



'Obligations for Supervised and Supervisor Lawyers'

GEELONG LAWYERS BARRISTERS AND
SOLICITORS

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BRAD FRY

Keeping the Wild Beast at Bay

"A person without ethics is a wild beast loosed upon this world."

Albert Camus

[With apologies to purists, I've updated Camus quote from man to person (also from French to English!)]

Supervised Legal Practice - outline of the legislation

- Legal Profession Uniform Law (Vic) s 49 - new lawyers must only “in supervised legal practice”
- Legal Profession Uniform Law (Vic) s 6 - definition of “legal practice”
- Legal Profession Uniform General Rules 2015 s 7 – extends definition of “legal practice”

Characteristics of a supervisor

To be a supervisor, you must:

- be appropriately experienced
- be entitled to supervise another lawyer
- have the necessary authority over the supervised lawyer within your workplace

What does it mean to supervise?

- Daily contact
- Regular one-on-one meetings to review all current matters
- Assign appropriate work
- Be aware of all the supervisees' work and its progress
- Be aware of instructions they might receive directly from clients
- Review all correspondence and advice

What have the courts said?

Kelly v Jowett [2009] NSWCA 278

- Employed solicitor mishandled estate litigation and failed to comply with court directions.
- Clients led no evidence at trial, resulting in adverse judgment and costs.
- Evidence showed principals knew or should have known of the solicitor's poor performance.
- Court held the retainer is with the principal/firm, who must supervise employed solicitors.
- Principals may be liable for wasted costs where supervision is inadequate.

Mills Oakley Pty Ltd v Huon Property Holdings Pty Ltd & Ors [2012] VSC 39

- Solicitors acted for client in a complex commercial transaction.
- Last-minute changes to funding arrangements created significant asset risk.
- A relatively inexperienced senior associate handled the matter largely unsupervised.
- Supervising practitioner claimed ignorance of critical communications.
- Court held adequate supervision would likely have prevented the negligence.

What have the courts said?

Legal Services Commissioner v Peters [2025] QCAT 206

- Principal solicitor signed a placement declaration confirming a law clerk's supervised work experience.
- Later denied supervising the clerk when asked to complete additional certification.
- Tribunal found the denial inconsistent with the earlier signed declaration.
- Justice Freeburn described the situation as “quite extraordinary”.
- Application to strike out the disciplinary charge was refused.

Key propositions from the cases:

- Supervision required will vary with the experience of the supervisee and complexity of the work
- Must be genuine supervision — not complete delegation
- Supervision needs to be proactive — not merely reactive
- Failure to adequately supervise may amount to professional misconduct

Supervised Legal Practice (SLP): Duties of the Supervisee

- Legal Profession Uniform Law (Vic) s 49 - practising certificate condition for new lawyers
- Legal Profession Uniform Law (Vic) s 6 - definition of “supervised legal practice”
- ASCR rr 4.1.3 - 4.1.4 - obligation to deliver legal services competently and diligently
- ASCR r 9 - confidentiality obligations

After Supervised Legal Practice: Ongoing Obligations

Continuing accountability under the Uniform Law:

- Uniform Law ss 297-299 - unsatisfactory professional conduct & misconduct definitions
- ASCR rr 4.1.3-4.1.5 - competence, diligence, and compliance with the law
- ASCR r 37 – supervision of legal services (applies when managing files or overseeing others)
- CPD Rules r 6(1) -10 CPD units per year across 4 mandatory categories
- CPD Rules r 12 - maintain records for 3 years

Lessons from Recent Decisions

VLSC v Burrows (Legal Practice) [2024] VCAT 481

- Principal directed a junior solicitor to falsify a document and send it to the State Revenue Office.
- Breach of ASCR r 4 (integrity and competence) and ASCR r 37 (failure of proper supervision).
- Tribunal found professional misconduct and imposed a 2-year ban from practice.
- Key takeaway - Even when following instructions, a junior lawyer must refuse unlawful directions and seek guidance. Raising issues early is a professional duty under Uniform Law s 297.

VLSC v Olayemi (Legal Practice) [2019] VCAT 1283

- Newly admitted solicitor made a visa application error, then fabricated documents to conceal it.
- Tribunal found misconduct: dishonesty compounded by lack of adequate supervision.
- Both the supervisee and firm's systems were criticised for failing to ensure proper oversight.
- Key takeaway - Supervisees must know their limits and escalate when mistakes occur. Attempting to "fix" errors alone

What Can Juniors Do When Supervision Fails?

Recognise the warning signs:

- No regular file review, infrequent meetings, or limited access to feedback.
- Being asked to perform tasks beyond your competence or outside agreed supervision structures.

Practical steps:

- Document your concerns - keep contemporaneous notes of instructions and tasks received.
- Seek internal support - approach another senior solicitor or HR if you believe you're being placed at risk.
- Consult external resources - contact the LIV Ethics Line or VLSB+C for confidential guidance.
- Prioritise your duties under ASCR - competence (r 4.1.3), honesty (r 4.1.2), and diligence (r 4.1.4) always take precedence over firm loyalty.
- Request structured supervision - ask for scheduled review meetings or formal feedback sessions.
- Self-educate - maintain your CPD (r 6) and document supervision attempts and outcomes.

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A CASE STUDY - as Clear as Knight and Day

Victorian Legal Services Commissioner v Knight (Legal Practice) [2024] VCAT 887

Victorian Legal Services Commissioner v Knight (Corrected) (Legal Practice) [2025] VCAT 717

The eternal gag order:

VCAT orders under s 80 of the Victorian Civil and Administrative Tribunal Act 1998 (Vic):

1. Any report of the whole or part of these proceedings or information derived from this proceeding that might enable the respondent's clients the subject of these proceedings, the notifiers, the witnesses and the former employees of the respondent referred to in the proceedings to be identified must not be published or otherwise disclosed.
2. This order applies throughout Australia on the basis that VCAT's reasons for decision for final orders are published on AustL II and that website may be accessed throughout Australia. The privacy of the people referred to in order 1 would be breached if persons living outside Victoria know or come to know their identity.
- 3. This order operates until the later of the death of all of the people referred to in order 1.**

15 Charges: Guilty on 14 (one withdrawn)

- a. failed to appear at Court to represent clients and did not arrange alternative representation for the clients;
- b. knowingly made false statements to the Federal Circuit Court of Australia (as it then was) ('the FCCA') and the VLSC;
- c. failed to comply with trust account rules;
- d. failed to keep a proper file;
- e. engaged in substance abuse which adversely affected his legal practice;
- f. sexually harassed and bullied employees;
- g. failed to supervise the work of employees of the legal practice;**
- h. posted online a classified advertisement for sexual services which included a former employee's private telephone number; and
- i. intentionally provided dishonest explanations to the regulator about the posting of the advertisement.

Charge 1:

In the findings of fact decision, the Tribunal was comfortably satisfied that Mr X failed to appear at Court on 12 March 2019, due to cocaine use and related lack of sleep over the immediately preceding long weekend.

The Tribunal was also comfortably satisfied that the conduct was in breach of r 4.1.3 of the Conduct Rules, as Mr Knight's failure to attend the hearing as arranged on 12 March 2019 to represent his client and **his failure to arrange for alternative Counsel to appear for his clients**, was a breach of the requirement to deliver legal services as competently and diligently as possible.

Mr Knight 'failed to appear at the family law matter final hearing and failed to arrange for alternative representation for his clients at the final hearing.

Charge 1 (Continued):

The parties proposed that the proven conduct under Charge 1 be characterised as professional misconduct within the definition of professional misconduct in section 297(1)(a) of the Uniform Law. That is, the conduct constituted unsatisfactory professional conduct of a lawyer, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence.

Submission:

..... The proven conduct was also in the context of Mr Knight's relationship breakdown, causing him a significant level of emotional distress.

(NOT ACCEPTED)

Counsel was briefed by junior practitioners of the firm only minutes prior to the scheduled hearing time and Counsel had not had the opportunity to even read the brief, when she appeared at the hearing.

Charge 2:

The Respondent engaged in professional misconduct within the meaning of s 297(1)(b) of the Uniform Law; and/or breached rr 3.1, and/or 4.1.2, and/or 43.1 of the Conduct Rules and therefore engaged in professional misconduct within the meaning of professional misconduct in s 298(b) of the Uniform Law, in that he knowingly provided false or misleading information to:

(a) the Federal Circuit Court of Australia; and

(b) the Applicant, by claiming to have been involved in engaging counsel to appear at the final hearing of the family law proceeding when in fact he was not involved in engaging counsel to appear at that hearing.

Charge 2 (Continued):

Mr Knight pleaded not guilty to the charge, as he denied knowingly providing false information or misleading information to the FCCA and the VLSC. He did accept the information was false and had been supplied recklessly, but denied it was intentionally false.

In the findings of fact decision, the Tribunal was comfortably satisfied that the conduct described in Charge 2 has been proven, in that, Mr Knight knowingly provided false and misleading information to the FCCA and the VLSC by claiming to have been personally involved in engaging counsel to appear at the hearing on 12 March 2019, when he had not been so involved. The Tribunal also found that the proven conduct was in breach of the Conduct Rules.

Charges 3 to 5 – trust account deficiencies

On five occasions on 4 January 2019, 8 January 2019, 4 February 2019, 6 February 2019 and 28 February 2019 he caused money to be withdrawn from the law practice's trust account without having first sent the complainants a bill.

(And so it goes without saying... don't meddle with the trust account...)

Charge 6 – keeping of file

The Respondent engaged in unsatisfactory professional conduct within the meaning of s 296 of the Uniform Law, in that his record keeping practices in respect of the complainants file fell short of the standard of competence and diligence expected of a reasonably competent lawyer, because there were no file notes on the complainants' file, and documents relating to another client were present on the complainants' file.

The VLSC submitted in summary:

- a. The proven conduct relates to the family law file for the hearing described in Charge 1 above.
- b. The records kept in respect of the file were entirely inadequate.
- c. The proven conduct justifies a finding of unsatisfactory professional conduct.

Second Application

Charge 1 – Substance use

Rule 5 of the Conduct Rules relevantly provides that a solicitor must not engage in conduct, in the course of practice or otherwise, which demonstrates that the solicitor is not a fit and proper person to practise law, or which is likely to a material degree to be prejudicial or to diminish the public confidence in the administration of justice or bring the profession into disrepute.

Mr Knight admitted to substance abuse of alcohol, cocaine and MDMA in the relevant period and that this abuse adversely affected his ability to practice. In the finding of facts decision, the Tribunal was comfortably satisfied that there were occasions in the substance abuse period when Mr Knight appeared in court unprepared.

Charge 1 – Substance use (Continued)

The Tribunal was also comfortably satisfied that the proven conduct of Mr Knight engaging in the conduct of his practice while adversely affected by alcohol, cocaine and MDMA, demonstrates that he was not a fit and proper person to practice law and was likely to a material degree to be prejudicial to and to diminish the public confidence in the administration of justice and to bring the profession into disrepute, pursuant to r 5 of the Conduct Rules

Charge 2 – Sexual harassment and workplace bullying

The Conduct Rules at r 42 relevantly provide that a solicitor must not in the course of practice engage in conduct that constitutes discrimination, sexual harassment or workplace bullying. Section 92 of the Equal Opportunity Act 2010 (Vic) relevantly provides that a person sexually harasses another person

a. The conduct was particularly egregious as it was repeated over a long period of time, was perpetrated against several employees, had significant adverse impacts on some of the employees and risked causing significant adverse impacts on all affected employees;

b. The employees in their witness statements describe the short-term impact of the conduct;

c. One employee in her witness statement describes the long-term impact of the conduct on her, including being on **WorkCover for at least four years;**

d. The conduct was in breach of r 42 of the Conduct Rules, which provides that a solicitor must not engage in conduct which constitutes discrimination, sexual harassment or workplace bullying.

Charge 3 – Supervision of employees

Between August 2018 to in or around July 2019, the Respondent engaged in professional misconduct within the meaning of s 297(1)(a) of the Uniform Law; and/or breached r 37 of the Conduct Rules and therefore engaged in professional misconduct within the meaning of s 298(b) of the Uniform Law, by failing to adequately supervise the work of employees of the law practice.

The Conduct Rules at r 37 provide that a solicitor with designated responsibility for a matter must exercise reasonable supervision over solicitors and all other employees engaged in the provision of legal services for a matter.

Charge 3 – Supervision of employees (Continued)

- a. The proven conduct related to the inadequate supervision of employees;
- b. Mr Knight employed a number of junior practitioners at the relevant time. Some of these practitioners were required to be supervised for the purpose of their practising certificate, due to their level of experience;
- c. The failure to adequately supervise employees was not a one off or isolated event. The proven conduct was over a period of almost 12 months and was a systematic failure to supervise as well as being related to Mr Knight's failures to attend work, attending late for work, sleeping at work during business hours and being affected or suffering the aftereffects of substance or alcohol use;
- d. The proven conduct was in breach of r 37 of the Conduct Rules, which requires solicitors with designated responsibility to exercise reasonable supervision over other solicitors and all other employees, engaged in the provision of legal services.

Charge 3 – Supervision of employees (Continued)

Counsel for Mr Knight, in summary, made the following submissions:

- a. Mr Knight's failure to adequately supervise junior employees of the law practice occurred during the substance abuse period. During this time, Mr Knight was not in a position to supervise juniors or provide the kind of mentoring and guidance required;
- b. Mr Knight's practice was growing at a rapid pace and he did not have the resources to adequately manage these responsibilities.

3rd Application Charge 1 – publishing the Locanto Post

Locanto is a website for classified advertising. The Locanto advertisement published on 11 September 2019, was as follows:

Hi babe,

Am 20 years of age and my friend and I are available for incalls, Full service \$500 an hour and hosting in the cbd Please text only 04** *** ** SWA ***** (mobile telephone number and SWA (Sex Worker Act) number omitted)

The telephone number in the advertisement was the personal mobile telephone number of an employee of Mr Knight, who had resigned from employment on 19 August 2019. Mr Knight admitted publishing the advertisement.

Charges 2, 3 and 4 of the third application – explanation about the Locanto Post

That is, on each of 17 April 2020, 5 May 2020 and 14 May 2020, Mr Knight intentionally provided a dishonest explanation to the VLSC in relation to the circumstances in which the Locanto Post was published.

Charge 5 – Provide false statutory declaration

Charge 5 involves a statutory declaration provided by Mr Knight to the VLSC on 3 December 2020. The statutory declaration stated that previous versions of events which Mr Knight had provided to the VLSC about how the Locanto Post was published, **were untrue in very significant respects**. In the statutory declaration, Mr Knight admitted that he had personally published the Locanto Post, **but stated that he had included the former employee's private phone number in error, as he had been unable to distinguish between her private phone number and her former work number in the contacts in his phone. He was in possession of the former employee's work telephone at the time.**

Charge 5 – Provide false statutory declaration (Continued)

engaged in professional misconduct within the meaning of **s 297(1)(a) and/or (b)** of the Uniform Law; and/or(b) breached rr 4.1.2, 5, and/or 43.1 of the Conduct Rules and therefore **engaged in professional misconduct** within the meaning of **s 298(b)** of the Uniform Law by intentionally making a false statutory declaration, and intentionally providing (via provision of the statutory declaration to the Applicant) a dishonest explanation to the Applicant in relation to the circumstances in which the Locanto Post was published.

The conduct was contrary to Mr Knight's obligation to engage honestly with the regulator

Charge 5 – Provide false statutory declaration (Continued)

In *Victorian Legal Services Commissioner v Williams (Legal Practice)* [2022] VCAT 806 (15 July 2022) (*Williams*), the Tribunal relevantly noted that:

- a. the nature and seriousness of the conduct will inform the extent to which general deterrence is relevant;
- b. the Tribunal is obliged to take into account a legal practitioner's failure to see the error of their ways; and
- c. criminal sentencing principles apply by analogy to legal disciplinary proceedings. The principles which can be classified as mitigatory, include rehabilitation, remorse, delay, personal character and circumstances, financial impact and mental illness.

This Tribunal in *Williams*, reviewed the principles applicable to removing a lawyer from the Supreme Court Roll

- Para 147 of the judgment.

THE VERDICT

Paragraph 260 - The Tribunal has therefore decided to make the following substantive orders:

- a. The respondent is reprimanded;
- b. A recommendation to the Supreme Court that the respondent's name be removed from the Roll of legal practitioners;
- c. The respondent not be granted a practising certificate until the expiry of five years from the date of this order;
- d. The respondent is subject to a condition on any practising certificate obtained following the expiry of the prohibition order, that he engages in legal practice only as an employee of a law practice, within the meaning of section 47(1)(a)(ii) of the Uniform Law, for a further period of five years;
- e. The respondent pay the VLSC's costs fixed in the amount of \$40,000.260 The Tribunal has therefore decided to make the following substantive orders:

Today:

Identity Coach, Brand Strategist & Former Lawyer

From Law to Legacy: Identity Coaching for the Aligned Professional

As a Melbourne-based identity coach and former lawyer, I help ambitious professionals align their public presence with personal clarity. Nickita Knight Melbourne is where clarity meets strategy. I guide bold thinkers, founders, and leaders in building magnetic personal brands, scaling with intention, and rising with presence.

Working with me means partnering with someone who understands transformation - from courtroom challenges to reputation reinvention.

“You don’t have to abandon your past - you just need to stop living in it.”

Knight Family Lawyers

A boutique legal firm I founded and led - blending legal precision with emotional intelligence to help families navigate complex disputes. The firm was closed in 2022.

Knight Family Lawyers - known for clarity and care in family law (2017–2022), founded by Nickita Knight Melbourne.

The Fire of Prometheus

A fable-based coaching book that merges myth with mindset. “The Fire of Prometheus” shares the transformation journey of Evander and introduces the KFLAW framework.

A myth-driven coaching book authored by Nickita Knight Melbourne.

College of Law survey

1. Only **2 in 5 lawyers** would recommend **their workplace** to others.
2. Lawyers with flexible work arrangements are the most satisfied.
3. Most Lawyers are working standard hours.
4. Most **70% of lawyers** experienced **burnout** in the past year.
5. In the past year **31% of lawyers** experienced unlawful **workplace bullying**.

How many hours lawyers are working each week

