

## **Proposed changes to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (RCCC) and the (Lawyer: Ongoing Legal Education Continuing Professional Development) Rules 2013 (CPD)**

### **Feedback from the ILANZ Committee**

Thank you for the opportunity to comment on these changes. The ILANZ Committee supports the objective of the proposed changes and the contribution they will make towards creating, healthy, safe, respectful and inclusive legal workplaces.

We note that individual in-house lawyers have had an opportunity to comment on the changes as part of the wider consultation process. Our input is therefore focussed on issues that are relevant to in-house practice generally.

### **Scope of the Changes**

We note the obligations in the Rules for **all** lawyers to uphold standards of behavior as outlined in Chapter 10 and the individual reporting requirements outlined in section 2.8 of the Rules.

We note that beyond these universal requirements, however, the changes focus predominantly on those who are working in a law practice, defined in the draft rules as:

- (a) an individual lawyer practising on that lawyer's own account; or
- (b) an entity that provides regulated services to the public

We understand that the nature of the in-house employment relationship (i.e. lawyers employed by an entity that is not a legal practice), mean that there are inherent difficulties in terms of the reach of the Law Society as regulator. We note, however, that a significant proportion of lawyers (24% in the [Snapshot of the Profession 2020](#)) work in-house and it is therefore a significant omission and a lost opportunity if all available steps have not been taken to apply the same standards across the profession.

We consider it would be useful to explicitly state why in-house lawyers have been left outside the scope of some of the changes and what the expectations are for those operating in this environment.

### **Best practice**

We support an approach that requires, as far as possible, all lawyers to be required to meet the same standards. Where this is not possible through regulation, we consider thought should be given to providing best practice guidelines that work towards the same outcome for all lawyers and groups of lawyers.

We would welcome the opportunity to work with the regulatory team to produce these best practice guidelines for in-house lawyers or to review and enhance our current ethical guidance to ensure consistency as far as possible with the Rules changes.

For example, as a general principle, we would expect General Counsel and other lawyers leading and managing teams of lawyers, to consider these Rules for the profession alongside their employer expectations and aim to implement the higher standard.

### **Clarity and guidance issues to be considered as part of implementation**

We envisage that in-house lawyers will have a number of questions regarding the new Rules that may go beyond the Rules themselves and relate to associated issues e.g.:

- Why are in-house lawyers not included in some of the changes?
- What can in-house lawyers do to comply with the rules?
- What are the options for in-house lawyers who experience undesirable or unprofessional behavior in the workplace by non-lawyers?
- What are the expectations of those managing large legal teams in an in-house environment? (e.g. quasi legal practice)?
- How can lawyers who may be isolated in their workplace (e.g. sole counsel) be supported?

### **Supplementary and explanatory materials**

We recommend that when introducing and implementing the Rules changes, supplementary explanatory material is developed covering these points and including the wider context of mental health and wellbeing. The explanatory materials should highlight existing support materials and resources such as Practising Well, 1737 and the Legal Community Counselling Service 0508 664 981.

### **Correspondence and materials issued during the complaint or disciplinary process**

The implementation and enforcement of the Rules changes may increase the prevalence of the reporting of unacceptable conduct in the workplace, and associated complaint or disciplinary procedures. Being the subject of complaints or disciplinary proceedings is likely to be a distressing or stressful situation for a practitioner (even if that person may have been at fault).

We recommend therefore, that there is a review of the standard forms of correspondence and any leaflets/support materials that are issued to practitioners who have been alleged to have engaged in unacceptable conduct (eg. Lawyers Standards Committee or New Zealand Lawyers and Conveyancers Disciplinary Tribunal).

We consider all correspondence and leaflets/support materials to all parties should contain information about telehealth, counselling services and other support resources that are available.

## **Follow up Questions or Discussion**

The ILANZ committee is happy to answer any follow up questions or discuss any issues relating to in-house practice further and can be contacted via ILANZ President, Grant Pritchard [ilanz.President@lawsociety.org.nz](mailto:ilanz.President@lawsociety.org.nz) or via the central ILANZ address [ilanz@lawsociety.org.nz](mailto:ilanz@lawsociety.org.nz)