

## **GUIDE TO ETHICAL BEST PRACTICES FOR LEGAL PRACTITIONERS IN DISPUTE RESOLUTION IN SINGAPORE**

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### **Preamble**

1. Legal practitioners should bear in mind the core values of the legal profession, being **Integrity, Professionalism, and Justice**, in all aspects of his/her practice.
  - a. "Integrity" incorporates the principle that a legal practitioner should always act with honesty. It is multifaceted in nature and encompasses his/her dealings with the client, opposing parties and/or counsel, the public, and any court or tribunal before whom he or she appears on behalf of a client. But it is broader than merely the need for honesty; it also incorporates the principle that the legal practitioner's paramount duty is to assist in the administration of justice as a member of an honourable profession. A legal practitioner must not take unfair advantage of any person or to act in a fraudulent, deceitful or dishonourable manner.
  - b. "Professionalism" reflects a legal practitioner's pursuit of excellence in ethical standards and professional competence. It requires a legal practitioner to maintain the highest standards in discharging the duties he or she owes towards the client, fellow legal practitioners and the public. This includes being diligent in his/her relationships with the client, court/tribunal and fellow counsel, being fair and courteous and conducting him/herself professionally towards every person he/she interacts with in the course of his/her work, and being committed to lifelong learning, training and development so as to be in a position to provide competent advice and representation.
  - c. "Justice" reflects a legal practitioner's commitment to serve the ends of justice, and conducting him/herself, and all aspects of his/her work, as a member of an honourable profession guided by the pursuit of noble aspirations and ideals. This encompasses promoting the administration of justice, access to justice, and the rule of law.
2. These principles apply to all aspects of a legal practitioner's practice in court or before tribunals, including when legal practitioners sit on tribunals (whether as arbitrators or otherwise). The purpose of this Practice Guidance is to assist legal practitioners in

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<sup>1</sup> Contributions were also made by members of the Court Practice Chairpersons' Committee of the Law society, and in particular, Edmund Kronenburg, Chenthil Kumar Kumarasingam, Rachel Wong, Samuel Chacko and Lim Seng Siew. The members of the Professional Affairs Committee of the Singapore Academy of Law, as well as members of the profession, also contributed invaluable feedback on earlier versions of this Guide.

understanding their ethical obligations by reference to specific steps or processes within the typical lifespan of a dispute as well as more generally in their personal conduct as well as his/her practices.

3. The principles articulated in this Practice Guidance are intended to be read consistently with existing legislation, rules and guidelines, including the Legal Profession Act 1966, the Legal Profession (Professional Conduct) Rules 2015, as well as conduct rules and guidelines issued by the Law Society of Singapore (such as the Law Society Practice Directions, Law Society Guidance Notes and Ethics Advisory Committee Guidance). This Practice Guidance is not intended to derogate from, limit or remove any existing obligations, rules or guidelines. This Guidance seeks to draw together the different threads into a compilation that is specific to dispute resolution and in this way, to serve as a wayfinding reference for disputes lawyers.
4. Legal practitioners should avail themselves of formal and informal channels to obtain guidance on ethical issues where needed, including but not limited to The Law Society's Advisory Committee and Ethics Assist Hotline.

#### **General Principles for Legal Practitioners involved in Dispute Resolution**

5. Further to the core values summarised above, the following general principles are to guide legal practitioners at all times:
  - a. Legal practitioners should act with integrity, courtesy, respect and professionalism towards all other participants in any dispute resolution process.
  - b. Legal practitioners should act to ensure that the ends of justice are served through a fair, timely and cost-appropriate process.
  - c. Legal practitioners should ensure that persons (including other legal practitioners) under his/her supervision are aware of the principles in this Practice Guidance.

#### **Practice guidance in relation to advising clients**

##### **(a) General principles**

6. The following general principles apply to the giving of advice to clients:
  - a. Advice to clients should be consistent with a fair and objective assessment of the facts and the applicable law and procedure.

- b. Advice to clients should, where relevant, provide an honest and competent appraisal of the likelihood of success.
- c. Advice to clients should also contain information regarding a party's duty to consider settlement options, both prior to and after commencement of proceedings.

***(b) Elaboration***

7. Rule 5 of the Legal Profession (Professional Conduct) Rules 2015 ("PCR") requires that legal practitioners:
  - a. are honest in all dealings with the client,
  - b. possess and exercise the requisite knowledge, skill and experience to provide competent advice, and
  - c. exercise diligence in the advice and information given to the client.
8. These principles apply to the giving of legal advice.
9. A legal practitioner, when giving advice, is being asked to bring to bear his/her experience, independent judgment and uncompromising honesty on the matter based on the instructions given.
10. The honesty that is required of a legal practitioner includes informing the client of reasonably foreseeable weaknesses of a particular strategy or the merits of the matter, including potential cost and other relevant implications for the client so that the client is able to make an informed decision as to whether and, if so, how to proceed.
11. Where necessary, a legal practitioner should inform the client that it would not be appropriate to pursue the case in accordance with the client's allegations where they are baseless, illogical and/or unsupported by evidence: *Zhou Tong and others v Public Prosecutor* [2010] 4 SLR 534 at [19] and [20].
12. Where it is plain that the conduct of any action would be frivolous and could not be justified, the legal practitioner should advise the client accordingly (see s.3(1)(da), Administration of Justice (Protection) Act 2016 (as recently amended). The legal practitioner should decline to represent the client.
13. A legal practitioner should also advise his/her client to consider settlement options, including mediation or negotiation, and inform them of the potential cost consequences

of unreasonably refusing to do so prior to the commencement of an action. Such advice ought to be given, both prior to the commencement of proceedings and throughout the course of any proceedings which have been commenced.

14. Finally, the legal practitioner should bear in mind his/her overriding responsibilities to the court or tribunal (see rule 10 of the PCR) and should advise the client not to proceed in a manner that is contrary to those responsibilities. The legal practitioner should advise clients on the importance of compliance with court or tribunal orders and the consequences of non-compliance.
15. The legal practitioner may find it necessary to decline further representation of a client where to do so would conflict with his/her professional obligations. In such an instance, the legal practitioner should ensure that the basis for, and the decision itself is properly explained to the client and documented in writing. The legal practitioner should also decline further representation in a manner that causes the least prejudice to the client. In the event there is no conflict, the fact that a legal practitioner may assess the likelihood of success to be low (albeit consistent with paragraphs 11 and 12 above) in itself does not prevent him/her from taking on or continuing to act on a matter if the client makes an informed decision to proceed.

#### **Practice guidance in relation to correspondence between legal practitioners**

##### ***(a) General principles***

16. The following principles apply to the conduct of correspondence between legal practitioners:
  - a. Correspondence should not assert facts or claims that the legal practitioner knows or reasonably believes not to be true or accurate.
  - b. Correspondence should not contain threats of reports to the criminal authorities.
  - c. Correspondence should not disclose without prejudice communications or communications between legal practitioners, unless otherwise agreed.
  - d. Correspondence should not be aggressive or discourteous, or allege wrongdoing without reasonable basis, particularly as against another legal practitioner.
  - e. Correspondence between legal practitioners should not be copied to third parties unless there is an objectively justifiable reason for doing so.

- f. Correspondence should be copied to the court or the tribunal only if the court or tribunal has made a prior request to that effect or it is necessary to do so.

***(b) Elaboration***

- 17. Consistent with a legal practitioner's duties under the PCR, Administration of Justice (Protection) Act 2016 (as recently amended), and the Law Society's Practice Directions 1.8.1, a legal practitioner should not assert facts or claims or make demands in correspondence that are known to be, or which is reasonably believed to be, untrue or inaccurate.
- 18. Correspondence should also be limited to asserting claims or making demands, but not make threats, such as threatening reports to criminal authorities.
- 19. Correspondence should not disclose communications that were made without prejudice or between legal practitioners, unless there is agreement to make such disclosure: see, *inter alia*, rule 31 of the PCR. Such communications are considered confidential to encourage candour between parties or legal practitioners when trying to resolve a dispute without a judicial determination.
- 20. Correspondence between legal practitioners should be courteous and professional, consistent with rule 7 of the PCR and the Law Society's Practice Direction 8.5.9, which requires that proper respect be accorded to another legal professional, that legal practitioners deal with one another in a manner that is dignified and courteous, regardless how strongly-fought the matters might be between his/her respective clients.
- 21. In addition, care should be taken to ensure that allegations are not made against another legal professional without basis and in accordance with rule 29 of the PCR. This includes language suggesting or implying wrongdoing, dishonesty or sharp practice on the part of another legal professional.
- 22. Unreasonable timelines should not be sought. In this regard, professional courtesy encompasses a positive duty to act cooperatively, particularly as to procedural matters. Such cooperation is consistent with the ideals promulgated by the Rules of Court 2021, which requires parties to promote expedition, to consider when it would be appropriate and efficient to invoke the court's power to resolve differences between the parties, as well as to achieve fair and practical results suited to the needs of the case.

**Practice guidance in relation to pleadings and affidavits**

***(a) General principles***

23. The following principles apply to the drafting of pleadings/statements of case:

- a. Pleadings should not assert causes of action that are scandalous and vexatious with respect to the issues in the case.
- b. Pleadings and affidavits should not make statements that the legal practitioner knows not to be true / accurate or has knowledge of matters which would lead the legal practitioner to reasonably conclude that such statement, if made, would be untrue / inaccurate.

24. A legal practitioner has a duty to assist in the administration of justice, and should act honourably in the interests of the administration of justice. There is an obligation to ensure that any work done relating to proceedings before any court or tribunal will uphold the integrity of the court or tribunal. The legal practitioner should not present, or permit to be presented, any information which the legal practitioner knows to be false.

25. Rule 9(2) of the PCR makes clear that a legal practitioner must not:

- a. knowingly mislead or attempt to mislead the court or tribunal, any staff of the court or tribunal, any other legal practitioner or any witness in, or any other person involved in or associated with, those proceedings;
- b. fabricate any fact, or include any statement of fact which the legal practitioner knows to be false; or
- c. contrive any fact whether or not that fact will assist in advancing the client's case.

26. The same rule also provides specifically that a legal practitioner must not:

- a. knowingly or recklessly cite the law out of context;
- b. interpret the law in a manner calculated to mislead the court or tribunal or otherwise advance any proposition which the legal practitioner knows or ought reasonably to know is contrary to the law; or

- c. draft any pleading containing: (i) any statement of fact or contention which is not supported by the client; (ii) any contention which the legal practitioner does not consider to be reasonably and properly arguable; or (iii) any allegation of fraud unless the legal practitioner has clear instructions to make such an allegation and has before him/her reasonably credible material which establishes a *prima facie* case of fraud.

27. Further, a legal practitioner must not knowingly assist or advise his/her client to mislead a court or tribunal, or do any other thing which the legal practitioner considers to be dishonest: PCR, r.10(6).

28. A tension may arise between a legal practitioner's duty to the court and to the client. The duty to the court is paramount in the event of any tension. By way of illustration, the legal practitioner has a duty to place before the court his client's version of facts but should not mislead or forge documents (or rely on forged documents) or destroy evidence (or advise the destruction of evidence). The legal practitioner cannot knowingly place a false case before the court or be reckless with the truth. But so long as he is not misleading the court, and is not reckless with the truth, he is not otherwise constrained from presenting his client's case, and is in fact afforded considerable latitude in how he chooses to do so.

29. There is no general duty on the part of a legal practitioner that he/she should verify the instructions of the client, unless the legal practitioner has personal knowledge of the matter or the client's statements are inherently incredible or logically impossible. In this regard, a legal practitioner cannot be reckless with the truth and simply take whatever the client states at face value in circumstances where the instructions are inherently incredible or logically impossible.

30. The fact that opposing parties dispute the veracity of the client's instructions is not a reason for a legal practitioner to disbelieve or refuse to act on those instructions. A legal practitioner should not be faulted if there are no reasonable means of objectively assessing the veracity of those instructions: *Bachoo Mohan Singh v Public Prosecutor* [2010] SGCA 25 at [137(e)].

31. Under the Rules of Court 2021, a party must certify that all statements made in his/her pleading are "true to the best of [his/her] knowledge or belief". If the certification is false, the party may be criminally liable under s 191 of the Penal Code 1871. The party's legal practitioner should, in turn, certify that the party has been informed of the obligation to be truthful concerning the facts in the pleading. If the certification by the legal practitioner is false, he is ethically accountable for misleading the Court and failing to uphold the interests of the administration of justice: *Civil Litigation Update (2022)* CLU 6, *Jeffrey Pinsler, Singapore Academy of Law* at [16].

32. Attention is also drawn to the Administration of Justice (Protection) Act 2016, which was recently amended to clarify that the following may amount to contempt of court:

- a. Where a person conducts or commences a court proceeding (whether as a party or an advocate in the court proceeding), and knows or ought to know that his/her conduct or commencement of the court proceeding:
  - i. involves a deception on the court, or is fictitious or constitutes a mere sham; or
  - ii. is manifestly groundless or without foundation, and involves the process of the court being employed for some ulterior or improper purpose.
- b. Where a person conducts or commences multiple or successive court proceedings (whether as a party or an advocate in those court proceedings), and knows or ought to know that his/her conduct or commencement of those court proceedings is manifestly groundless or without foundation.

**Practice guidance in relation to applications to a court or tribunal**

***(a) General principles***

33. The following principles apply to applications to a court or tribunal:

- a. Legal practitioners owe a duty to the court that is paramount to and takes precedence over any duty owed to the client.
- b. When making applications to the court, the legal practitioner should seek to assist the court in resolving matters efficiently, avoiding unnecessary applications and ensuring clarity in any applications made and in affidavits or draft orders advanced for purposes of such applications

***(b) Elaboration***

34. Legal practitioners should ensure that all statements in applications and in supporting/reply affidavits or witness statements, as well as submissions in court, are truthful and accurate, reflecting all necessary facts and legal grounds. Care should be taken not to make any false statements or misrepresent facts to the court, ensuring transparency and integrity in proceedings. The legal practitioner should not make any ambiguous statements to the court (to gain tactical advantage). Legal practitioners should be clear and unequivocal. Applications should be made in a timely manner.

35. All legal practitioners should act fairly towards all parties and all other legal practitioners. No allegation is to be made against another legal practitioner in any document (including pleadings, affidavits, and written submissions) filed in any court proceedings unless (a) an opportunity has been given to that other legal practitioner to respond to the allegation; and (b) where practicable, such response (if any) should be disclosed to the court.
36. In making, arguing and scheduling applications in court (including taking hearings dates and filing deadlines), all legal practitioners should exemplify the highest standards of collegiality, fostering a cooperative and respectful professional environment, but without compromising his/her clients' interests or the proper administration of justice. To that end, they should pro-actively engage with fellow practitioners in a spirit of mutual respect, courtesy, and fairness, adhering to the principles set forth in the Law Society of Singapore's Sustainable Practice Initiative Guidance Note 8.9.1.
37. Privileged information (e.g. information protected by solicitor-client privilege and/or litigation privilege) should be kept confidential, and no unauthorised disclosures should be made in the application and/or in supporting / reply affidavits.

#### **Practice guidance in relation to the production of documents**

##### ***(a) General principles***

38. The legal practitioner has the duty to advise clients of his/her continuing obligation to produce all documents in his/her possession or control that fall within the scope of the applicable rules and/or document production order, and the consequences of any non-compliance.
39. There should be no suppression of evidence or giving of false evidence. There should be no destruction of relevant evidence (and clients should be so reminded).

##### ***(b) Elaboration***

40. Clients should be advised of his/her document production obligations at as early a stage as possible:
  - a. A legal practitioner should advise clients of his/her obligation to preserve, and not destroy or delete, documents that are relevant to the issues in the case, including documents that are objectively adverse to a client's case. This may include advising clients to suspend any corporate document destruction programme, and if a client has destroyed documents, to disclose to the other parties in the case that those documents were once in the possession or

control of the client but have since been destroyed or deleted: *K Solutions Pte Ltd v National University of Singapore* [2009] 4 SLR(R) 254.

- b. A legal practitioner should also advise clients of his/her continuing obligation to produce all documents in his/her possession or control that fall within the scope of the applicable rules and/or document production order, and the consequences of any non-compliance.
41. A legal practitioner should review all documents provided by the client or on the client's behalf to determine whether they fall to be disclosed within the scope of the applicable rules and/or document production order and, to the extent that they do, whether there are any reasons for objecting to production (for example, if the documents are subject to any privilege or if production will be contrary to public interest). If information contained in a document has to be protected (for example, for privilege reasons), the legal practitioner should redact the document appropriately before production so that there is no unauthorised disclosure of such information.
42. A legal practitioner should ensure that documents received from the client are retained securely and accessible for production when required.
43. Clients should also be advised that any document produced by other parties or non-parties should not be used or relied on in other proceedings unless the party who produced the document consents or the court otherwise orders.
44. Given the legal practitioner's duty to assist in the administration of justice, the legal practitioner should, to the extent that he/she is able, prevent the client from, and must not be a party to or assist the client in giving false evidence or false information to a court or tribunal. Where the legal practitioner knows that his/her client is about to give, or has given, false evidence or false information to a court or tribunal, the legal practitioner should cease to act for the client or conduct the client's case in a manner that does not perpetuate the falsehood: PCR, r.10(3), (4).
45. A legal practitioner should familiarise himself/herself with the relevant provisions relating to production of documents, including the Rules of Court, practice directions, and any other applicable rules (such as those that may be applicable to proceedings before a tribunal).

#### **Practice guidance in relation to advocacy before the court or tribunal**

##### ***(a) General principles***

46. The general principles in relation to advocacy before a court or tribunal are as follows:

- a. Legal practitioners owe a duty to the court or tribunal that is paramount to and takes precedence over any duty owed to the client.
- b. The duty owed to the court or tribunal includes both negative and positive obligations to assist the court in arriving at a fair, just and expeditious decision.
- c. The duty owed to the court or tribunal applies whether proceedings or are conducted in person or virtually.

***(b) Elaboration***

- 47. A principal function of a legal practitioner appearing before a court or tribunal is to present a client's case to the best of his/her ability. This includes highlighting aspects of the facts or the law that are favourable to the client's position.
- 48. That said, legal practitioners have a "paramount duty to the court which takes precedence over the legal practitioner's duty to the legal practitioner's client" (see PCR, r.4(a)). This duty is such that if the client insists on the legal practitioner conducting the matter in a manner inconsistent with his/her duty to the court, even after being advised of the potential contravention of ethical rules, the legal practitioner should take steps to discharge himself/herself. The legal practitioner's personal opinions should also not affect his/her assessment of the matter or his/her responsibilities to the court.
- 49. The duty to court includes both negative and obligations and are set out principally in the PCR, r.9.
- 50. The legal practitioner should not:
  - a. knowingly mislead or attempt to mislead in any way a court or tribunal;
  - b. fabricate any fact or evidence in any communication with, or representation or submission to a court or tribunal;
  - c. include in any document used in proceedings before a court or tribunal, any statement of fact which he or she knows to be false;
  - d. express the legal practitioner's personal opinion of the client's conduct;
  - e. knowingly or recklessly cite the law out of context, interpret the law in a manner calculated to mislead a court or tribunal or otherwise present any submission, opinion or proposition which he or she knows or ought reasonably to know is contrary to law;

- f. concoct any evidence or contrive any fact; or conceal material facts such that the court or tribunal has a misleading appreciation of the proper context or is led to a misapprehension of the facts; or
- g. make any allegation of fraud unless there are clear instructions to do so and there is credible material that establishes a *prima facie* case of fraud.
- h. assert in any witness statement or affidavit, any statements of fact that are scandalous or vexatious with respect to the issues in the case or statements other than that which the legal practitioner reasonably believes the witness would give if that evidence was given orally.

51. Where a legal practitioner unknowingly contravenes any of these duties, he or she should, as soon as becoming aware of such contravention, disclose the same to all persons affected by such contravention including, where applicable, the court or tribunal, and take reasonable steps to remedy the contravention.

52. The legal practitioner also has positive duties, including:

- a. Informing the court or tribunal of binding authorities relevant to the issues in the case even where they are adverse to his/her client's position. Such a duty continues even after the hearing on the matter and until judgement is delivered.
- b. Ensuring that any argument raised is reasonably arguable. It is an insufficient answer that unarguable submissions have been put forward on the instructions of the clients.
- c. Arguments made, whether in writing or orally, should be succinct, clear, non-repetitive and adequately grounded on facts and law.
- d. In *ex parte* matters, a duty of full and frank disclosure is owed, and legal practitioners should ensure that all material information is disclosed, regardless of whether the client agrees with the opponent's case (see, for eg, *Tecnomar & Associates Pte Ltd v SBM Offshore NV* [2021] SGCA 36).
- e. Legal practitioners should seek to be courteous in his/her dealings with the court or tribunal and in his/her dealings with opponents.

#### **Practice guidance in relation to witness preparation**

##### **(a) General principles**

53. The general principles in relation to witness preparation are as follows:

- a. A legal practitioner should ensure that witness evidence, whether written or oral, reflects the witnesses' own account of relevant facts, events and circumstances.
- b. A legal practitioner should not invite or encourage or assist or cause, expressly or otherwise, a witness to give false or misleading evidence.

***(b) Elaboration***

54. Legal practitioners are permitted to assist in the preparation of witnesses for trial. Legal practitioners are prohibited from coaching witnesses, for instance by suggesting the evidence the witnesses should give in cross-examination. Legal practitioners also should not communicate with a witness while the witness is giving evidence. The following are non-exhaustive examples of what is permissible:

- a. Orientating the witness to the trial process and how evidence is taken, e.g. structure of examination-in-chief (if applicable), cross-examination and re-examination;
- b. Assisting in the preparation of written witness statements;
- c. Assisting the witness in preparing for trial, including reviewing the witness' AEIC or account of events in detail for the purpose of determining whether the witness still stands by the same in every respect;
- d. Assist the witness in providing concise and understandable evidence, provided always that the witness is not influenced to depart from his own honest and independent recollection; and
- e. Showing the witness documents relevant to the matter and to point out where the documents support or contradict the witness' account of events.

55. In doing so, a legal practitioner should ensure that the witness' evidence is his honest and independent recollection, expressed in his own words. In this regard, a legal practitioner:

- a. should not intentionally or knowingly cause a witness to give, or assist a witness in giving, false testimony;
- b. should not intentionally or knowingly cause a witness to suppress, or assist a witness in suppressing, evidence;

- c. should inform each witness of his obligation to be truthful to the court or tribunal and to comply with every legal requirement in giving evidence;
- d. always be conscious of the possibility that a witness' memory can be tainted by the manner in which questions are framed, documents shown or how the interviews are conducted.

56. In preparing an affidavit of evidence-in-chief or witness statement, legal practitioners should:

- a. make reasonable efforts to ensure that the evidence contained therein is the witness' honest and independent recollection;
- b. not include any evidence that is untrue or which would be inadmissible;
- c. where documents are relied on, to identify the documents, subject to any privilege that may exist in relation to the documents;
- d. as far as possible be in the witnesses' own words and the language in which they are prepared to be cross-examined; and
- e. caution the witness of the need to be truthful in his/her evidence.

57. For the preparation of affidavits of evidence-in-chief and witness statements (as the case may be) for use in the Supreme Court and the Singapore International Commercial Court, legal practitioners should comply with Supreme Court Registrar's Circular No. 2 of 2025. For proceedings before the State Courts and the Family Justice Courts, please see State Courts Registrar's Circular No. 6 of 2025 and Family Justice Courts Registrar's Circular No. 2 of 2025 respectively.

58. Witnesses should not be interviewed in groups when their evidence is obtained: see the Registrar's Circulars referred to in the paragraph above.

59. When preparing witnesses together for the purposes of trial, special care should be taken, particularly if his/her evidence overlaps and they are being called to corroborate each other. In fact, group witness preparation should generally be avoided in these circumstances. In considering whether to undertake group witness preparation, a legal practitioner should consider the risk of contamination given:

- a. the suggestibility of the witnesses involved;
- b. the relationship of the witnesses to each other (e.g. familial, employer-employee), and how this may affect the risk of contamination.

60. If group witness preparation for trial is undertaken, steps should be taken to minimise the risk of contamination of each witness' evidence, including but not limited to:

- a. the legal practitioner issuing a caution to participants that they should not change his/her testimony upon hearing the practice testimonies of other witnesses;
- b. ensuring that witnesses in the group do not comment on each other's practice testimonies with a view to aligning accounts of events;
- c. the legal practitioner remaining vigilant as to any changes in testimony and reasons for such changes. Such reasons may include collusion or unconscious alignment with the accounts of others.<sup>2</sup>

#### **Practice guidance in relation to sitting as arbitrator**

##### ***(a) General principles***

61. The following general principles apply to arbitrators:

- a. Arbitrators should discharge his/her duties in an independent and impartial manner.
- b. Arbitrators should not seek arbitral (or counsel) appointments in a manner that could impair the fair and efficient conduct of the arbitration.

##### ***(b) Elaboration***

62. The PCR applies to legal practitioners in the course of his/her work as arbitrators (as well as tribunal secretaries and administrative assistants to arbitrators) in Singapore.

63. Arbitrators are entrusted with the task of adjudicating disputes between parties and thus perform a role that is akin to a judge in court proceedings. Arbitrators should

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<sup>2</sup> See the following: *Compañía De Navegación Palomar, SA v Ernest Ferdinand Perez De La Sala* [2017] SGHC 14; *Ernest Ferdinand Perez De La Sala v Compañía De Navegación Palomar, SA* [2018] 1 SLR 894 or 2018\_SGCA\_16; Alvin Chen and Gan Hjia Heui, "Group Witness Preparation – Psychology Matters", *Singapore Law Gazette* (July 2019); Alvin Chen and Nisha Francine Rajoo "Truth Be Told - Navigating the Intricacies of Witness Preparation", *Singapore Law Gazette* (September 2020); Singapore Academy of Law Journal Article "Witness Preparation Before Trial" (2018) 30 SAcLJ 978

therefore conduct themselves at all times in a manner that is consistent with his/her role in the dispute resolution process. Tribunal secretaries, administrative assistants and any other persons tasked with assisting arbitrators in the discharge of his/her duties should conduct themselves in a similar manner.

64. An arbitrator's principal duty is to conduct the arbitration proceedings in accordance with the applicable law, the rules of the arbitration institute (if any) and the parties' agreement, and ultimately resolve the dispute that has been referred to them in an independent and impartial manner. An arbitrator should refrain from engaging in conduct that could impair the fair and efficient outcome of arbitration proceedings to which he or she has been appointed as arbitrator.
65. The duty to which an arbitrator is subject and the standards of conduct which an arbitrator should uphold commence even prior to appointment as arbitrator. For instance, prior to accepting an appointment, an arbitrator should disclose any circumstances which are or might give rise to justifiable doubts as to his/her impartiality or independence. Such a duty of disclosure is to continue throughout the arbitration proceedings where there are changes in an arbitrator's circumstances or changes in the information available to the arbitrator.
66. An arbitrator should only accept an appointment where he or she is able to discharge his/her duties if appointed as an arbitrator. Should an arbitrator be aware of any actual or potential time constraints in his/her ability to discharge his/her duties as arbitrator, the arbitrator should, without breaching any confidentiality considerations and/or obligations, disclose such constraints to the parties and/or appointing institution prior to accepting an appointment.
67. An arbitrator should not seek an appointment in a manner that could impair the fair and efficient conduct of the arbitration. For instance, an arbitrator should not seek to encourage appointments that are predicated on a promise or indication that he or she would decide the case in a particular manner and/or that he or she "would know what to do if appointed"; this would also constitute conduct that affects the dignity and standing of the legal profession and would thus be a breach of the principle underpinning Part 5 of the PCR: see rule 37 of the PCR.
68. An arbitrator who continues to seek work as counsel should not seek work as counsel in a manner which could impair the fair and efficient conduct of future arbitrations where that same party nominates counsel as a party-appointed arbitrator.
69. An arbitrator who is consulted or entrusted with the process of recommending or selecting a presiding arbitrator should not do so on the basis of a reciprocal recommendation or selection in other arbitration proceedings. Such conduct should be avoided. Legal practitioners who, in his/her capacity as party representatives,

encourage or facilitate behaviour of the kind referred to above could themselves be in breach of his/her duties under the PCR.

### **Practice guidance in relation to marketing**

#### ***(a) General principles***

70. The general principles in relation to marketing are as follows:

- a. Legal practitioners should not engage in publicity, or procure any work or engagement, in circumstances which affect the dignity and standing of the legal profession.
- b. Legal practitioners should not engage in publicity or advertising in any media that could reasonably be seen as affecting the dignity and standing of the legal profession.

#### ***(b) Elaboration***

71. PCR, r.37 sets out the principle which guides the interpretation of Part 5 of the PCR on rules applicable to touting and publicity, in the following terms:

"A legal practitioner should not engage in publicity, or procure any work or engagement of himself or herself, the law practice in which he or she practises or any other person, in circumstances which affect the dignity and standing of the legal profession."

72. A legal practitioner is allowed under the PCR to publicise his/her practice or that of the law practice of which the legal practitioner is a director, partner or employee: see rule 41 of the PCR. This includes publicity on social media and through platforms hosted by third party organisations. However, it is the legal practitioner's duty to ensure that any publicity relating to his/her practice complies with the PCR, even if that publicity is done by any other person on the legal practitioner's behalf: see PCR, r.42(1).

73. Where the legal practitioner becomes aware of any impropriety in any publicity relating to his/her practice or of the law practice in which he or she is a director or partner, the legal practitioner must use his/her best endeavours to procure the rectification or withdrawal of the publicity, and to prevent the recurrence of impropriety: see PCR, r.42(2).

74. Any publicity within Singapore should not make any direct or indirect mention of any past case in circumstances which gives rise to a breach of duty of confidentiality owed to a client or former client: see PCR, r.43(b)(i). Publicity within Singapore, including on websites or other media intended to be accessible from Singapore, or of a firm or practitioner practising in Singapore, should not mention success rates: see PCR, r.43(b)(ii). However, this does not prohibit a legal practitioner firm from mentioning that the legal practitioner and his/her firm acted successfully for a client in a matter.
75. Legal practitioners should not court publicity or advertise in a manner that could bring the profession into disrepute in the eyes of reasonable members of the public. A legal practitioner should be aware that the public may not always be able to distinguish between comments made in the professional and personal capacities of a legal practitioner.

#### **Practice guidance in relation to the adoption of or use of artificial intelligence**

##### ***(a) General principles***

76. The general principles in relation to the adoption or use of artificial intelligence are as follows:
  - a. There is no inherent ethical issue with legal practitioners adopting or using artificial intelligence to assist in his/her legal work.
  - b. However, legal practitioners should not derogate or seek to absolve themselves of his/her professional duties, including any obligation to exercise competence in his/her work, protect the confidentiality of his/her client's information, and to exercise his/her own professional judgment.

##### ***(b) Elaboration***

77. The adoption of technology, including artificial intelligence, to assist in a legal practitioner's work is inevitable given the pace of development of technology. While there is no inherent ethical issue that arises from the use of technology itself, legal practitioners are cautioned not to abdicate his/her professional responsibilities when using technology. An illustration of this is when a legal practitioner simply copies results generated by the technology used which are inaccurate or the result of 'hallucinations' by the technology itself. A legal practitioner is not excused from his/her duties to court and his/her client to exercise due diligence in his/her work: see, in this regard, *Tajudin bin Gulam Rasul v Suriya bte Haja Mohideen* [2025] SGHCR 33. Likewise, an arbitrator cannot delegate decision-making and has a duty to bring his or her own mind to bear on the issues in the dispute.

78. The use of artificial intelligence may also pose technical challenges in relation to the protection of clients' confidential information. Legal practitioners should be aware of how clients' confidential information may be provided to the GenAI service. For example, (a) they may be incorporated into users' prompts to provide grounding for the prompts, (b) they may reside within a repository in an in-house AI system that implements Retrieval Augmented Generation (RAG), or (c) they may be used as part of the training corpus for fine-tuning of large language models. Apart from confidentiality, some of these use cases may also raise copyright concerns.
79. Some Generative Artificial Intelligence (GenAI) services utilise user prompts to continuously train and improve their service, while others provide assurances of data confidentiality by not accessing users' data. Legal practitioners should be aware of the nature of the GenAI service that they are using. Legal practitioners should take appropriate measures (including use of appropriate contract terms) to ensure that client's confidential information, or information that may lead to the identification or disclosure of confidential information, are not used or may not accessed by third parties.
80. In all cases, legal practitioners are reminded that his/her professional obligations cannot be contracted out of and any tool that is used to assist in the productivity of one's work does not absolve them of the need to personally exercise professional judgment.
81. Legal practitioners should ensure that they comply with all applicable legislation, rules and guidelines relating to the use of artificial intelligence in legal practice, including Registrar's Circular No. 1 of 2024 which sets out the "Guide on the Use of Generative Artificial Intelligence Tools by Court Users". Additionally, some clients may also have policies about the use of GenAI services, eg disclosure or restrictions. As GenAI services are largely cloud-based software-as-a-service, clients' policies on data residency may also affect whether some GenAI services may be used.

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