



YOU AND YOUR SOLICITOR

When you seek advice or help from a solicitor, you need to know what to expect. What will the solicitor want to know about you and your case? What information should the solicitor give you? How much will it cost?

This leaflet is a brief guide to your rights and responsibilities as a client and sets out the steps you can take to make sure you get the best service from your solicitor.

Your solicitor will be looking after your interests, and will act on your instructions.

You can help your solicitor in the following ways.

- Know what you want to achieve.
- Give clear instructions.
- Make sure that your solicitor understands your instructions. Ask if you are not sure about anything. Give as much information about the problem as you can.
- Make an appointment. The solicitor handling your matter will not always be available to see you without an appointment. It is safer to telephone to arrange a time. You may be able to deal with the problem on the telephone without needing to come in.

STEP 1 – FINDING A SOLICITOR

(Do you need an interpreter? If so, ring the Telephone Interpreter Service on 131 450.)

No solicitor can be experienced in every area of law. Many specialise in conveyancing, for instance, or family or criminal law. You may have to spend a little time finding the right solicitor for your particular needs.

An advice agency like the Law Society, the Legal Advice Bureau, the Legal Aid Office or the Welfare Rights & Legal Centre may be able to help you. You may also be able to get guidance from friends or relatives who have already used a solicitor for the same type of legal problem, or from work colleagues. Many solicitors advertise their areas of work in the Yellow Pages.

Some people hesitate to go to a solicitor because they are worried about how much it will cost. Some firms may advertise that their first conference is free. Find out what the firm's policy is before making an appointment.

You may find that you qualify for help towards a solicitor's bill through the legal aid scheme (for more information about legal aid, see *Talking About Costs* on page 4).

STEP 2 – YOUR FIRST APPOINTMENT WITH THE SOLICITOR

MAKING THE FIRST APPOINTMENT

You can do this by telephone or by calling at the solicitor's office. Explain broadly the kind of service you need - buying a house, for instance, or claiming compensation for an accident. If it is difficult for you to travel to the solicitor's office, perhaps because you are disabled, ask if they can arrange a home visit.

BEFORE YOU SEE THE SOLICITOR

At the first meeting, the solicitor will want to find out what your legal problem is and think about how best to handle your case. It helps if you can do some preparation beforehand so that you are clear beforehand about the points you want to get across and the information you need from the solicitor.

Get together any important letters or other papers about your legal problem. If you can't decide which are the most important, take them all. Think over the information you will need to give and the questions you want to ask. It often helps to write down a list of questions and reminders for yourself and take it with you to the meeting.

AT THE MEETING

The solicitor will ask a lot of questions - but you will want to get information from the solicitor too. Don't be shy about asking for information and for an explanation of any legal expressions. The solicitor is there to help you and to work in your interests.

It is important to keep in mind that the legal advice you receive will be based on the accuracy and completeness of the information you provide to the solicitor.

TALKING ABOUT COSTS

Make sure you find out at the first meeting the basis on which your solicitor will charge you. In various types of matters such as litigation and family law it will be difficult for a solicitor to provide an estimate of the total costs. However, they should tell you, for example, their hourly rate. In other cases, such as conveyancing, the solicitor can probably estimate what the cost is likely to be.

Solicitors do not always charge a set amount for a whole job. They often charge according to how much time they spend on the work. (This includes time spent with you, including time on the telephone, so remember that you will be adding to the final bill each time you make contact.) In many areas of legal work it is not possible to predict how much of the solicitor's time will be needed, because this depends on other people outside you and your solicitor's control.

At this first meeting you may want to agree on a fixed spending limit with your solicitor. If that limit is reached, the solicitor will have to contact you before doing any more work.

Your solicitor may send you regular (eg. monthly) accounts for payment as the case progresses. In some cases, the solicitor may agree not to charge until the matter is completed.

LAW SOCIETY OF THE AUSTRALIAN CAPITAL TERRITORY

Your solicitor will probably ask you to pay some money in advance to cover disbursements. Disbursements are payments the solicitor will need to make on your behalf. Examples are court filing fees, service fees, medical report fees, conveyancing enquiry fees and title search fees.

In most court proceedings, you risk having to pay some of the other side's legal costs as well as your own. This can apply to a preliminary part of the case, or the entire case. You should discuss this risk with your solicitor before you decide to go ahead.

If you are successful in court proceedings (not small claims or family law), you may be able to recover some or most, though probably not all, of your legal costs and disbursements from the other party. This can depend on the other party's ability to pay.

LEGAL AID

You may qualify for financial help with your legal expenses, including your solicitor's bill. Legal aid does not cover all types of legal problems. It can help with family law and criminal law, but not with buying or selling a house. It is means-tested, and you will not qualify unless your income and assets are below set levels.

Legal aid will not cover all your legal costs - you will have to pay a client contribution yourself. And if you win your case, you may have to pay an amount to the Legal Aid Office out of the proceeds.

The solicitor will explain all this and tell you if you are likely to be eligible for legal aid. If you are, and if this particular solicitor does legal aid work, ask whether he or she will help with an application to the Legal Aid Office.

PUTTING IT IN WRITING

By the end of this first meeting, ask your solicitor to confirm in a letter to you:

- that he or she has taken on the work;
- any legal advice you have been given;
- the name of the person in the firm who will actually be dealing with your case day to day;
- how long the job is likely to take;
- when you can expect to hear from the solicitor;
- an estimate of your costs and disbursements;
- any more information the solicitor needs from you.

THE FIRST MEETING: A CHECKLIST

To make sure you have covered all the ground at the first meeting, the following checklist might be helpful.

CHECKLIST

- How much is it going to cost me, if I go ahead?
- How long will it take?
- Did the solicitor use any legal language that I did not understand?
- Does the solicitor fully understand the problem?
- Have I explained all the facts?
- Do I understand what the best and worst outcomes might be?
- Will the solicitor write to me confirming that he or she is taking the work on?
- What happens next and do I need to do anything?

STEP 3 – YOUR SOLICITOR AND YOUR CASE

KEEPING IN TOUCH

After a time, you may want to know what is happening on your case. Don't hesitate to ask for a progress report by letter, telephone or face to face.

Let your solicitor know about any changes that might affect your case. If you have been granted legal aid, this includes any changes in your financial position.

The solicitor should keep you informed about developments. If extra work - and therefore extra cost - is needed as the case proceeds, the solicitor will ask for your approval before going ahead.

Although a solicitor will not always be able to tell you exactly how much the work is going to cost, if the final bill is substantially more than estimated, then you are entitled to be told why.

CHANGING YOUR SOLICITOR

If you are paying for a solicitor yourself and you are not happy with the way the solicitor is handling your case, you are free to take the work to another solicitors' firm. You will have to pay the first solicitor's costs and disbursements to date, otherwise they may be able to retain possession of your documents until they are paid.

If you are legally aided, you may need permission to change solicitors and you should contact the Legal Aid Office.

If the firm dealing with your case transfers it to another solicitor within the firm, they should tell you. If you are not happy with the new solicitor, you should talk to a more senior solicitor in the firm.

USING A BARRISTER

For some types of legal cases, you will need a barrister as well as a solicitor. Your solicitor will explain why and talk to you about which barrister to engage, and the additional expense this will involve.

WHEN SOMETHING GOES WRONG

Even in the best law firms, things can sometimes go wrong.

If you have a problem, first speak to your solicitor and explain your concern. Most problems and misunderstandings are resolved informally in this way.

Most larger firms of solicitors have their own complaints procedure. If you want to take your complaint further, ask for the name of the person in the firm to contact.

If you are still dissatisfied, you can then take your complaint to the Law Society of the ACT, which has power to investigate professional conduct. Your complaint to the Law Society will need to be in writing.

DISPUTES ABOUT CHARGES

If you think you have been overcharged, you should first discuss the matter with the solicitor.

If you are still dissatisfied:

- you can ask another solicitor for advice about it;
- you can formally require the solicitor to provide you with an itemised account

In some circumstances a disputed account can be referred to a court official for decision.

USEFUL CONTACTS

Law Society of the ACT	(02) 6247 5700
Legal Aid Office (ACT)	(02) 6243 3411
Legal Advice Bureau	(02) 6247 5700
Welfare Rights & Legal Centre	(02) 6247 2177
Care Inc (Consumer Credit Legal Service)	(02) 6257 1788
Women's Legal Centre	(02) 6257 4499