

Client confidentiality and conflict of interests for locum solicitors

This Practice Direction takes effect from 1 April 2005.

1. This Practice Direction must be read in conjunction with the Legal Profession Act and Legal Profession (Professional Conduct) Rules (the Rules) which govern locum solicitors who have been issued with a locum solicitor practising certificate as defined in section 2 of the Legal Profession Act(Cap 161,2001 revised edition) (the Act).
2. This Practice Direction sets out directions as regards client confidentiality and conflict of interests for a locum solicitor and for member law practices who engage a locum solicitor.
3. For the avoidance of doubt, this Practice Direction will apply in addition to the Act and the Rules.

Duty of Confidentiality

4. As a locum solicitor can practise in more than one law practice at any one time, the need for a locum solicitor and the law practice engaging him to ensure that client confidentiality is maintained when a locum solicitor practises in several practices is essential.
5. Therefore a locum solicitor and the law practice that engages him must respect the terms of rule 24 of the Rules that prescribes that an advocate & solicitor shall not directly or indirectly –
 - a) *disclose any confidential information which he receives as a result of the retainer ; or*
 - b) *disclose the contents of the papers recording such instructions;*unless with the consent of the client or as required by law or order of court.
6. The issue of conflict of interest will be a very live issue for a locum solicitor for the same reasons as specified in paragraph 4 of this Practice Direction. The rules of conflict of interests enacted in rules 25 to 31 of the Rules apply to locum solicitor in addition to the common law principles on conflict of interests.
7. A locum solicitor must familiarize himself with the terms of the Rules described above so that he and the law practice that wishes to engage can him can determine if he can be so engaged.

Practice to be adopted before accepting terms of engagement as a locum solicitor

8. A locum solicitor must, before acceptance of an engagement with a law practice, state the names of all law practices that had engaged him so that the practice and the locum solicitor may determine if the locum to be engaged may have acted or acts against a former or current client of the law practice. This way both parties can determine if any issues of conflict exist that need to be resolved.

9. A locum solicitor, during the course of engagement, must advise each law practice that engages him of the names of all law practices that he proposes to be engaged as a locum solicitor so that the law practice and locum solicitor may determine if any issues of conflict will exist that needs to be resolved.