

Ethical Standards and Professional Responsibilities

Maintaining Integrity, Competence and Public Trust in the Legal Profession

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Why this session matters

This session is not a recitation of rules. It is designed to help you **recognise ethical risk when it appears in daily practice**, exercise sound professional judgment under pressure and protect both your clients and your own professional standing.

1. Identify real-world situations where ethical duties are engaged, often without an obvious "red flag".
2. Apply a practical decision-making framework rather than relying on memory of rules.
3. Understand how breaches actually arise in PNG practice, often through habit, time pressure or unclear processes, not deliberate wrongdoing.
4. Leave with concrete safeguards you can apply this week in your own files and client relationships.

01

Introduction

The purpose of legal ethics, the lawyer's role and what is at stake when standards slip.

Purpose of Legal Ethics & Why It Matters

Purpose of Legal Ethics

- Protects client who cannot independently judge the quality or honesty of legal advice.
- Preserves the integrity of the justice system itself.
- Provides a shared standard so the public can trust any lawyer, in any matter.

Why Professional Responsibility Matters

- Ethical lapses rarely start as intentional misconduct - they start as shortcuts under pressure.
- A single lapse can affect a client's rights, a firm's reputation and public confidence in the profession as a whole.
- Membership of the Society itself carries an obligation to protect the reputation and integrity of the legal profession and to promote public confidence in the administration of justice.

The Lawyer's Role: Four Hats, One Standard

Officer of the Court

Duty of candour to the court, even where this is uncomfortable for the client.

Fiduciary

Loyalty, confidentiality and avoidance of conflicts in the client's interest.

Advocate for the Client

Zealous representation within the bounds of the law.

Custodian of the Rule of Law

Responsibility to uphold, not merely use, the legal system.

In practice, these roles can pull in different directions. The skill of professional judgment is knowing which duty prevails and when.

Consequences of Ethical Breaches

Consequences	What it looks like in practice
Disciplinary proceedings	Investigation by the Lawyers Statutory Committee and possible suspension or removal from practice
Professional negligence claims	Civil liability to the client for loss caused by substandard work
Reputation damage	Conduct that brings the legal profession into disrepute, affecting the lawyer and the firm
Loss of practising certificate	Refusal, restriction or non-renewal of a practising certificate, as illustrated in <i>Toby Bonggere v PNG Law Society</i> (2003) N2361

02

Core Ethical Duties

Duty to the court, duty to the client and duty of confidentiality, with practical case studies.

Duty to the Court

- **Paramount duty** to the administration of justice - this duty prevails over instructions from the client where the two conflict.
- **Candour and honesty** - no misleading of the court on fact or law, whether by act or omission.
- **Prohibition on misleading the court** - including through selective or stale submissions.
- **Disclosure obligations** - including correcting the record once an error is identified.

CASE STUDY

A lawyer discovers a factual error in submissions after they have already been filed. What should be done? The paramount duty requires prompt correction, notifying the court and opposing counsel, even though this may be uncomfortable for the client or the lawyer personally.

Duty to the Client

Competence, Communication, Diligence and Common Failures

Competence

- Providing services to the required professional standard.
- Staying up to date with legal and procedural developments.
- Understanding the applicable law before advising - not advising from memory or assumption.

Communication

- Keeping clients reasonably informed and communicating appropriately throughout the matter.
- Responsiveness - timely acknowledgement, even when the substantive answer will take longer.
- Managing expectations realistically from the outset.

Diligence

- Timely action on client matters.
- Meeting deadlines, especially limitation periods.
- Proper file management and clear records of instructions.

Common Ethical Failures Seen in Practice

- Slow responses to client queries.
- Poor or inconsistent communication.
- Inadequate legal research before advising.
- Missed limitation periods, amount to a failure to provide legal services with reasonable competence.

Duty of Confidentiality

Confidential Information

- Scope of confidential information – extends beyond documents marked “confidential” to everything learned in the course of the retainer.
- Legal professional privilege as a related but distinct protection.

Practical Risks

- Emails sent to the wrong recipient.
- Use of cloud storage without adequate access controls.
- Working remotely on unsecured networks or devices.
- Inadvertent disclosures on social media.

Best Practices

- Encryption of sensitive documents and communications
- Secure document management systems.
- Need-to-know access restrictions within the firm.

Interactive question: can a lawyer discuss a client's matter with a spouse at home? No, confidentiality applies regardless of the setting or how well the listener is trusted.

03

Conflicts of Interest

Types of conflict, how to manage them and a scenario for discussion.

Types of Conflicts

Current Client Conflicts

- Acting against an existing client in any matter, related or not.

Personal Interest Conflicts

- Financial interests or family relationships that could affect independent judgment.

Former Client Conflicts

- Use of confidential information gained from a past retainer against that former client.

Corporate Group Conflicts

- Acting for subsidiaries and related entities where interests diverge.



Managing Conflicts

- **Conflict checks** at intake, before any instruction is accepted.
- **Information barriers** (“ethical walls”) within a firm where a limited conflict can be managed rather than avoided entirely.
- **Informed consent** from affected clients, given in writing, where permissible.
- **Declining instructions** where the conflict cannot be adequately managed.

SCENARIO DISCUSSION

Can a firm act against a former client in an unrelated matter? Generally yes, provided no confidential information from the former retainer is relevant or at risk of being used and the former client's reasonable expectations of loyalty have been respected.

04

Client Care

Communication standards, difficult clients and ending a retainer properly.

Communication Standards & Managing Difficult Clients

Communication Standards

- Prompt responses to emails and calls.
- Providing realistic, not merely reassuring, advice.
- Recording instructions clearly and contemporaneously.

Managing Difficult Clients

- Unrealistic expectations about outcome or timing.
- Aggressive or abusive behaviour towards staff.
- Fee disputes arising from unclear cost disclosure.

Terminating Retainers

When Withdrawal is Justified

- Loss of trust and confidence, or instructions to act unlawfully or unethically.
- Non-payment of fees after reasonable notice, subject to any court proceedings in train.
- A conflict of interest that cannot be managed.

Ethical Obligations Upon Withdrawal

- Reasonable notice to the client to allow alternative representation.
- Protecting the client's position, particularly around limitation periods and hearing dates.
- Prompt handover of the file and account for any funds held.

05

Billing Ethics

Professional obligations, ethical risks and best practice in charging clients.

Fair Billing: Obligations, Risks & Best Practice

Professional obligations

- Fair and reasonable costs.
- Transparency in fee arrangements.
- Accurate time recording.

Ethical Risks

- Overcharging.
- Double billing across matters or timekeepers.
- Inflated time entries.
- Unnecessary work performed to increase fees.

Best Practice

- Detailed costs disclosure at the outset.
- Regular billing updates to the client.
- Recording work contemporaneously, not from memory days later.

06

Technology, AI and Legal Ethics

Emerging challenges and the ethical questions they raise.

Artificial Intelligence & Cybersecurity

Artificial Intelligence

Use of generative AI in drafting and research.
Verification of AI-generated content before use.
Risk of hallucinated authorities and citations that do not exist.

Cybersecurity

Data breaches exposing client information.
Client confidentiality risks from unsecured systems.
Phishing attacks targeting law firm staff and trust accounts.

Social Media & Key Ethical Questions

Social Media

- Professional conduct online reflects on the profession, not just the individual.
- Confidentiality risks from casual posts or comments about matters.
- Reputational concerns from personal content associated with a practising lawyer.

Ethical Questions to Ask

- Can lawyers use AI to draft advice?
- What level of review is required before it goes to a client or the court?
- Who remains responsible for the final work product?

KEY PRINCIPLE

Technology can assist, but responsibility cannot be delegated.

07

Anti-Corruption and Integrity Obligations

Avoiding improper influence and navigating cross-border standards.

Avoiding Improper Influence

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- Gifts and hospitality that could be perceived as influencing judgment.
- Bribery risks in dealings connected to client's matter.
- Interactions with public officials requiring particular caution.

Reporting obligations

- Suspicious transactions.
- Internal reporting procedures within the firm.

Cross-border Practice Issues

- Different ethical standards across jurisdictions when matters span borders.
- Practical rule: maintain the highest applicable ethical standard across all jurisdictions involved, rather than the most permissive.

08

Equality, Respect and Professionalism

Workplace conduct, professional courtesy and leadership responsibilities.

Workplace Conduct, Courtesy & Leadership

Workplace Conduct	Bullying.
	Harassment.
	Discrimination.
Professional Courtesy	Dealing fairly with opposing counsel.
	Respectful communications, even in adversarial matters.
	Civility in litigation.
Leadership Responsibilities	Supervising junior lawyers.
	Mentoring
	Creating an ethical workplace culture from the top down.

09

Ethical Decision-Making Framework

A practical model to apply when facing any ethical question.

The Ethical Decision Test

- 1 What are the relevant facts?
- 2 What duties are engaged: to the client, the court, third parties or the profession?
- 3 Who may be affected by the decision?
- 4 What do the rules require?
- 5 What would a reasonable practitioner do in the same circumstances?
- 6 How would this decision appear if scrutinized publicly?

FINAL STEP

Document the decision-making process, a contemporaneous file note is often the strongest protection if a decision is later questioned.

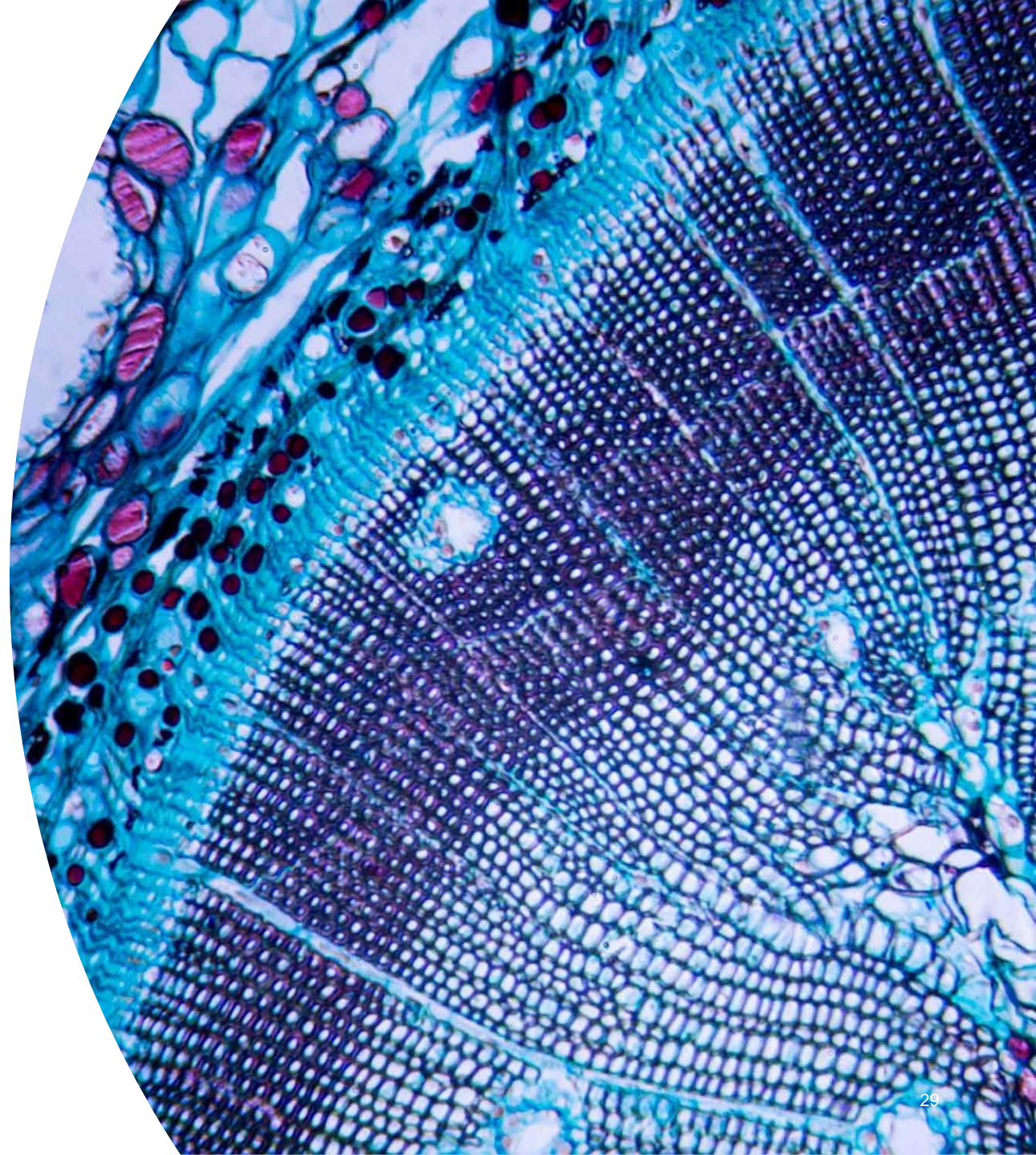
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Recent Ethical Risk Areas

Where the profession is currently seeing the greatest exposure.

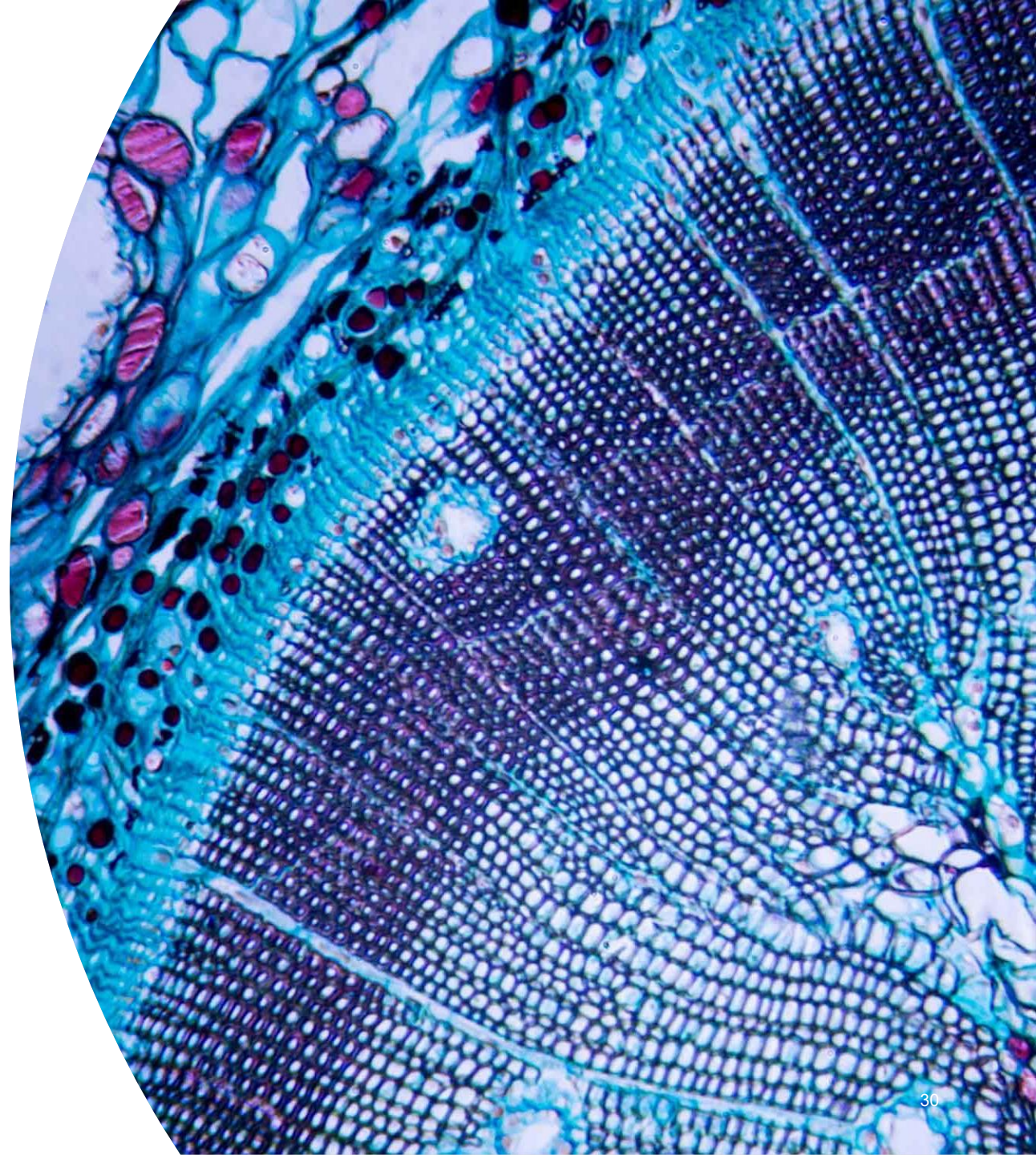
High Risk Issues to Watch

- **AI-generated court submissions** - unverified citations or reasoning filed without adequate review.
- **Cybersecurity breaches** - compromised client data and trust account fraud attempts.
- **Conflicts in multi-disciplinary practices** - where legal and non-legal services are offered together.
- **Remote working challenges** - confidentiality and supervision gaps outside the office environment.
- **Social media misconduct** - public commentary that damages client interests or the profession's standing.
- **Mental health and lawyer wellbeing** - burnout and stress are increasingly recognised as drivers of ethical lapses, not excuses for them.



Practical Takeaways

- Keep the Lawyers Act, Professional Conduct Rules and Trust Account Regulation readily accessible - this is a recognised professional obligation, confirmed in *Toby Bonggere v PNG Law Society* (2003) N2361.
- Run a conflict check before accepting any new instruction and revisit it if the matter's scope changes.
- Apply the six-question decision test whenever a situation feels ethically uncertain and document your reasoning.
- Review AI-assisted work with the same rigour as work from a junior colleague - verify, do not merely proofread.
- Treat client communication and billing transparency as core ethical duties, not administrative tasks.
- When in doubt, consult the Society, a senior colleague, or your firm's risk team before acting.



Ethical Standards and Professional Responsibilities to Maintain Integrity, Competence and Public Trust

Q&A