



BEST PRACTICE - COMMUNICATION

A GUIDE FOR LEGAL SUPPORT STAFF

About This Guide

The NSW Support Staff Committee best practice guides are designed to provide guidance to support staff in relation to the various aspects of their role. They are prepared by the members of the NSW Support Staff Committee in consultation with an expert advisor at their monthly meetings held at the Law Society of NSW.

About the NSW Support Staff Committee

The NSW Support Staff Committee was formed in 2018 to represent administrative professionals within the legal profession. The Committee aims to bridge the gap between legal staff and support staff and provide administrative staff within the legal profession with:

1. A platform for networking and socialising with colleagues to improve morale, happiness and passion amongst support staff in the legal profession;
2. Access to mentors, educational seminars and other further learning resources to improve the knowledge and skills of support staff in the legal profession; and
3. Provide a voice to administrative professionals to raise concerns and discuss issues relevant to them in a confidential setting.

The Committee is comprised of 15 members representing various law firms, areas of law and administrative roles within the profession.

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CONTENTS

Communication Generally	3
Communication Skills for Legal Support Staff	3
Taking Messages	3
Communicating Via Email	4
Record Keeping and Taking Effective File Notes	4
Communicating with Clients	5
Dealing With Difficult Clients	5
When to Hang Up	6
Communications with Other Parties, Expert Witness and Other Associated Parties	7
Communicating with Other Legal Representatives	7
Communicating with Self-Represented Litigants	7
Communicating with Expert Witnesses	8
Communicating with Other Associated Parties	8
Communication With Your Boss & Colleagues	9
Different Communication Styles	9
When to Avoid Email	10
Speak up!	10



COMMUNICATION GENERALLY

Communication is a crucial aspect of your role as a legal support professional. On a day to day basis, you will need to communicate with a number of people, which may include your boss and colleagues, clients, the legal representatives for the other parties to a matter, self-represented litigants, expert witnesses, barristers and their clerks, and many others. Such communication can be verbal (in person or on the phone), or written (via email or other correspondence).

Communication Skills for Legal Support Staff

Communication is a skill that comes naturally to some people, and many communication skills are simply common-sense and straightforward. However, as a legal support professional, you should always ensure that you adhere to the following basic rules:

- **Be professional in your communication**, ensuring that you do not use slang words or profanity;
- **Always remain courteous** in your communications;
- **Be an attentive listener**. Ensure that you actively listen when communicating and avoid interrupting the person speaking; and
- **Be confident in your communications**. If you don't know the answer, that's okay. Simply advise that you will need to revert to the solicitor with carriage of the matter and have someone get back to them shortly.

Taking Messages

It will often be necessary for you to take messages for your supervising solicitor when they are not available.

When taking messages, ensure that you obtain as much information as possible from the caller. You must always obtain the caller's full name, where they are calling from if they are not a client, and their contact telephone number. Make sure to check the spelling of names if you are unsure.

Although some callers may be reluctant to provide detailed information to you about the reason for their call, you should try to obtain this from them as it will assist your lawyer in appropriately prioritising the return call with their existing workload. Perhaps use phrases such as "*May I let him/her know what the matter is in relation to?*"

In the event that a caller provides you with a plethora of information that will be difficult for you to relay (for example, if you are unsure what the caller is calling in relation to, or if they are simply overwhelmed and cannot convey their instructions in a way that makes sense to you), it may assist to provide the caller with your email address and ask that they send you an email detailing their concerns so that you or the solicitor can more helpfully assist them.

COMMUNICATION GENERALLY (continued)

You should avoid giving callers detailed information about the solicitor's whereabouts and schedule unless you have been directed to do so and you should check with the solicitor that you work for if they want you to impart this information. It is not necessary for you to tell someone that the solicitor is at lunch, working from home etc - it is sufficient to simply advise that the solicitor is not available. If the solicitor works part time, then it is helpful to have an established protocol for how you will deal with calls on their days out of the office.

Ensure that your supervising solicitor is notified of all messages and calls in a timely manner, even if they seem insignificant to you, as often callers will speak to a solicitor mentioning that they called earlier leaving a message with their PA.

Make sure that you manage the caller's expectations - do not make promises that your supervising solicitor will not be able to adhere to (eg, that they will return the call within one hour). It is sufficient to simply tell the caller that the solicitor will call them back as soon as possible or as soon as they can, rather than give them specific time frames. Consider asking the solicitor if they prefer you to book in a set time to return a call, if you are aware they will not be likely to return the call until the following day, or later.

Message Checklist

- Full Name (correct spelling)
- Organisation
- Relevant Matter Name
- Detailed Message
- Contact phone number
- Message passed on to Solicitor

Communicating Via Email

You will find that most communications with clients and other parties will now occur via email, as it is an efficient and effective way of communicating with colleagues, clients and other parties. There are a number of things you should keep in mind when communicating via email.

- **Use email communication only when appropriate** to do so. You should not use email when verbal communication would be better suited. Some examples would include urgent or lengthy communications, imparting bad news, asking for something such as a pay rise or benefit, or rescheduling a conference that is due to occur that same day.
- **Be brief, clear and direct** and try to stick to the necessary facts and matters.

- **Consider the tone of your email.** Email communication can often be misconstrued, as there is no non-verbal language, such as tone and body language, to assist in assessing how communication is being conveyed. If you are overly brief in your emails, you may come across as being abrupt.
- **Similarly, try not to interpret emotional intention from email communication.** Even if someone is brief in their response, it could simply mean that they have replied to you during a short break in the day and not that they are being short with you.
- **Use the subject line to your advantage** (subject to your firm's usual practice). Subject lines should be used to accurately and briefly convey the contents of the email, bringing the reader's attention to the email. This is particularly helpful if your supervising solicitor receives many emails throughout the course of the day. For example, in litigation, while it assists to include the names of the parties to the proceedings and the case number in the subject line of an email, it may also assist to put a short description at the beginning to describe the purpose of the email. For example "Letter to Defendant's Solicitor – X v Y"
- **Use CC, BCC, Reply All and Forward sparingly.** You should only send emails to the relevant people who are required to know the information contained in the email or take some action.
- **Ensure that you proof read and check the contents of your email** (including any CC details, subject line and any attachments) carefully before sending. Although it is possible to recall emails, the recall function is seldom successful and should never be relied upon. If you inadvertently send the wrong email, or an email to the wrong recipient, you should check with your solicitor if they would like you to also contact the recipient to advise them of the administrative error, asking them to delete the email immediately without reading it.

Record Keeping and Taking Effective File Notes

Within the legal industry, it is important to ensure proper record keeping, especially when it comes to any verbal communications. When taking messages, ensure that you make a proper record of the discussion, including all of the information that the caller has passed on to you. It may be a good idea to keep a note pad next to your phone for this purpose.

You may wish to prepare a file note of your conversation, particularly with difficult callers or a lengthy exchange. For most calls, it will be sufficient to transcribe the notes of your conversation in an email to your supervising solicitor which will then act as your file note. Ensure that you save these file notes to the relevant file.



COMMUNICATING WITH CLIENTS

One of the most frequent communications that you will have in your role will be with the firm's clients. As a legal support professional, your role is not to provide the client with legal advice. In most cases, your communications with the client will be limited to:

- Taking messages for your supervising solicitor;
- Making appointments;
- Taking instructions from the client to pass on to your supervising solicitor;
- Assisting with enquiries in relation to costs or invoices; and
- Sending documents and correspondence to clients via email.

You should follow all of the rules of general communication (outlined in the first section of this guide), and always remain professional and courteous in your dealings with clients.

Dealing With Difficult Clients

You will be required in the course of your role as a legal support professional to assist clients who can be difficult and, at times, hostile. This can particularly be the case in personal areas of law such as family law, estate law, and criminal law, which are often charged with emotion.

Clients may call demanding to speak to a solicitor immediately when they are unavailable, call with bill

disputes and other grievances. Clients can be high maintenance and demanding.

As a legal support professional, your role is to be the face of the firm. You should remain professional in your dealings with clients, even when they are being difficult. Whilst difficult clients may present some challenges, there are some strategies that you can implement during the course of your discussion to attempt to ease the situation.

1. Stay Calm

When a client is making complaints or being hostile towards you, it is important to remain calm. Remain focussed on the issue and don't be rushed to respond with emotion as this will never assist in calming the client.

2. Listen

Do not interrupt a client when they are voicing their concerns. Practice active listening by being silent and letting the client's feelings be heard before responding.

Extract the facts from any emotional communication with the client which is fuelled by fear, upset or anger.

3. Respond

When responding to a client's complaints, speak in a clear and confident manner. You should acknowledge and accept the client's feelings. Ensure that you understand the client's concerns by repeating them back to the client and asking them to clarify when required.

Always remain helpful and positive during your communication with a difficult client and refrain from being overly emotional in your response, as this will not assist a distressed client. Try to practice empathy in your dealings with clients - put yourselves in their shoes and try to understand things from their perspective.

Where possible, assist the client with their concerns or, if you are not able to address their enquiries, offer to take a detailed message to pass on to the appropriate person (whether that be your supervising solicitor, or a managing partner of the firm). If necessary, you should explain to them the limitations of your role, for example, where you will need to confer with and take instructions from a solicitor and assure them that you will pass the relevant message on to the solicitor.

4. Make a Record

Ensure that you make a detailed note of the conversation which accurately records all of the issues that the client raised. This will assist your supervising solicitor or managing partner in addressing the issues, as well as making an accurate record in the event that the client asserts in the future that their concerns have not been addressed.

As a legal support professional, your role is to be the face of the firm. You should remain professional in your dealings with clients, even when they are being difficult.

When to Hang Up

On rare occasions, a client may be so upset or rigid that no attempt to calm them down will be successful. If you have attempted to follow the strategies above and the client remains hostile, it may be most appropriate to terminate the call - it is never okay for you to be verbally abused or threatened by a client. You should make a file note of, and raise any abusive calls with your supervising solicitor at the earliest available opportunity, to ensure this is appropriately addressed, particularly if the caller is a client.

The best way to terminate a call is by advising the client that you have noted their concerns, will pass those details on to the appropriate person and have someone contact them as soon as possible to address their concerns. If this does not assist in bringing the call to a natural end and the client continues to be hostile towards you, you may then simply repeat that you will have someone contact them as soon as possible to discuss their enquiries, explain to them that there is unfortunately nothing further you can do to assist them, and terminate the call by hanging up.

This should be an absolute last resort after you have exhausted all other attempts to calm the client, and should only be used in extreme circumstances.



COMMUNICATIONS WITH OTHER PARTIES

Communicating with Self-Represented Litigants

When a party to a matter does not retain legal representation, they are known as a self-represented litigant. As these parties do not have legal representation, it may be necessary for you to communicate with them directly. This can present some difficulties as these parties sometimes have limited understanding of the law.

To ensure that all communications are recorded, and that there are no misunderstandings or miscommunications between the parties, it is sometimes more appropriate to communicate with self-represented litigants in writing.

When communicating with self-represented parties, you cannot provide any legal advice. If one of these parties contacts you asking questions that you are unable to answer as it constitutes legal advice, you should tell them that you cannot assist and suggest that they seek legal advice. If they wish to discuss substantive issues relating to the matter, it is appropriate to request that they put their comments in writing addressed to the solicitor with carriage of the matter.

You should maintain courteous communication with a self-represented party. If the person is being particularly hostile, you should deal with them in the same manner that you would a hostile client - attempting to resolve their concerns to the best of your ability using the same techniques outlined in the “dealing with difficult clients” section of this guide.

Communicating with Other Party Legal Representatives

If the other party to a matter has retained legal representation, you will be required to direct all communications to their legal representative as it is against the *Australian Solicitors Conduct Rules 2012* (Rule 33) to contact them directly except in certain circumstances. You should not correspond with the other party to a matter if they have engaged legal representation.

Communicating with Witnesses

There are strict rules about communicating with witnesses.

If you or your solicitor are swearing witness evidence, you should ensure that the witness meets with you or your solicitor without the client or other witnesses present, to avoid any appearance of collusion.

When a single expert witness has been appointed to assist both parties in a matter, they essentially act for both parties and so all communications should be in writing and copied to each party.

If a single expert witness contacts your firm seeking further information or instructions, you should advise them that they will need to contact the lawyer with carriage of the matter via email and copying in any other parties to the matter. If the contact by the expert is limited to scheduling of appointments or giving of evidence at hearing, generally it would be acceptable for you to take details or provide the relevant information. A single joint expert call should not be put through to a solicitor.

If another party suspects that communications have occurred with the expert witness without their knowledge or consent, they may call for any file notes of your communications with the expert witness. Ensure that you keep comprehensive file notes of any communications that you may have had with an expert witness - even if this only includes initial enquiries in relation to availability and fees or arranging inspections of property and items to be valued.

If you or your solicitor are swearing witness evidence, you should ensure that the witness meets with you or your solicitor without the client or other witnesses present, to avoid any appearance of collusion.

Communicating with Other Associated Parties

There are many other people you may communicate with during the course of a matter, which may include:

Court Staff

Remember to address any Court staff by their appropriate title, whether that be Your Honour, Associate etc.

Rule 22.5 of the *Legal Profession Uniform Law Solicitors' Conduct Rules 2015* requires that all communication with the Court must be copied to all other parties to the matter, except in circumstances where:

- There is an ex parte application or hearing;
- The Court has communicated with the solicitor that requires them to respond to the Court; or
- Where the opponent has consented beforehand.

It may be helpful for you to keep a record of email addresses for Court staff you are likely to contact on a regular basis.

Barristers

Communication with Barristers will most often occur via their clerks or secretary. The Chambers clerk and secretary will usually manage all bookings and invoicing.

The Support Staff Committee will be releasing a comprehensive guide on Briefing Counsel shortly. This guide will provide more detail in relation to communicating with Barristers and their clerks.

Psychologists, Psychiatrists and Counsellors

Banks

Real Estate Agents

Real estate and other valuers

Accountants and financial planners



COMMUNICATION WITH YOUR BOSS & COLLEAGUES

Whilst communicating with your clients, opponents and associated parties is important to your role, you shouldn't forget about the importance of communication skills when dealing with your supervising solicitor and colleagues. Your ability to communicate effectively in the workplace is vital to your working relationships, particularly with your supervising solicitor.

Different Communication Styles

You will find that different people within your organisation will have different communication styles - some may communicate more effectively via email, by dictating instructions or by sitting down with someone to discuss what may be required. It may be necessary for you to adapt to the communication style that better suits your supervising solicitor in order to work most effectively as a team. For example, if your supervising solicitor receives countless emails within a day, it may be necessary for you to bring urgent matters to their attention face to face rather than sending them important information via email. For other solicitors, it may be more beneficial for you to sit with them for five to ten minutes in the morning to discuss what their goals are for the day and what they need from you. You should discuss with the solicitors with whom you work what their preferences are, and, if it is apparent that a particular practice is not working, raise this with the solicitors to ensure you find a timely solution.

When to Avoid Email

You should try to avoid using email to have important conversations, such as when you are asking for something, bringing up a serious issue or problem, or apologising for a mistake. If you feel that it is necessary to have a written

record of the discussion, feel free to send an email to your supervising solicitor after your chat, confirming the contents of the discussion and any next steps that either you or your solicitor have agreed upon.

Speak up!

Sometimes it is easy to be intimidated by someone who is your superior and you may avoid approaching them in certain situations. However, you will not be able to have a close working relationship with your colleagues and supervising solicitors if you can't communicate with them. There are a number of situations where you should absolutely speak up and ensure that you communicate properly with your Solicitor, including:

- **Clarifying instructions** that aren't clear;
- **Asking for feedback** about your work;
- **Checking in with your boss** and asking if they need anything (rather than waiting for work if you have capacity);
- **Keeping your boss informed** about important developments and giving them updates on tasks that they have assigned to you. Ask your supervisor about deadlines and let them know if they are achievable or not, and if not, when you are likely to complete the task;
- **Speaking to your boss about your workload** including any competing priorities when you are working for more than one person;
- **Speaking about any issues you are experiencing.** If there is something you aren't happy with at work, such as work load or conflict with someone at work, nothing will change unless you speak up about it!

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