



National Association of Community Legal Centres Inc (NACLC)
Tel: 61 2 9264 9595
Fax: 61 2 9264 9594
Email: naclc@clc.net.au
Mail: PO Box A2245 Sydney South NSW 1235 Australia

Murray Hawkins
Director
National Profession Division
Law Council of Australia
By email

20 November 2012

Dear Mr Hawkins,

Consultation Draft Commentary to the Australian Solicitors' Conduct Rules 2011

We thank the Law Council for the opportunity to comment on the draft Commentary.

We refer to our letters to the Law Council dated 30 March 2012 and 20 September 2012 where we raised concerns about aspects of the Australian Solicitors' Conduct Rules. An issue common to the concerns we raised is the need for the Rules and Commentary to recognise and cater for the legal practices and service delivery models that exist in both private and publicly funded legal services. Currently the Rules are based largely on a private firm model. This focus becomes particularly evident when there is detailed commentary, as has been drafted in respect of the conflict of interest rules.

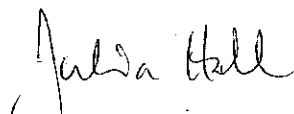
A 'one-size-fits-all' approach to regulating legal practice may have significant negative consequences in terms of constraining service delivery in some operational contexts of publicly funded legal assistance services, as we raised in our earlier letters in relation to the conflict of interest rules. Such an outcome would be contrary to the access to justice goals shared by the Law Council, its constituent members, all four publicly funded legal assistance services and the Australian Government's own policy agenda.

We reiterate the requests made in our letters, including that the Law Council consult with peak bodies representing publicly funded legal assistance service providers to explore the particular difficulties arising from existing conflict rules and to develop the best response/s.

Please note that NACLC is participating in a working group looking at these issues and intends early in the new year to consult within the CLC sector to discuss possible and preferable options. We will keep you informed of our work.

In the meantime, in relation to the draft Commentary we refer to the request in our letter of 30 March 2012 that the commentary to Rule 9 include material to the effect that where confidential client information is de-identified to such an extent that it is not possible to identify a client from the information, that information is no longer confidential. This would support the law reform and community legal education work done by CLCs, the need for accountability of CLCs to their funders and the importance of academic research work for access to justice.

Yours sincerely



Julia Hall
Executive Director