



The Law Society
OF SOUTH AUSTRALIA

Guideline for Employment of Paralegals/Specialist Law Clerks

Purpose

The purpose of this Guideline is to provide practitioners with a starting point for seeking general information. It is not an exhaustive statement of all the relevant ethical obligations that might apply to specific circumstances.

If you need advice that addresses a specific set of facts, please contact Ethics and Practice on 82290229.

The Guidelines

1. Paralegals/Specialist Law Clerks are a valuable asset to firms and can offer much needed assistance to busy practices.
2. There are a number of recognised Training Courses available. Whether such a course is undertaken is a question for the person employing the Paralegal/Specialist Law Clerk and is not a statutory requirement.
3. Paralegals/Specialist Law Clerks may carry out the following tasks in the course of their employment:
 - 3.1. Interview potential witnesses and take statements.
 - 3.2. Attend accident scenes to take photographs and make plans of the scene.
 - 3.3. Conduct legal research.
 - 3.4. Prepare memoranda of research results.
 - 3.5. Obtain police reports and other accident reports.
 - 3.6. Obtain ASIC searches, LTO searches and the like.
 - 3.7. Collate documents and prepare indexes and chronologies for inclusion in briefs to counsel.
 - 3.8. Attend at a court registry for the purpose of filing documents or inspecting court files.
 - 3.9. Serve court documents and other documents.
 - 3.10. Administrative or clerical tasks which do not amount to practising the profession of the law within the meaning of Part 3 Division 3 of the *Legal Practitioners Act* 1981.
4. Paralegals/Specialist Law Clerks are not permitted to practice the profession of the law or hold out an entitlement to practice the profession of the law within the meaning of Part 3 Division 3 of the *Legal Practitioners Act* 1981.
5. They are therefore not permitted to carry out the following tasks:
 - 5.1. Interview and provide legal advice to clients.
 - 5.2. Take statements or instructions from clients.
 - 5.3. Prepare correspondence (including letters, e-mail and facsimile communications) other than in the course of carrying out the approved duties set out above.
 - 5.4. Conduct telephone dealings other than in the course of carrying out the approved duties set out above.

- 5.5. Prepare court documents.
 - 5.6. Prepare any documents having a legal consequence or effect.
 - 5.7. Maintain legal files to the point of effectually having the conduct of those files.
 - 5.8. Attend conferences and hearing with solicitors and/or counsel, other than to observe what takes place in public view.
 - 5.9. Instruct counsel, prior to or during a hearing.
 - 5.10. Receive money by way of legal fees or costs.
 - 5.11. Receive a commission from, or a share of, the profits of a legal practice.
6. Legal practitioners holding unrestricted practicing certificates are required to supervise Paralegals/Specialist Law Clerks, settle any work prepared by them and ensure that they do not hold themselves out as being entitled to practise the profession of the law. Failure to do so could result in the Paralegal/Specialist Law Clerk contravening section 21 of the Legal Practitioner's Act 1981 and the legal practitioner contravening section 23 of the Act.

Adopted by Ethics and Practice Committee: November 2010