

Advertising rule

The contempt finding of Justice Angel in relation to Andrew Rogerson is a sobering reminder to practitioners of our duty to the court and the consequences which flow from a breach of that duty.

It does no harm for practitioners to regularly read both the Legal Practitioners Act and the Professional Conduct Rules.

If anyone is in doubt about an issue in relation to either the Act or the Rules, contact the Executive Officer for an Ethics Ruling.

Speaking of the Professional Conduct Rules, Council of the Society passed an amendment to Rule 3 in relation to advertising at its October meeting. The amendment has now gone to the Chief Justice for his approval. The new rule is set out below.

3.1 A practitioner may advertise in connection with the practitioner's practice if the advertising:- (a) is not false; (b) is not misleading or deceptive or likely to mislead or deceive; (c) does not use the words "specialist" or "expert" or a direct derivation of those words.

3.2 In addition to compliance with Rule 3.1 advertising by a practitioner which states a fee for the practitioner's services must comply with the following:- (a) the service offered in the advertising must comply with practice standards (if any) laid down by Council from time to time and published to the profession; (b) the service for which a fee is advertised must be provided to all clients of the practitioner at the fee advertised, whether or not the client has instructed the practitioner as a result of the advertisement; (c) the advertising must clearly indicate the fee or range of fees at which the person responding to the advertisement may acquire the advertised services; (d) statements or representations in an advertisement about a range of fees for a service must not give a misleading impression of the fee to be charged; (e) if an advertisement specifies an average fee, that average fee must be capable of substantiation by the practitioner; (f) comparisons in the advertising with competitors' fees, with the practitioner's own previous fees and with the normal fee must be capable of substantiation by the practitioner; (g) fee reduction or discount claims in the advertising must be capable of substantiation by the practitioner; (h) the fee advertising must not be capable of misleading a client as to the services to be included in the stated fee; (i) the advertising must disclose whether any charges or disbursements will be made in addition to the fee advertised and the amount of those charges where

they are capable of identification at the time of the advertisement; (j) the advertising must make no representations that services offered for the fee advertised have benefits when they do not have such benefits; (k) a fee published in an advertisement in a telephone directory or other periodical publication must not be increased until the publication of the next edition of the directory or periodical or until the direction or periodical has ceased to be published; (l) where an advertisement contains a fee to be charged for a conveyancing transaction, the fee is deemed to include the services of acting for the purchaser or vendor as a mortgagor unless specifically excepted in the advertisement.

3.3 Notwithstanding Rules 3.1 and 3.2, if in the opinion of the council, and advertisement or form of advertising is undesirable, or if the Council is not satisfied with a practitioner's substantiation of matters required by the Council to be substantiated by the practitioner in accordance with Rule 3.2, the Council may order the practitioner to cease or amend such advertising, and the practitioner shall forthwith cause the advertising to be ceased or amended accordingly.

Practitioners should note that the Society is presently working on a looseleaf version of the Professional Conduct Rules which will be circulated to all practitioners.

Following that circulation, amendments or changes to Rules will be circulated only in looseleaf form so that only the relevant page(s) of the Rules need be replaced.

The looseleaf Rules should be circulated by late this year or early next year.