate the engagement for just cause on reasonable notice.
>
> **Conclusion.** The practitioner is not bound to comply with the client's instruction. The practitioner must refuse to conceal the documents and may withdraw from the representation. The refusal is not a breach of the duty to the client; it is the discharge of the overriding duty to the court. *(Excerpt — sample paragraph demonstrating IRAC structure for this duty. Not a model answer to a past paper.)*

8. Exam Tips & Traps

✓ Do

- Use the practitioner–client–court triangle as the diagnostic for every problem question. Identify the duties engaged before applying the rules.[21]
- Distinguish the four pillars of the regulatory architecture. The LSB+C, the VLAB, the LIV, and the courts are not interchangeable.
- Take the fiduciary indicia from Mason J's judgment in *Hospital Products* at 96–7, and say that the passage is in dissent — the majority held that the distributorship gave rise to no fiduciary relationship.[22]
- Test any fiduciary claim against *Breen v Williams*: fiduciary duties in Australia are proscriptive, so a duty to advise, disclose or hand over material has to be found in the retainer, in the Conduct Rules, in tort or in statute.[23]

✗ Don't

- Don't treat ethics as morality. The unit's working assumption is that ethics is a distinct discipline that overlaps with morality but is not reducible to it, and *Ziems* shows the two can come apart.
- Don't treat the Conduct Rules as exhaustive. ASCR r 4.1.5 requires compliance with "these Rules and the law"; the general law, equity and the Uniform Law operate alongside the Rules and are not displaced by them.
- Don't omit the court from the practitioner–client–court triangle. The practitioner is an officer of the court, and the duty to the court prevails where the duties conflict.
- Don't collapse the four pillars of the regulatory architecture into a single body. The LSB+C, the VLAB, the LIV, and the courts have distinct functions.

⚠️ **Watch Out For**

- A fact pattern that looks like a fee dispute may engage the duty to the client and the Conduct Rules; a fact pattern that looks like a confidentiality issue may engage the equitable duty of confidence, ASCR r 9.1 and legal professional privilege, which are three distinct sources with three distinct tests.
- The proscriptive limit in *Breen v Williams* is a recurring trap. A fiduciary relationship does not, of itself, generate a positive duty to disclose, to advise or to hand anything over.
- *Hospital Products* is a trap in the other direction. Its majority found no fiduciary relationship, so it cannot be cited for the proposition that a relationship *is* fiduciary — and it says nothing about the standard of competence.
- The practitioner is not solely the client's agent. The officer-of-the-court doctrine is the limit on the duty to the client.
- The Uniform Rules are subordinate instruments made under s 427 of the Uniform Law. They are not free-standing; they presuppose the statute and the equitable obligations.

9. Connections to Other Topics

The introduction is the foundation for every later chapter. The vocabulary it establishes is referenced by name throughout T02–T11.

CHAPTER	HOW THIS CHAPTER CONNECTS TO IT
T00 — The Ethics Method	The four sources of obligation are previewed; the practitioner–client–court triangle is established.
T02 — Admission to Legal Practice	The regulatory-architecture preview is operationalised — VLAB assesses suitability and issues the compliance certificate; the Supreme Court admits. The *Ziems* fitness inquiry is the standard applied.
T03 — The Retainer and the Duty of Competence	The practitioner–client relationship is the entry point for the fiduciary duties whose indicia are set out in *Hospital Products*, and for the competence standard in s 296.
T04 — Conflicts of Interest	The three-corner tension is applied to concurrent and successive representation; the *Breen* proscriptive limit marks the outer edge of the fiduciary analysis.
T05 — Confidentiality and Legal Professional Privilege	Confidentiality is the second arm of the duty to the client: ASCR r 9.1 states the professional duty, and equity and privilege supply the rest.
T06 — Trust Money and Costs	The fiduciary overlay extends to money handling and costs disclosure.
T07 — Duty to the Court and the Administration of Justice	The three-corner tension resolves in favour of the court where duties conflict; *Giannarelli* is the anchor.
T08 — Prosecutors and Defence Counsel	The officer-of-the-court duty has special force in criminal advocacy.
T09 — Duties to the Profession and Other Responsibilities	The three-corner tension adds a fourth dimension — duties to other practitioners.
T10 — Complaints, Discipline and Regulatory Sanctions	The regulatory architecture closes the loop: the LSB+C investigates, VCAT determines and may fine, impose conditions or suspend, and — under s 302(1)(f) — recommend that the Supreme Court remove the practitioner's name from the roll.
T11 — Revision and Cross-Topic Synthesis	The introduction is reassembled into a whole-of-unit synthesis.

10. Quick Reference Card

Key terms.

TERM	ONE-LINE DEFINITION	AUTHORITY
Ethics	The professional standards of conduct applicable to a practitioner.	ASCR rr 3.1, 4.1; LPUL ss 296–297
Morality	The broader social norms of right and wrong; may diverge from ethics.	*Ziems* (1957) 97 CLR 279
Professionalism	The practitioner as officer of the court, fiduciary, and advocate.	ASCR rr 3.1, 4.1; *Giannarelli* (1988) 165 CLR 543, 556
Self-regulation	The historic arrangement under which the profession regulates itself, subject to statutory oversight.	LPUL Ch 5, ss 265–271, 296–303
Officer of the court	The doctrine that the practitioner's duty to the court prevails over the duty to the client where the two conflict.	ASCR r 3.1; *Civil Procedure Act 2010* (Vic) s 16
Fiduciary	A person who undertakes to act in another's interests in the exercise of a power or discretion affecting that other's interests.	*Hospital Products* (1984) 156 CLR 41, 96–7 (Mason J, in dissent)
Proscriptive fiduciary duty	Equity forbids conflict and unauthorised profit; it imposes no positive duty to act.	*Breen v Williams* (1996) 186 CLR 71, 113
Regulatory architecture	The four pillars of legal-profession regulation: LSB+C, VLAB, LIV, and the courts.	LPULAA 2014 (Vic) Pt 3 Divs 1–3

The four pillars of the regulatory architecture.

PILLAR	FUNCTION	AUTHORITY
LSB+C	Local regulatory authority; issues practising certificates, monitors trust accounts, investigates complaints, and prosecutes disciplinary matters.	LPUL Ch 3 Pt 3.3 (ss 42–57), Pt 4.2 (ss 127–168), Ch 5 (ss 265–271, 296–303)
VLAB	Manages admission to practice; assesses applications and issues compliance certificates.	LPUL Ch 2 Pt 2.2 (ss 15–29, s 17)
LIV	Professional association for solicitors; represents member interests and provides CPD and accreditation.	No statutory regulatory function
Courts	Admit and remove practitioners; exercise the inherent supervisory and contempt jurisdictions.	Inherent jurisdiction; *Supreme Court Act 1986* (Vic); LPUL s 302(1)(f)

The four sources of obligation (preview).

SOURCE	AUTHORITY TYPE
Statute	*Legal Profession Uniform Law (Vic)*; *Legal Profession Uniform Law Application Act 2014* (Vic); *Civil Procedure Act 2010* (Vic)
Case law	High Court decisions — *Giannarelli*, *Ziems*, *Hospital Products*, *Breen* — and intermediate appellate decisions where the High Court has not spoken
Codes / rules	Uniform Rules made under LPUL s 427 — the ASCR and the *Legal Profession Uniform Conduct (Barristers) Rules 2015*
Equity / fiduciary	The proscriptive obligations of no-conflict and no-profit

11. References

Legislation and instruments

Civil Procedure Act 2010 (Vic) ss 16, 17, 21.

Legal Profession Uniform Law (Vic) ss 3, 17, 296–298, 302, 427; Ch 2 Pt 2.2 (ss 15–29); Ch 3 Pt 3.3 (ss 42–57); Pt 4.2 (ss 127–168); Ch 5 (ss 265–271, 296–303), as at 1 July 2026.

Legal Profession Uniform Law Application Act 2014 (Vic) Pt 3 Divs 1–3.

Legal Profession Uniform Conduct (Barristers) Rules 2015 rr 17, 23, 24, 101–105.

Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 rr 3.1, 4.1, 9.1, 9.2, 13.1, 19.1, 20.1, 32.1.

Supreme Court Act 1986 (Vic).

Cases

Attwells v Jackson Lalic Lawyers Pty Ltd (2016) 259 CLR 1.

Breen v Williams (1996) 186 CLR 71.

Giannarelli v Wraith (1988) 165 CLR 543.

Hospital Products Ltd v United States Surgical Corporation (1984) 156 CLR 41.

Maguire v Makaronis (1997) 188 CLR 449.

Ziems v Prothonotary of the Supreme Court of New South Wales (1957) 97 CLR 279.

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Footnotes

1. *Legal Profession Uniform Law (Vic)* s 3 (objectives), as at 1 July 2026; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

2. *Legal Profession Uniform Law (Vic)* s 427 (power to make Uniform Rules), as at 1 July 2026; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*; *Legal Profession Uniform Conduct (Barristers) Rules 2015*.

3. *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ); on the present scope of the immunity, *Attwells v Jackson Lalic Lawyers Pty Ltd* (2016) 259 CLR 1.

4. *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279.

5. *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J, in dissent); the majority (Gibbs CJ, Wilson and Dawson JJ) held that no fiduciary relationship arose. On the competence standard, see instead *Legal Profession Uniform Law (Vic)* s 296 and *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.3.

6. *Breen v Williams* (1996) 186 CLR 71, 113 (Gaudron and McHugh JJ).

7. *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.

8. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 19.1; *Legal Profession Uniform Conduct (Barristers) Rules 2015* rr 23, 24.

9. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 3.1; *Civil Procedure Act 2010* (Vic) ss 16 (paramount duty to the court), 17 (duty to act honestly), 21 (duty not to mislead or deceive); *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

10. *Legal Profession Uniform Conduct (Barristers) Rules 2015* r 17 (cab-rank rule), read with the preconditions in r 17(a)–(d) and the mandatory refusal and return rules at rr 101–105.

11. *Legal Profession Uniform Law (Vic)* Ch 5, ss 265–271 (complaints), 296–303 (disciplinary matters), as at 1 July 2026; *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 2–3.

12. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

13. *Legal Profession Uniform Law (Vic)* s 427, as at 1 July 2026; *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*; *Legal Profession Uniform Conduct (Barristers) Rules 2015*; *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J, in dissent); *Breen v Williams* (1996) 186 CLR 71, 113.

14. *Legal Profession Uniform Law (Vic)* Ch 2 Pt 2.2 (ss 15–29, s 17), Ch 3 Pt 3.3 (ss 42–57), Pt 4.2 (ss 127–168), Ch 5 (ss 265–271, 296–303), as at 1 July 2026; *Legal Profession Uniform Law Application Act 2014* (Vic) Pt 3 Divs 1–3; on the courts, the inherent supervisory and contempt jurisdictions and the *Supreme Court Act 1986* (Vic).

15. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1.1, 4.1.3, 9.1; *Civil Procedure Act 2010* (Vic) s 16.

16. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 3.1 (the duty to the court "prevails to the extent of inconsistency with any other duty").

17. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 3.1; *Civil Procedure Act 2010* (Vic) s 16; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

18. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 19.1 (must not mislead the court), 20.1 (client who has misled the court), 13.1 (termination of the engagement only for just cause and on reasonable notice); *Legal Profession Uniform Conduct (Barristers) Rules 2015* rr 23, 24.

19. *Legal Profession Uniform Law (Vic)* ss 296 (unsatisfactory professional conduct), 297 (professional misconduct), 298(a)–(b) (contravention of the Law and of the Uniform Rules respectively), 302(1) (orders of the designated tribunal), including s 302(1)(f) (recommendation that the name be removed from a roll) and s 302(1)(l) (fine of up to $100,000), as at 1 July 2026.

20. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1.1, 9.1, 9.2, 19.1, 32.1; *Civil Procedure Act 2010* (Vic) ss 16, 21; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ); *Breen v Williams* (1996) 186 CLR 71, 113.

21. *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* rr 3.1, 4.1; *Giannarelli v Wraith* (1988) 165 CLR 543, 556 (Mason CJ).

22. *Hospital Products Ltd v United States Surgical Corporation* (1984) 156 CLR 41, 96–7 (Mason J, in dissent); *Maguire v Makaronis* (1997) 188 CLR 449.

23. *Breen v Williams* (1996) 186 CLR 71, 113 (Gaudron and McHugh JJ); *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 4.1.3.

📖

Sample Preview

This is a preview of the complete study guide.

The full edition contains all **12 topics** across **234 pages**.

TOPICS INCLUDED IN THE FULL EDITION:

1. T00 — The Ethics Method: IRAC, the Four Sources, and the Reasonable-Practitioner Standard
2. T01 — Introduction: Ethics, Morality and the Legal Profession
3. T02 — Admission to Legal Practice
4. T03 — The Retainer and the Duty of Competence
5. T04 — Conflicts of Interest
6. T05 — Confidentiality and Legal Professional Privilege
7. T06 — Trust Money and Costs
8. T07 — Duty to the Court and the Administration of Justice
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10. T09 — Duties to the Profession and Other Responsibilities
11. T10 — Complaints, Discipline and Regulatory Sanctions
12. T11 — Revision and Synthesis