

Legal Professional Privilege and Government

The lawyer's duty of confidentiality
and key recent privilege cases

Your speakers:

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Strategic advice
practical legal solutions

The duty of
confidentiality and its
relationship with legal
professional privilege

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- Why knowing about the duty matters
- The nature of the duty and its relationship to privilege
- Consequences of breach

The nature of the duty

- Confidential information
- Rationale
- Sources
- Exceptions
- Relationship to legal professional privilege

Sources

- Contract
- Equity
- Professional Conduct and Practice Rules 2005
 - Rule 3 Confidentiality
 - Rule 4 Acting Against a Former Client
- Code of Conduct
- Section 95 of the *Constitution Act 1975*

Exceptions

- Client authorisation
- Disclosure compelled by law
- Disclosure to avoid commission of offence
- No longer confidential
- Waiver

Relationship with Legal Professional Privilege

- Duty v right
- Privilege as a stronger protection
- Confidentiality as a necessary element of privilege

Consequences/Remedies

- Embarrassment/damage to reputation
- Action for breach of the code of conduct
- Complaints/disciplinary proceedings
- Action for damages - breach of contract/breach of confidence
- Injunctions

Legal Professional Privilege for Government Lawyers – independence and waiver

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