

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 5.4.1

[Formerly PDR 2013, para 63; Council's Practice Direction 3 of 2009]

USE OF DEBT COLLECTORS FOR THE RECOVERY OF LEGAL FEES AND EXPENSES

The Council takes cognizance of instances where law practices engaged the services of debt collectors to recover outstanding legal fees. In one case, a former client of a law practice lodged a complaint with the Council.

For the purposes of this Practice Direction, the term 'debt collector' means any person engaged in any business of collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.

Unlike a number of other jurisdictions, there appears to be a paucity of legislation and guidelines in Singapore dealing specifically with the conduct of debt collectors. The use of debt collectors by legal practitioners and law practices raises a number of potential issues:

- (a) There is a potential for the use of abusive, deceptive, and unfair debt collection practices by debt collectors. Unlike practicing legal practitioners, debt collectors are not bound by prescribed professional standards of conduct and owe no fiduciary or other special duties.
- (b) In certain circumstances, the remuneration arrangement for debt collectors may breach the existing rules relating to fee sharing and the payment of commissions under rule 19 of the Legal Profession (Professional Conduct) Rules 2015 (S 706/2015).
- (c) The use of debt collectors to recover outstanding legal fees and expenses may also breach the duties of confidentiality of a legal practitioner, as well as derogate from the dignity of the legal profession and adversely affect the standing and perception of the legal profession in the eyes of the public.
- (d) Legal practitioners, as officers of the court, should bear in mind that they owe fiduciary obligations to their clients and that the courts are the ultimate arbiters of the recovery of any legal fees and expenses. It would therefore be improper for legal practitioners and law practices to recover their fees and expenses by adopting a method used by some creditors in ordinary creditor/debtor relationships.

In view of the above, the Council takes the position that legal practitioners and law practices are not to engage, directly or indirectly, the services of debt collectors to recover outstanding legal fees and expenses.

Date: 31 January 2019

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