



BAR COUNCIL

BARRISTERS & ATTORNEY'S PRACTICE PROMOTION CODE (LAW FIRM ADVERTISING GUIDELINES)

1. SCOPE

- 1.1 This Code relates to all forms of practice promotion, publicity, advertising or marketing of legal services by or with the permission of a barrister and attorney, firm of barristers and attorneys, professional company carrying on the business of providing legal services (collectively referred to in this Code as “marketing”), and includes marketing in or by all forms of media.
- 1.2 Subject to this Code, a barrister and attorney, firm of barristers and attorneys, professional company carrying on the business of providing legal services (collectively referred to as a “barrister and attorney”) may engage in marketing in any way he thinks fit.
- 1.3 All marketing must have regard to and not be contrary to the Barristers' Code of Professional Conduct 1981 (as amended from time to time) and other professional obligations and requirements (including but not limited to being in the best interest of the public), and nothing in this Code shall be construed as authority for any breach of those rules, obligations or requirements.
- 1.4 It is the responsibility of each barrister and attorney to ensure that his marketing, whether conducted by himself or by other persons, complies with the provisions of this Code. His responsibility cannot be delegated.
- 1.5 Where a barrister and attorney becomes aware of any impropriety in or in relation to any marketing on his behalf, he must use his best endeavours to have it rectified or withdrawn as soon as reasonably practicable.
- 1.6 Any marketing activity relating to a barrister and attorney shall be presumed, subject to proof to the contrary, to have been issued (in the form, in which it was issued) with his authority.

2. GENERAL PRINCIPLES

- 2.1 Marketing must be decent, legal, honest, demonstrably truthful, not misleading and sufficiently informative so as to provide the public with detail sufficient for any person to reasonably determine appropriate counsel.

- 2.2 The general principles of this Code will be deemed to not be met if marketing, which list is not exhaustive:
- 2.2.1 is in a manner which may reasonably be considered to be in bad taste;
 - 2.2.2 is likely to mislead or deceive, whether by inclusion or omission;
 - 2.2.3 contains any adverse remark or implication concerning any other barrister and attorney or any other person;
 - 2.2.4 makes any claim or implies that the barrister and attorney is, or that his practice is or includes an expert in any field of practice or generally. (Subject to the recognition that it is permissible, however, to refer to his knowledge, qualifications, honours, experience or areas of practice provided that such a representation is accurate and can be proven to be true);
 - 2.2.5 identifies any client or any item of any client's business without the prior written consent of the client;
 - 2.2.6 is defamatory;
 - 2.2.7 refers to the barrister and attorney's success rate;
 - 2.2.8 implies that a barrister and attorney can obtain results by improper means;
 - 2.2.9 is intrusive, offensive or otherwise inappropriate having regard, for example, to the manner, medium or frequency of approach, or surrounding circumstances;
 - 2.2.10 is calculated or likely to take advantage of the weak or weakened mental, physical or emotional state of the recipient or intended recipient;
 - 2.2.11 takes place in or in the immediate vicinity of a hospital, ports of entry, court, police station or place of detention;
 - 2.2.12 is directed at a person who has made known a desire not to be contacted;
 - 2.2.13 is inappropriate having regard to the best interests of the public or of the profession of barrister and attorney in Bermuda;
 - 2.2.14 to the extent such marketing is intended for persons not for the time being resident in Bermuda, breaches, in any way, the rules and regulations from time to time in force in such other jurisdiction; or

2.2.15 breaches any other code of advertising practice for the time being in force which applies to barrister and attorney.

3. STATEMENTS AS TO FEES AND CHARGES

3.1 A barrister and attorney may advertise fees, any basis of charging for services, and/or provide any quotation for work as long as the advertisement is clearly expressed.

3.2 Any advertisement for or statement of potential fees, any basis for charging services and/or provision of quotation for work must in all cases at a minimum state:

3.2.1 what services will be provided for particular fees and the basis of charging;

3.2.2 circumstances in which the fees may be increased or the basis on which they may be altered; and

3.2.3 whether disbursements are included.

3.3 Statements as to fees and other charges may state that a particular service of a barrister and attorney is free of charge, but this must not be conditional on the barrister and attorney or any other person being given any other instructions, or receiving any commissions or other benefit, in connection with that or any other matter.

3.4 Where the nature of the services to be provided by the barrister and attorney, and or the sophistication of the client is such that it would be inappropriate, or would reasonably be expected to be adverse to the particular client, statements as to charges shall not use words or expressions such as “from”, “minimum” or “up to” or the like in referring to the fees to be charged nor shall such statements indicate that a price is a discount or reduction or special rate; provided that to the extent that a fee is described in this way such fee disclosure also clearly sets out the circumstances in which the minimum fee is likely to be exceeded.

4. PROFESSIONAL STATIONERY

4.1 The following information may be stated on professional stationery, which for the purposes of the Code includes email correspondence and all other forms of written correspondence, including a website:

4.1.1 sole proprietor, firm or professional company name;

4.1.2 description as barrister and attorney;

- 4.1.3 the office address or addresses, which need not be the registered address of the barrister and attorney, but should in any event be the address for service of notices for the barrister and attorney and, if relevant, his client, or any one of his clients;
 - 4.1.4 telecommunications number(s), email and any other form of communication;
 - 4.1.5 normal office hours; and
 - 4.1.6 that the barrister and attorney is regulated by the Bermuda Bar Act and related regulations and codes.
- 4.2 The following additional information may be stated on professional stationery, which for the purposes of the Code includes email correspondence and all other forms of written correspondence, including website (which list is not exhaustive):
- 4.2.1 name of the firm or professional company's departments;
 - 4.2.2 website address;
 - 4.2.3 names of directors, partners, associates, registered associates or consultants but there should be confirmation of title and a clear distinction made between the names of directors, partners or a sole proprietor and any associates, registered associates and consultants;
 - 4.2.4 the firm may be described as "Barristers and Attorneys and Notaries Public" if at least one barrister and attorney is a notary public;
 - 4.2.5 the words "Agents for Trademarks and Patents", where the firm carries on that practice;
 - 4.2.6 decorations, degrees, honours (which can be of the firm, or professional company or an individual barrister and attorney) and qualifications;
 - 4.2.7 a foreign address of a non-Bermuda office from which the barrister and attorney (or any employee) carries on business;
 - 4.2.8 the names of legal executives who are Fellows of the Institute of Legal Executives provided they are indicated to be such;
 - 4.2.9 the names of barristers and attorneys holding current practising certificates resident abroad provided they are separately indicated as "Nonresident" or by identifying the country in which they are resident; and

4.2.10 the firm's logo.

4.3 The following information must not be given:

4.3.1 the names of clients for whom the barrister and attorney acts; and

4.3.2 public appointments other than as a member of the Legislature.

5. **PROHIBITED MEDIA**

5.1 Marketing may not take the form of advertising or solicited promotion on television or radio, in the cinema, or on any hoarding or display in or readily visible or audible from a place to which the general public habitually has access (whether with or without payment).

5.2 The restriction at section 5.1 above does not prohibit or restrict the display of:

5.2.1 an appropriate nameplate outside the premises at which a barristers and attorneys practises;

5.2.2 the name and/or logo of barristers and attorneys on clothing or other things worn or used by employees, members, clients and such other persons as in such barrister and attorney's reasonable opinion considers to be appropriate; or

5.2.3 the name of a firm of barristers and attorneys at an event sponsored (whether partially or fully) by the barrister and attorney or to which the barrister and attorney has been invited to promote its services or Bermuda to identify their presence at the event; or

5.2.4 informational material concerning a firm of barristers and attorneys on a home page on an on-line computer network; or

5.2.5 informational material concerning a barrister and attorney published in an industry publication of relevance to areas of law in which such barrister and attorney practices.

6. **RECORDS**

A barrister and attorney shall retain a copy or record of each item of practice promotional material authorized by him (or deemed to have been authorised by him) for not less than one year after publication or issue.

7. **INTERPRETATION AND VARIATION**

- 7.1 Bar Council may from time to time by notice published to the profession draw attention to examples of practice promotion which in the opinion of the Council constitute breaches of the general principles and intent of this Code. Any practice promotion effected or continued after the promulgation of such advice would be regarded by Bar Council as a breach of this Code.
- 7.2 Bar Council shall have power upon written notice to Bar Council by the barrister and attorney, to waive a breach, or to condone a prospective breach, of any of the provisions of this Code in any particular case.