



Duty of solicitors and barristers to be courteous in domestic violence proceedings

Author: [Claire McGee](#)

Email: cmcgee@gnl.com.au

Phone: 0450 630 612

Date: Sunday July 6, 2025

In domestic and family violence proceedings, maintaining professionalism and courtesy is not just a matter of etiquette, but a critical component of ethical legal practice.

In this article, we review three cases where the Tribunal found legal practitioners engaged in professional misconduct (or unsatisfactory conduct) or undermined public confidence in the legal profession, resulting in reprimands and fines.

Inappropriate behaviour by legal practitioners can breach professional conduct rules

In the matter of *Legal Services Commissioner v XBT* [2018] QCAT 64, the Tribunal judgment highlighted that aggressive or offensive communications by legal practitioners not only breach professional conduct rules but also risk damaging the profession's integrity.

[19] *There is no question that sending rude, demeaning, derogatory, disparaging, personally abusive or offensive, undisciplined and discourteous correspondence to or about a third party with an opposing interest in a matter where the practitioner acts for a client breaches r 28(5) Solicitors Rule 2007 (since repealed) and meets the statutory description of unprofessional conduct.*

[20] *The conduct diminishes the dignity and high standing of the profession and tends to reduce community respect for it. It is unbecoming and suggests a loss of the objectivity, independence and judgment needed for the proper discharge of professional responsibilities on which the administration of justice depends and the court relies.*

Australian Solicitors Conduct Rules

In accordance with Rule 4 of the Australian Solicitors Conduct Rules (**ASCR**), a solicitor has a duty to be honest and courteous in all dealings in the course of legal practice. The use of insulting, offensive or discourteous language by a solicitor towards clients, other practitioners, court officers and members of the public is likely to bring the legal profession into disrepute: [*Baker v Legal Services Commissioner* \[2006\] 2 Qd R 249](#); [*Legal Services Commissioner v Winning* \[2008\] LPT 13](#).

Barristers Conduct Rules

Similarly, in accordance with Rule 12 of the Barrister's Conduct Rules, a barrister must not engage in conduct which is:

1. dishonest or otherwise discreditable to a barrister;
2. prejudicial to the administration of justice; or
3. likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute.

Failure to uphold professional standards in domestic violence matters

Below, we examine three Tribunal decisions which highlight the consequences of failing to uphold professional standards, specifically in domestic and family violence proceedings, and especially when dealing with self-represented litigants.

They emphasise the need for measured communication, confidentiality, and sensitivity when handling such emotionally charged cases.

[*1. Council of the New South Wales Bar Association v Loukas* \[2025\] NSWCATOD 39](#)

Mr Loukas (a barrister) acted for a relative in a domestic violence matter and sent correspondence to the opposing party's mother that included **intemperate, abusive language** and personal attacks.

Examples include:

- *"[The Client] and I (and the entire Loukas and [the Client's] families) are extremely concerned for [Person A's] well-being";*
- *"We regret that we cannot exclude the reasonable possibility that [Person A] is being controlled by you, has undergone some form of florid psychiatric episode or is otherwise unwell"; and*
- *"[She] was old enough to decide to marry, to sign a marriage certificate, sign mortgage documents etc, and she is old enough to end all of those relationships on her own too"; and*

•“ACTION REQUIRED BY YOU TO PREVENT INSTIGATION OF DEFAMATION PROCEEDINGS”.

The Tribunal found the conduct constituted professional misconduct, noting it deviated sharply from the "measured, temperate, and rational" communication expected of legal professionals. The barrister's threats of defamation proceedings and dismissal of the victim's domestic violence allegations further exacerbated the vulnerability of the self-represented party.

The Tribunal ordered that Mr Loukas be reprimanded, pay a fine of \$5,000.00 and undertake a course in relation to Domestic and Family Violence and mastering a trauma informed approach.

1. Legal Services Commissioner v Kirin [2024] QCAT 489

Mr Kirin sent “discourteous, offensive, and thoughtless” correspondence to an opposing lawyer in a domestic violence case, aiming to embarrass rather than advocate.

Examples of the communication included:

- the wife was “postnatally depressed” and “mentally ill”;
- the wife was “wandering the earth” with the clients’ infant daughter;
- Ms Milson-Mahy was acting “belligerently”, was putting forward “blatant lies... unquestionably and uncritically”, and acting in an “overzealous” manner in a “legally aid funded crusade against” [Mr Kirin’s client];
- referring to Ms Milson-Mahy as bullying and threatening to Mr Kirin; and
- implying that Ms Milson-Mahy had not obtained instructions from her client before responding.

The Tribunal ruled this conduct undermined public confidence in the profession and ordered a \$2,000 fine, a public reprimand and a requirement for Mr Kirin to undertake specialist domestic violence training approved by the Legal Services Commissioner.

1. Legal Services Commissioner v PRF [2023] QCAT 291

This matter involved a breach of the *Domestic and Family Violence Protection Act 2012* and the *Family Law Act 1975* by a practitioner publishing, to 20 of his personal contacts, details of domestic violence proceedings in which he appeared as advocate.

The domestic violence proceedings had concerned his daughter and son-in-law. The Tribunal found that the conduct amounted to unsatisfactory professional conduct. While stressors like workload and isolation were noted, the Tribunal emphasised the solicitor’s failure to consider the impact on the victim and children.

The solicitor was reprimanded and ordered to pay a \$2,000 fine, as well as costs.

Key lessons for practitioners in domestic violence proceedings

Domestic violence proceedings are among the most sensitive and challenging areas of legal practice. These recent cases serve as a powerful reminder that professionalism, courtesy, and respect are not optional - they are essential. Lawyers must be vigilant in their communications to uphold confidentiality and approach every matter with empathy and objectivity, especially when emotions run high.

A simple ethical checklist to tick off before sending correspondence in sensitive proceedings is as follows:

- **Avoid personal attacks:** communications must remain objective, even in high-stress scenarios. It is vital that legal representatives do not allow themselves to be used as the client's mouthpiece to harass or intimidate the opposing party (ASCR Rule 17.1).
- **Respect confidentiality:** disclosing sensitive details - even inadvertently - can breach legislation and professional standards, as well as harm vulnerable parties.
- **Ensure objectivity:** acting for family or friends risks clouding judgment. Refer to [Queensland Law Society guidance on managing conflicts of interest](#).
- **Pause before sending:** emails written in frustration or anger should be reviewed for tone and compliance with professional standards.

The courts have made clear that by consistently demonstrating these standards, legal practitioners not only protect the interests of their clients and the vulnerable parties involved but also reinforce public trust in the legal profession.

Getting help for a disciplinary matter

If you receive communication from the Queensland Law Society or Legal Services Commission in relation to alleged discourteous communication, you should contact our office and obtain advice immediately.

Gilshenan &Luton Legal Practice frequently assists legal practitioners with disciplinary matters, including [professional misconduct](#) and [workplace investigations](#). It is crucial to take proactive steps early in the investigation process to ensure the best possible outcome.

Contacting Gilshenan &Luton Lawyers

[07 3361 0222](tel:0733610222) (24/7)

gnl@gnl.com.au

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.