

**UMSU Legal Service**

**Legal Advice and Casework Policy**

Policy number: 006	Date adopted: 12.11.2014	
Authorised by: Phoebe Churches, Manager, Advocacy & Legal		
Date last reviewed: 10.11.2016	Reviewed by: A & L SAG	Date of next review: 10.11.2017

<b>Policy context:</b> This policy relates to:	
Standards or other external requirements	NACLC Mandatory Standard 14, 19
UMSU standards	Casework Guidelines File Management Policy Confidentiality Policy Conflict of Interest Policy Supervision and Workload Monitoring Policy
Legislation or other requirements	<a href="#"><u>Legal Profession Uniform Law Application Act 2014 (Vic)</u></a> <a href="#"><u>Legal Profession Uniform General Rules 2015</u></a> <a href="#"><u>Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015</u></a> <a href="#"><u>Legal Profession Uniform Legal Practice (Solicitors) Rules 2015</u></a>

**POLICY STATEMENT**

Subject to available resources, the Legal Service will provide timely, high quality, accurate, confidential and individually tailored legal advice and casework services to enrolled students of the University of Melbourne if they have a legal problem falling within the Legal Service’s Advice and Casework guidelines, as contained in this policy.

Casework means any legal work undertaken by the staff solicitors that is more than one off legal advice. Casework may include making telephone calls for clients, writing letters, negotiating settlements, and providing ongoing advice to clients representing themselves.

To promote quality in casework services the Legal Service adopts the following principles:

- Treating the client with respect and actively listening to the client;
- Using plain language;
- Meeting the communication and access needs of the client;
- Always taking detailed instructions from the client and making a written record of those instructions;
- Taking detailed file notes of all client attendances including phone calls and in person, third party attendances and file review;
- Always informing clients of any time limits, and recording these on the file and acting within those time limits;
- Providing the best quality advice by maintaining an up-to-date knowledge of the law and developing a range of options for the client to consider;
- Maintaining case files in an orderly fashion, and within the standards set by the NACLC Risk Management Guide;
- Regularly reviewing files and undertaking action required;
- Keeping the client informed of progress; and
- Operating within the rules of professional conduct, including professional courtesy.

The decision to offer clients casework services will be made by a solicitor employed by the Legal Service having regard to the factors set out below.

### *Eligibility*

Due to funding requirements, the Legal Service can only provide legal services to currently enrolled students of the University of Melbourne.

### **LEGAL ADVICE PROCEDURE**

In the first instance, advice will generally be provided by telephone. The Legal Service will operate a Phone Advice Line between 1:00pm – 4:30pm Monday to Thursday. Students making inquiries through the Phone Advice Line will be triaged in accordance with this policy, the Information and Referral Policy and the Litigation Policy.

The Legal Service does not operate a drop in legal advice service or see clients face-to-face by appointment in the first instance, except in exceptional and/or urgent circumstances. In all other circumstances, clients who attend the Legal Service in person will be asked to complete a Request for Legal Assistance Form (office version). Request Forms will be given to the staff solicitors, who will contact the student by phone.

A Request for Legal Assistance Form (online version) will also be available on the web page. Completed forms will be sent to [legal@union.unimelb.edu.au](mailto:legal@union.unimelb.edu.au) for the staff solicitors to respond to either by phone or by email if only information or a referral is required.

All advice will be clear and up-to-date, and adequate to establish all of the apparent, relevant legal options for the client.

Staff members or volunteers who are not qualified solicitors may obtain intake and assessment information from a client regarding the matter requiring advice. However, legal advice will only be provided by staff members who are qualified solicitors with a current practicing certificate.

### **CASEWORK PROCEDURE**

Files may be opened for all casework that extends beyond simple advice and information or referral. Examples of when a staff solicitor may open a file:

- The solicitor believes the matter will require ongoing advice and assistance to the client;
- The volume of material provided by a client to assess the merits of their legal matter is sufficient to warrant an open file; and/or
- The solicitor will be required to follow up on phone calls, letter or other inquiries made on behalf of a client.

All open files must comply with the requirements of the Legal Service's policies, the NALC Risk Management Guide and the relevant legal profession legislation and rules.

### **VOLUNTEERS**

Casework may only be undertaken by staff solicitors. Volunteers may provide assistance to the solicitors, but all files remain the responsibility of the supervising solicitor.

**Volunteers who are not legal practitioners holding current practising certificates are forbidden from giving legal advice except under the immediate supervision of a staff solicitor holding an unrestricted practising certificate.**

### *Supervision*

All advice provided will be checked by the Principal Solicitor who holds an unrestricted practising certificate.

### *Service resources and solicitor availability*

Consistent with the Legal Service’s Charter, it is essential to consider whether a case will require more resources to properly conduct it than are available to the Legal Service at the time. This involves looking at the complexity of the matter and the time required to conduct it, and assessing that against factors including:

- available solicitor and volunteer time;
- the case and workloads of the solicitor;
- the need to conduct other casework and provide other services;
- the physical resources available at the Legal Service; and
- financial constraints faced by the Legal Service.

*Client empowerment model*

The ability of clients to manage matters themselves varies. Some clients will be able to manage their own matters after receiving advice; others may require ongoing assistance from the Legal Service or another university or external agency. Where suitable, it is preferable that clients are empowered to take responsibility for their own matters by taking initial steps in a process or making preliminary inquiries e.g. writing an appeal letter for a Myki fine, contacting the Residential Tenancies Bond Authority.

*Urgency of the matter*

The urgency of a matter shall be considered when the Service is deciding whether or not to undertake casework. Circumstances in which a matter may be considered urgent include where there is:

- a pending court date;
- a notice period is about to expire;
- If there is a case/history of domestic violence;
- If there is a danger of violence.

However, time and resource constraints may mean that the Legal Service is unable to take on a case at short notice and can only offer advice and/or a referral.

**DOCUMENTS**

Documents related to this policy	
Related policies	Code of Conduct Policy
Forms or other organisational documents	Legal Service Charter
Policy review frequency: Annually	Responsibility for review: A & L SAG
Review process: The Advocacy & Legal Student Advisory Group in conjunction with the Principal Solicitor has responsibility for leading the review of this policy. The process for reviewing the policy includes: <ul style="list-style-type: none"> <li>• Assessment of policy implementation to date;</li> <li>• Those covered by the policy are provided with the opportunity to give feedback;</li> <li>• All feedback and suggestions will be considered by the review of the policy;</li> <li>• Proposed changes will be presented to UMSU staff to achieve consensus;</li> <li>• A &amp; L SAG will endorse the finalised policy; and</li> <li>• The policy will be available on the Legal Services web page.</li> </ul>	