

## Course Manual



# LAW PRACTICE MANAGEMENT

BOARD OF LEGAL EDUCATION  
GHANA SCHOOL OF LAW  
NEW PROFESSIONAL LAW COURSE

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# CONTENTS

Page	Title
3	Course Outline
<b>Part I</b>	<b>The Legal Marketplace</b>
9	Lecture 1 (A): Significance Of The Law Practice Management Course
10	Lecture 1 (B): What Lawyers Do And Scope Of Practice
12	Lecture 1 (C): Introduction To Common Terminology Used In Reference To Practicing Lawyers
14	Lecture 1 (D) The Regulation Of Practice
16	Lecture 2: Types Of Setups For The Practice Of Law
19	Lecture 3: Introduction To The Theory Of Management
22	Lecture 4: General Scope Of Management And Its Application To Law Practice
26	Lecture 5: The Impact Of Key Management Concepts
29	Lecture 6: The Lawyer-Client Engagement
36	Lecture 7: Conflict Of Interest Check
39	Lecture 8: Basics Of Human Resource Management And Its Application In Law Practice
44	Lecture 9: Expenses, Income Generation And Compensation Models In Law Firms
<b>Part II</b>	<b>Law Office Systems And Miscellaneous Issues</b>
48	Lecture 10: Non-Lawyers And Support Staff In A Law Firm
51	Lecture 11: Records And Information Management
53	Lecture 12: Impact Of Social Media On Law Practice

## **Course Outline**

### **I. Basic Course Information**

- A. Course Title : Law Practice Management  
B. New Course : New Professional Law Course

### **II. Description**

This course is an introductory course to the management aspect of the practice of law and it is designed for first year professional level students of the Ghana School of Law. It seeks to familiarize them with:

- a. the practice of law as a profession in its various forms
- b. the regulation of practice
- c. basics of practice management

### **III. Objective of Course**

It is expected that the Course will equip students with the skills that will eventually improve the overall standards of law practice in Ghana. In particular it will provide students who intend to pursue a career in law with the basic understanding of the management of the practice. This is to enable them fit easily into the legal market after school and provide a foundation they can build on to function better in the profession.

Whilst it is intended to equip the student with the necessary skills that enable him/her to understand practice, it is also intended to assist the student to easily integrate and participate in law practice in its various forms and subsequently, it will form the foundation that will enable them become effective in the management of their law offices in future.

To enable students appreciate the relevance of this course, the first lecture is devoted to a lecture on the legal market place and matters arising from the practice of law as a profession.

### **IV. Place of Course In Law School Curriculum**

The course is compulsory for all final year students and is examinable. It will also constitute part of the basis for assessment of students after they undertake the mandatory internship and field training in law firms as part of the second year programme in the professional law course.

## **V. Outline of Course Content**

This course is divided into three (3) parts as follows:

1. The first part will cover the legal marketplace and what it constitutes.
2. The second part will be devoted to a discussion of the basic issues related to management and how they affect the practice of law.
3. The final part will deal with the systems that complement the practice of law and help practitioners to function effectively.

### **PART 1: THE SCOPE OF PRACTICE AND THE LEGAL MARKETPLACE**

#### **A. Teaser**

1. Significance of the Law Practice Management Course
2. What lawyers do
3. Historical perspective
4. Modern scope of law practice

#### **B. The Practitioner and Practitioner Types**

1. Terminology
2. Scope of legal work
3. Practitioner functions
4. Generalist and Specialist Practice
5. Emerging issues/ types

#### **C. Set-up of Law Practice**

1. Types of Law Practice and Terminology
2. Traditional approach
3. Evolution of practice
  - a. The concept of chambers

- a. Sole practitioners and unregistered individuals
- b. Partnerships
  - LLPs
  - Non-LLPs
- c. Companies
- b. The Boutique Firms
- c. Professional Corporations
- d. The rise of Regional and Global Law Firms
- e. Full Service
- f. Office-Sharing Arrangements

#### **D. The Regulation of Practice**

- 1. The Regulator
- 2. Country Requirements
- 3. General Practice Requirements
- 4. The impact of Globalization on Practice and Regulation
- 5. The Africa Context
- 4. Role of Bar Associations
- 5. The Ghana Context
- 6. Governance of Practice
- 7. Ethics of Practice
- 8. Professional Risks and Indemnities
- 9. Client Complaints and Effect on Attorney Discipline
- 10. Miscellaneous

## **PART II: MANAGEMENT OF PRACTICE AND RELATED MATTERS**

### **A. Management**

- 1. Management Generally

- a. Basic History and Theory of Management
  - b. The Core Functions of Management
  - c. Scope of Management and Professionalization of Management
2. Application of Management in a Law Firm

## **B. Basics of Personnel Management in Law Practice**

1. Recruitment
2. Employee Relations – Legislation/ Emerging Issues/ Trends
3. Training and Capacity Building
4. Compensation

## **C. Paralegals and Support Staff**

1. The Concept of Paralegals
2. The Key Role of a Non-Lawyer Staff
3. Paralegal and Client Relations

## **D Finance & Accounting As A Component Of Law Practice**

### **Income Generation**

- a. The basis and scope of “legal fees”
- b. The concept of time in relation to fees
  - i. Time keeping and matters arising
  - ii. Time keeping systems
  - iii. Converting time into fees
  - iv. Billing and billing methods

## **PART III: LAW OFFICE SYSTEMS AND MISCELLANEOUS ISSUES**

### **A. The People In A Firm**

### **B. Systems That Make A Law Firm Work**

### **C. File and Records Management**

### **D. Practicals and Test Cases**

1. The role of non-lawyers in practice
2. The dummy client
3. Billing and fee practical
4. KYC and due diligence
5. Miscellaneous

### **E Recommended Reading Material**

1. Abrams, L.L. (2000). The Official Guide to Legal specialties: an Insider's Guide to Every Major Practice Area.
2. Arron, D. (2004). What Can You Do With A Law Degree? A Lawyer Guide to Career Alternatives Inside, Outside & Around.



## PART I: THE LEGAL MARKETPLACE

## **LECTURE 1(A): SIGNIFICANCE OF THE LAW PRACTICE MANAGEMENT COURSE**

This course was introduced by the General Legal Council (GLC) to provide law students with an understanding of the need to combine technical legal knowledge with managerial skills in the practice of law. The Course focuses on the fundamentals of practice management in the following areas:

- a) Management
- b) Human Resource Management
- c) Law firm structures
- d) Client Care and Management
- e) Financial management
- f) Law Firm Systems and Tools

The ultimate objective is to provide law students with the knowledge of practical aspects of the management of law practice, to enable them perform effectively as lawyers in practice.

## **LECTURE 1 (B): WHAT LAWYERS DO AND SCOPE OF PRACTICE**

This part provides a basic overview of the legal market place and the scope of the work of lawyers.

### **Objective**

It is a general guide and introduces the student to the broad scope of what practicing lawyers do. The student is expected to grasp the import of these activities as a preview of what he/she may experience in practice. It is designed to help:

- a. Students begin to have a broader perspective of the role of lawyers in society and,
- b. Assess career options available to them.

### **1.1 What Lawyers Do Daily**

Lawyers perform a myriad of services including:

- a. Representation of clients in contentious issues (dispute resolution)
- b. Provision of advice and opinions
- c. Preparation and review of agreements and other legal documents
- d. Meeting clients, finding out their needs and establishing how to help
- e. Research on relevant areas of law

- (f) Acting on behalf of clients in negotiations and where necessary representing them (e.g. in court to plead or cross examine witnesses)
- (g) Negotiation of settlements privately outside of court

This list is not exhaustive and students will be given more practical examples of what lawyers do.

## **1.2 Broad Description of Where Lawyers Work**

Students will be given an introduction to the areas of career options and management to the practice of law under the different options. The illustration will, as a minimum, cover the following:

- a. Private Practice including types of private practice
- b. In-house /counsel
- c. Government lawyers
  - i. Attorney General
  - ii. Statutory entities
  - iii. Central or local government legal departments
- d. Judiciary
- e. Public interest
- f. Academia

## **TUTORIALS AND PRACTICAL EXERCISES**

During tutorials, student will be taken through case studies that illustrate what lawyers do in practice using diverse case scenarios which will cut across private practice, in-house corporate departments and legal departments within the public sector.

## **LECTURE 1 (C):**

# **INTRODUCTION TO COMMON TERMINOLOGY USED IN REFERENCE TO PRACTISING LAWYERS**

This lecture is aimed at providing students with an appreciation of the common technical terminology used in the industry globally in reference to practicing lawyers.

### **Objective**

Students must, at the end of this lecture, understand common technical terminology that is used in the legal market, the meaning of which is often taken for granted. As a minimum, such terminology will cover the following:

1. The Advocate
2. Ambulance Chasers
3. The Attorney
4. Barristers
5. Boutique firms
6. City firms
7. Counsel
8. The Criminal Attorney
9. The Defence Attorney
10. Eat-What-You-Kill
11. Fee Earner – Partners
12. Full service firms
13. Generalist
14. Global firms
15. The Law Professor

16. Lawyer
17. Lock-step – UK
18. Magic circle firms
19. Named-Partners
20. Notary
21. Of-Counsel
22. Prosecutor
23. QC
24. The Senior Advocate
25. Senior Counsel
26. Solicitors
27. Special Counsel
28. Specialists
29. Trial Lawyers
30. White-shoe firms

### **Suggested Readings**

1. Glanville Williams: Learning the Law
2. Various articles e.g. prescribed by the American Bar Association's Journal of the Professional Lawyer "the Law Society of England and Wales"

## **LECTURE 1 (D): THE REGULATION OF PRACTICE**

### **Objective**

Students must have a good appreciation of how the practice is regulated. A grasp of the regulatory framework will better prepare students to understand the scope of practice, the context of the subsequent lectures as well as appreciate the framework within which the day to day activities of practicing lawyers takes place.

Specific topics to be covered under this lecture will include the following:

- a. The regulator
- b. Country requirements
- c. General practice requirements
- d. The impact of globalization on practice and regulation
- e. The Africa context
- f. Bar Associations
- g. The Ghana context
- h. Governance of practice and disciplinary procedure for lawyers
- i. The Ethics of practice
- j. Client complaints and its effect on attorney discipline
- k. Miscellaneous

## **TUTORIALS AND CASE STUDIES**

Student will be required to discuss cases drawn from both Ghana and elsewhere that are relevant to illustrate the regulation of the legal profession and the key ingredients of practicing within the rules.

### **Reading**

1. Legal Profession Act, 1960 (Act 32)
2. Legal Profession (Professional Conduct and Etiquette) Rules (LI 613)

Students are encouraged to gain a broader knowledge on how law practice is regulated in other countries e.g. role of the Solicitors Regulatory Authority in UK and in other common law jurisdictions.



## **LECTURE 2:**

### **TYPES OF SETUPS FOR THE PRACTICE OF LAW**

Though many practitioners operate either as sole practitioners or part of a partnership, the types of set up of the practice of law has evolved over the years. Students must have a good appreciation of the types of vehicles that may be used to establish the practice in Ghana. Examples of types of set up in other Jurisdictions will also be given.

#### **Objective**

The objective is to equip students with an adequate understanding of the types of organizational structures that underpin the practice of law. For ease of appreciation, the types will be categorized into two – traditional and non-traditional types.

#### **2.1 Traditional Types**

The scope of this lecture will cover the two traditional set-up options mostly used in Ghana i.e. partnerships and solo practice.

##### **2.1.1 Partnerships**

The student must understand the requirements of the Incorporated Private Partnership Act 1962, Act 152 as amended (“Partnership Act”), should be able to apply their knowledge of the Partnership Act to prepare a partnership agreement

for the setup of a law firm. Additionally, students have to be familiar with the key issues that arise in partnership models in Ghana and elsewhere. For example:

- a. Unlimited liability
- b. Maximum number of partners
- c. Types of partnerships used globally

### **2.1.2 Solo Practitioners**

### **2.1.3 Office Sharing Arrangements**

## **2.2 Non-Traditional Types**

This lecture will draw students attention to the emergence of other types of set ups that have evolved worldwide such as the emergence of Professional Services Companies.

This will cover the practice that has evolved in both Ghana and several jurisdictions where the practice is set up as a company with a corporate personality.

## **2.3 Other Terminology Used To Refer To Law Firm Types**

This will seek to get students familiarized with terminology which may not necessarily be based on a specific statute but which has evolved globally, in reference to the setup of law firms some of which are discussed under lecture 1(B).

The student should grasp the ingredients of the traditional and non- traditional types and should at the end of the lecture develop an understanding of the industry terminology used for types of law firms in various jurisdictions.

## **2.4 Set up Requirements under Ghana Law**

Students will be required to be familiar with the statutory requirements for the establishment of a law practice and the challenges associated with it as well as modern trends.

## **TUTORIALS AND PRACTICAL EXERCISE**

Students will be given an exercise to test their ability to explain the key components of the traditional and non-traditional types of the law practice set

up. In particular, the student would be required to illustrate the components of the types of set ups required by statute in Ghana.

## **LECTURE 3:**

# **INTRODUCTION TO THE THEORY OF MANAGEMENT**

In this part, students are introduced to management as a subject. As a foundation programme, the lecture will cover the history and rudiments of the theory and practice of management and how it has evolved since the 19th Century.

### **Objective**

The objective is to let students appreciate management as a universal function applicable to all enterprises and institutions including the practice of law. As a minimum the student will be required to grasp the following:

#### **3.1 Management**

- a. What is management?
- b. Does management matter in law practice?
- c. Avoiding the confusion between technical skills and management/ business skills
- d. The process of management
- e. Technical skills
- f. Human skills
- g. Conceptual skills

## 3.2 The History and Evolution of Management

- a. Industrial Age – Carrot and Stick Approach
- b. 20th – 21st Century – Servant Leader Approach
- c. Formal Study – 19th Century
  - i. Management Science
  - ii. Entrepreneur Capitalist
  - iii. Managerial Capitalist
- d. Widening of gap
- e. Shareholders and Managers
- f. Partners and Firm Managers
- g. Management as a Science
- h. Frederick W. Taylor (1856 – 1915)
- i. Development of the scientific management concept of Midvale Steel Company
- j. Measurement of work output by humans and machines
- k. The Development of Standard Times For Completing Tasks
- l. Concepts on “Per Man Hour” And “Machine Hour”

### 3.2.1 Jules Henri Fayol (1841 – 1925)

- a. Engineer in a Mine
- b. The 5 basic functions as postulated by Fayol
  - Planning
  - Organizing
  - Commanding
  - Coordinating
  - Controlling

### **3.2.2 Max Webber (1864 – 1920)**

- a. The focus of organizational structure and hierarchy
- b. The concept of “legal authority”
- c. The concept of “bureaucracy”
- d. “Logical factors” versus “emotional factors” in determining efficiency
- e. The role of “group pressure” on productivity.
- f. The role of “personal” and “social needs” to the “organization goals”

### **3.2.3 Robert Greenleaf (1904 – 1990)**

- a. The “servant-leadership” concept
- b. Difference between “management” and “leadership”

### **3.2.4 Peter Drucker (Nov 19, 1909 – Nov 11, 2005)**

- a. Impact of management theory
- b. Management by Objective/Result (MBO) concept – students will have to grasp the Peter Drucker’s concept of MBO/MBR i.e. defining specific objectives and defining a sequence to achieve it.
- c. The principle of “Management is doing things right, leadership is doing the right things”

## **LECTURE 4:**

# **GENERAL SCOPE OF MANAGEMENT AND ITS APPLICATION TO LAW PRACTICE**

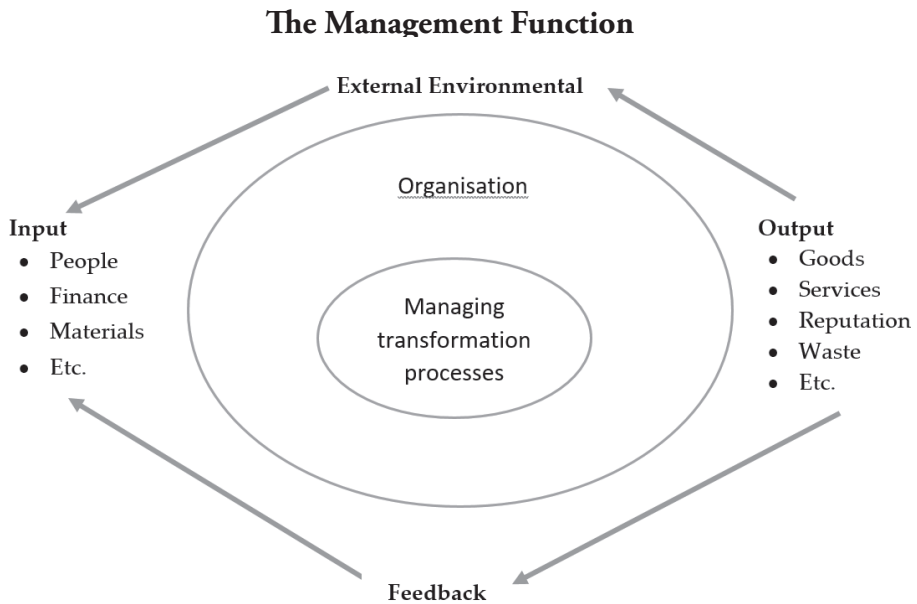
This will cover the general scope of management and how that relates to the practice of law. It will cover the following:

- (a) Planning
- (b) Organizing
- (c) Staffing
- (d) Directing
- (e) Leading
- (f) Controlling
- (g) Monitoring

### **4.1 Practical Illustrations**

Students will be presented with an illustration of the management functions and how it plays in respect of the practice of law.

The input process and output relationship in management and the context of law will be presented and students should be able to understand the illustration below and how it is related to law practice.



Details of each aspect will be illustrated with the following:

#### 4.2 Planning – Overall Direction of Work

Examples of what managers plan in law firms:

- a. the practice
- b. the people – how many to hire
- c. each case
- d. the actual delivery
- e. the cost and cost control – finances
- f. completion schedule
- g. “start” to “finish” of cases
- h. Other logistics required
- i. Non-law activities



### **4.3 Organizing**

Examples of what managers organize in a law firm:

- a. Organizing – allocating resources, time, effort
- b. How things get done e.g. how cases are handled E.g. getting the team together and assigning roles
- c. Role of support staff, if any e.g. clerk
- d. How processes get paid for e.g. not combining expenses with legal fees
- e. Time spent on cases and compliance with deadlines

### **4.4 Leading**

- a. Leading – getting commitment towards objectives
- b. Giving direction – scope of practice to focus on or activities they must focus on e.g.:
  - i. Promoting the firm as the firm of choice
  - ii. Giving direction for knowledge development e.g. internal CLE / CPDs
  - iii. Ensuring firm remains focused

### **4.5 Controlling – monitor progress of implementations, plan and adjust, if needed**

Examples of what managers control:

- a. Work-in-progress
- b. Impact of deadline
- c. Responding to client's regulators
- d. Court dates
- e. Others

### **4.6 Monitoring**

Monitoring the implementation, e.g.

- (a) Client satisfaction
- (b) Delivery
- (c) Deadlines
- (d) Miscellaneous issues

#### **4.7 Directing**

- a. Day-to-day decision on what must be done
- b. Clarity

#### **4.8 Staffing**

- a. Getting others to work with
- b. Recruitment process
- c. Retention and exit issues

### **TUTORIALS AND PRACTICALS**

Students will be presented with practical illustrations of how the application of management principles helps minimize the risks law firms and legal practitioners' face

## **LECTURE 5:**

# **THE IMPACT OF KEY MANAGEMENT CONCEPTS**

This lecture will present a selection of some key management concepts which students must grasp if they are to become good managers in future as they grow in the practice of law or function in a legal department. As part of understanding the basics of the management functions, the following will be presented.

### **5.1 The Environment and Stakeholder (External)**

Why environment is important to an organization

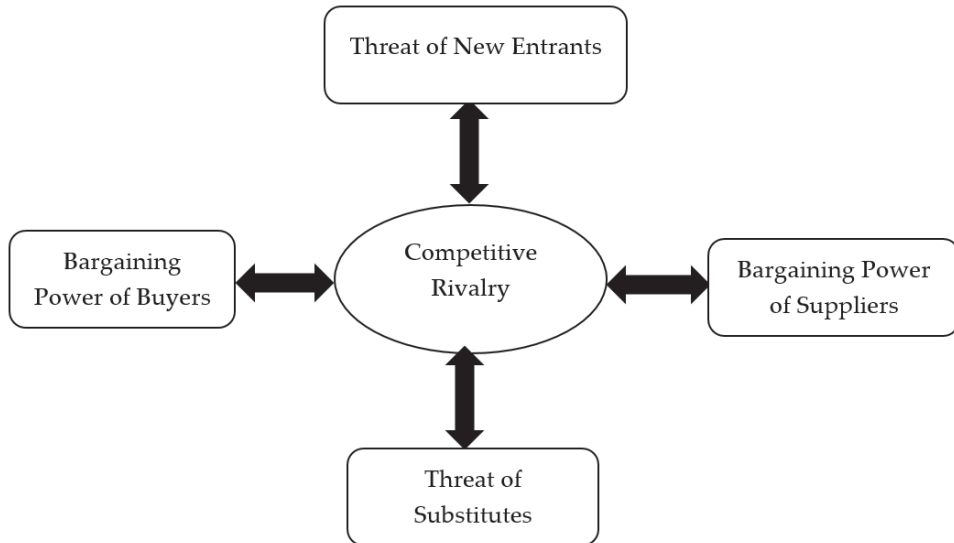
### **5.2 Competition and How Managers React To It**

The competitive nature of the law practice environment will be illustrated.

### **5.3 The Five (5) Forces and Their Application to the Management of Law Practice**

To bring it home, students will have to understand the concept of competition including the “Five Forces” theory propounded by Michael Porter. The figure below will be used as an introduction to the illustration.

## Porter's Five Forces for the Legal Industry



- a. Supplier Power – bargaining power of suppliers e.g. (lawyers and law firms)
- b. Rivalry among competitors (competitive rivalry)
- c. Threat of new entrants
- d. Threat of substitutes
- e. Bargaining power of buyers (buyer power)

### 5.4 SWOT

SWOT as a management tool will be explained.

### 5.5 PESTEL

The use of PESTEL as a means of assessing the environment in management will also be explained and its relevance to law practice explained. How to use PESTEL (Political, Economic, Social, Technology, Environment, Legal) will be analyzed.

## 5.6 Knowledge Management

- a. The efficient handling of knowledge within a business
- b. Identifying, capturing, evaluating, retrieving and sharing or utilization of knowledge and data
- c. The concept of “Human Capital” vs. “Traditional Capital”
- d. Management as a specialist occupation

## TUTORIALS AND PRACTICALS

Student shall be asked to attempt to answer some questions. Example

- a. Is “management” separate from “work”?
- b. Is the lawyer a manager?
- c. In your view which of the key approaches to management is applicable to law:
  - i. Frederick Taylor
  - ii. Henri Fayol
  - iii. Max Webber
  - iv. Peter Greenleaf; or
  - v. Peter Drucker

Students will be required to draw their examples from the practice of law. The tutorial lecturer will then give practical examples of how these concepts apply in everyday practice of law.

## **LECTURE 6: THE LAWYER-CLIENT ENGAGEMENT**

At this stage it is assumed that students are already familiar with the various categories of clients that a practitioner engages. The session is therefore focused on the key contents of the agreement that is entered into between the client and lawyer to enable the lawyer perform services for the client.

This lecture will be structured to provide adequate understanding of the following aspects of the lawyer-client engagement:

- a. The pre-engagement process
- b. The key terms of the lawyer- client agreement.
- c. The legal and commercial implication of some the key terms of a letter of engagement
- d. Matters related to client management
- e. Matters relating to the cessation of engagement

### **6.1 Objective**

Students must gain an understanding of all the key ingredients of the lawyer-client agreement. In addition, students will need to have an understanding of the different versions of the lawyer-client agreement.

Since practice of law involves the lawyer and client, the industry specific issues of this engagement are important. Students will be taken through samples of how lawyers are engaged by clients.

Pre-engagement protocols:

Students will be presented with an overview of the pre-engagement protocols. These will include:

- a. Initial contact and relevant issues to take note of
- b. The conduct of client conferences and the key dos and don'ts
- a. Conflict of interest [which will be discussed in detail under Lecture 7]
- b. Management of the risks of law practice including matters that require enhanced due diligence and the obligations of lawyers under key legislations including the Anti-money Laundering Act and Regulations.

## **TUTORIALS & PRACTICALS**

Students will be given exercises on the forms and substance of client engagement agreements. Illustrations will be drawn from the two basic outlines or samples below:

## OUTLINE SAMPLE 1

How lawyers get engaged by clients

[Date]

[Address]

Dear Mr. Z,

### Terms of Engagement

The purpose of this Letter of Engagement is to set out the terms under which Y Partners agrees to provide legal services to L Ltd.

1. Scope of Engagement

L Ltd. (“the Client”) agrees to engage Y Partners to undertake the specified services (e.g. set out in the First Schedule).

NOTE: students need to understand that as a general rule, any additional work beyond the scope of services agreed, will require the prior written consent from the Client unless it was continuous services.

Further, students need to understand that the following should be part of the agreement.

2. A declaration of conflict of interest
3. Fees and Costs
4. Payment
5. Commencement of services
6. Cessation of services
7. Term of Engagement
8. Confidentiality
9. Applicable Law
10. Anti-Money Laundering Requirements

Example: Z Ltd. shall comply with the requirements of the Anti-Money Laundering Act 2008 (Act 749) as amended which requires that we obtain satisfactory evidence of your identity as our client. In order to comply with this requirement, we need to obtain evidence of your identity within fourteen (14) days of this engagement.



11. Data Protection

Example: our use of that information is subject to your instructions, the Data Protection Act, 2012, (Act 843) and our duty of confidentiality.

12. Storage of Documents

Example: Y Partners will keep a file of your documents (except any of your documents which you ask to be returned to you) for not more than six (6) years.

Students need to understand that destruction of any document after the minimum period should be done only after notice to the client.

SIGNED FOR AND ON BEHALF OF Y, Partners.

.....  
.....

SIGNED FOR AND ON BEHALF OF Mr. Z (CLIENT)

**OUTLINE SAMPLE 2**

**For The Attention of: The Chief Executive Officer**

Dear Sir,

Thank you for instructing us to act for you in connection with this matter. This letter sets out the basis on which we shall act.

**SCOPE OF INSTRUCTIONS**

The scope of the instructions.

We understand that you are taking separate advice in relation to ..... (E.g. where client is instructing two separate lawyers in the same matter)

**CONDUCT OF WORK INSTRUCTIONS AND CORRESPONDENCE**

Example: unless you tell me otherwise, we may send all documents and communicate with you and with others involved by email and may write to you at the address set out in this letter.

**FEES – BASIS OF CHARGING**

**Fee**

**Example:**

The Statutory components e.g. we shall calculate our fees only by reference to the time spent.

The hourly fee rate

**BILLING**

How invoices are to be submitted e.g. monthly).

**LIMITATION OF LIABILITY**

**STANDARD TERMS OF ENGAGEMENT**

I attach a copy of our regular Terms of Engagement that also apply to all work we do for you.

Yours sincerely

.....

**TUTORIALS AND PRACTICALS**

The tutorial and practical sessions will take students through the processes of generating the scope of services that underpin the agreement between a lawyer and client.

The objective is to help students understand the key ingredients that go into the agreement including how to define the scope of work the lawyer does in order to relate it to the agreement and fee charged by the lawyer. Formats for the practical exercise will include the following:

## Illustration of Itemized Scope of Services

**Format 1 – this format assumes instructions from a potential client leading to court action – litigation**

<b>Item</b>	<b>Fee</b>
Initial correspondence	
Review of documentation	
Preparation and filing of conditional appearance	
Application to stay proceedings pending	
Preparation and filing of Statement of Defence	
Court attendance at trial	
Application for direction	
Preparation or opposing of motion	
Addresses	
Expenses	

### Format 2

**This sample assumes the lawyer is helping the client with the acquisition of property.**

<b>ACTIVITY</b>	<b>FEES</b>
1. Conduct of searches on the land to ascertain ownership of the land	
2. Assist with the negotiations to purchase the property	
3. Preparation of Sale and Purchase/ Transfer agreement	
4. Registration of interest and stamping of document	

### Format 3

**This sample assumes the lawyer is carrying out various tasks for a non-resident lender including helping the lender conduct initial due diligence of a potential borrower in Ghana who is also a corporate entity.**

<b>ACTIVITY</b>	<b>FEES</b>
1. Corporate Due Diligence on Borrower	
2. Advice on corporate and regulatory authorizations and approvals applicable to the Project and Facility	
3. Review of/advice on Project Contracts (a) (b)	
4. Advice on law/regulatory issues e.g. enforcement of foreign judgments, arbitral awards, creditors right, insolvency and bankruptcy	

It is expected that at the end of the exercise, students will have acquired the rudimentary skill to do the following:

- a. Identify the work to be carried out by the lawyer based on the client's instructions
- b. Outline the scope of services to be performed in order to give the client clarity of the lawyers services
- c. Relate scope of the services to fees and set the context of the permitted scale of fees
- d. Generate the appropriate client agreement for the services to be performed by the lawyer for the client.

# LECTURE 7

## CONFLICT OF INTEREST CHECK

### **Objective**

The relationship between lawyer and client assumes that the lawyer has no conflict in working for the client. The objective is to inculcate this into students and let them appreciate the key aspects of this objective. The lecture will cover the basic differential issues.

Example accordingly illustrated and case studies will cover the following:

### **7.1 Definition of Conflict of Interest**

For a legal practitioner, conflict of interest arises in several ways and is often case specific. It has been defined in some countries.

For example in the USA it is defined as a situation where “there is a substantial risk that the lawyer’s representation of the client would be materially and adversely affected by the lawyers own interest or by the lawyers duties to another current client, a former client or a third person.

(See USA - The Law Governing Lawyers)

### **7.2 Illustration of Key Determinant**

Students will be taken through an illustration of the cases which determine whether the lawyer’s independent professional judgment is or would be influenced by another interest.

### **7.3 How Conflicts Arise**

The scope of how conflict of interest may arise is never exhaustive. Accordingly, students will be given illustrations and case studies of how conflicts may arise. This will at the minimum cover:

#### **a. Personal Interest**

Representing a client on a matter where the lawyer has personal interest (other than the expectation of getting paid legal fees) e.g. financial interest/ family connection or being a beneficiary under a client's will which you have drafted.

#### **b. Use of Information**

Using or having access to information in the course of representation which you can use in an unethical manner.

- i. Contentious/Non- contentious matters in contentious matters
- ii. In a non-contentious matter

#### **7.3.1.1 Client Based Examples**

##### **a. Corporate Client**

In respect of corporate clients, the conflict may also arise from the shareholders and directors in certain situations.

##### **b. Government**

Acting for the government and the private sector party on a matter except where the parties in their mutual interest have consented to the representation.

#### **7.3.1.2 Types of Work Examples**

- a. Sales Agreement
- b. Conveyancing

Case studies will illustrate how conflict may be avoided.

### **7.4 Preventing Conflict - Client Representation**

Case studies will illustrate how conflict may be avoided.

## **7.5 What to Check to Avoid Conflict**

### **7.5.1 Examples of when a conflict check must be conducted**

## **7.6 What a lawyer must do when he/she suspects there is a potential conflict of interest**

## **7.7 Why conflict of interest is an important topic**

Students must, as a minimum, understand three key issues.

- a. The Legal Profession [Professional Conduct and Etiquette Rule, 1969 (LI 613)]
- b. The need for a lawyer to continuously make decisions on whether to represent a client or prospective client in a matter
- c. A lawyer's ability to safeguard the interest of a client or prospective client and his/her reputation

## LECTURE 8:

# BASICS OF HUMAN RESOURCE MANAGEMENT AND ITS APPLICATION IN LAW PRACTICE

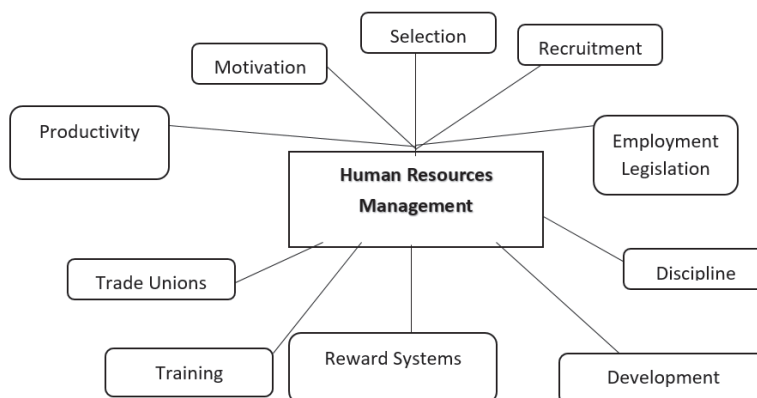
Like all businesses, law firms employ human beings. The management of staff is a component of management. It is therefore prescribed as part of this programme

### Objective:

Students should, at the end of this lecture, have a good understanding of the general scope of human resource management. Further, students develop a good appreciation of how these concepts relate to the practice of law.

### Illustrations:

Overall students will be required to understand the components of the human resource functions as illustrated below.





The detailed explanation for these concepts will include the following.

## **8.1 Recruitment**

The staffing function:

- a. The process by which a job vacancy is made accessible to potential employees.
- b. Recruitment process is subject to employment law.
- c. Places of advertisement / announcement include newspapers, magazines, trade papers, internal vacancy, announcement at industry e.g. GBA office.

### **8.1.1 Purpose of Recruitment**

- a. To “staff” the organization (staffing function)
- b. Notes on the terminology
  - Staff
  - Line (frontline)
  - Middle (knowledge)
- c. Continuous assignment of human resources at all levels in the organization.

### **8.1.2 Sources of Recruitment**

- a. External sources:
  - Advertisements
  - Head hunting
  - Outsourcing
  - Shortlisting
  - Screening of application
- b. Internal sources
  - Present employees
  - Friends of employees
  - Former employees
  - Previous applicants
  - Promotions/demotions
  - Transfers
  - Secondments

## **8.2 Staffing Process**

Students must understand the following:

- a. Job analysis
- b. Human resource plan
- c. Job description
- d. Job specification for position
- e. Person specification
- f. Recruiting process (HR Department)
- g. How applicants demonstrate suitability
- h. Shortlisting and screening of application
- i. Re- staffing

## **8.3 What Not To Do In the Recruitment Process**

Using the laws of Ghana and global trends, students will have to understand what is illegal or not allowed in the recruitment process

## **8.4 Selection Tests**

## **8.5 Selection/ Interviewing**

## **8.6 Employment Legislation and Policies**

Students must understand the applicable laws as well as global policies. Topics will cover:

- a. Labour Law
- b. CHRAJ
- c. Equal opportunities
- d. Affirmative action
- e. Discrimination
- f. Unions and bargaining power (not common among professionals e.g. lawyers)
- g. Sexual harassment

- h. Equal opportunity employment
- i. Health and safety at work
- j. The emergence of new “discrimination” concepts as it relates to employment legislation in Ghana and elsewhere

## **8.7 Other Emerging Issues and Policies**

Examples:

- a. Empowerment (BEE)
- b. Local content
- c. Affirmative action
- d. Job satisfaction
- e. “Life work balance” etc.

## **8.8 Conflict and Discipline**

### **8.9 Discipline**

### **8.10 Workplace Offences**

The impact of common workplace offences in the management of law practice will be covered. These will include:

- a. Failing to carry out either a written or a verbal instruction
- b. Insubordination
- c. Persistent lateness
- d. Absence from work without permission
- e. Willful damage caused to employer’s equipment
- f. Causing willful personal injury to other employees
- g. Being present on duty whilst under the influence of alcohol or drugs
- h. Refusal to perform legitimate instructions
- i. Sexual harassment
- j. Stealing / disclosure of confidential information of client to third parties

### **8.11 Grievances and Procedures**

The impact of the following on human resource in law firms will be discussed:

- a. Complaints and grievance handling
- b. Role of Unions and association
  - i. Importance of building relationships with employee representatives
  - ii. Role of trade unions
  - iii. Importance of consultation, negotiation and working with trade unions
- c. CHRAJ
- d. NLC
- e. The Courts
- f. Disciplinary Committees
- g. Etc.

### **8.12 Personal “Growth” and Career Development**

The concept of career development or growth will be illustrated.

- a. The Concept of “Human Capital”
- b. “Developing” e.g. in a law practice career development or growth could mean different things such as rising to a “partner”, or becoming “a specialist” or a “general counsel”

### **8.13 Compensation and Benefits**

The details of the concept of compensation of lawyers, though part of the human resource functions, will be covered in a separate lecture i.e. Lecture 9.

## **LECTURE 9**

### **EXPENSES, INCOME GENERATION AND COMPENSATION MODELS IN LAW FIRMS:**

Like all enterprises, the management functions of legal practitioners involve handling expenses and generating income. It also involves the remuneration of the staff. Students will be familiarized with the basic issues that affect these core management functions in the practice of law.

Topics to be discussed will cover the following:

- 1. Expenses and typical heads of expenditure of a law firm**
- 2. Income generation**
  - a. Money as a Resource to the Firm
    - i. Account Receivables
    - ii. Client Account
    - iii. Trust Account
  - b. The impact of the Scale of Fees and related issues.
- 3. Time as a Major Resource**
  - a. Competing demands
  - b. Client perception
  - c. Non-tangibility of service
  - d. Deadlines and compliance requirements

- e. Impact of not meeting deadlines
- f. Time and the Emergence of Billable Time
  - i. What law firms sell and the resources used
  - ii. Time as a key input: knowledge is processed “using time” in order to provide the services
- g. How Time Is Recorded?
- h. Components of Timekeeping Transaction
  - i. Time utilization, recording and matters arising
- j. Key Thing to Avoid in Time based billing
- k. Non-billable Time
- l. Timesheets Due Dates
- m. Conversion of Time into Fees

#### **4. “Non-traditional” time based billing**

The scope of billing which constitute no-traditional billing will be outlined

#### **5. Unethical and unprofessional practice relating to time based billing**

Several illustrations will be given as examples of unethical billing including:

- a. False recording
- b. Padding
- c. This will give students examples of unethical practices that have led to lawyers being sanctioned

#### **6. Non-time based charges/ alternate billing methods**

Some key examples such as the following will be presented:

- a. Retainer charges
- b. Disbursement cost and overhead
- c. Contingency fee/ success fee
  - a. The “no cure no fee” concept
  - b. Litigation and the “loser pays” practice

## 7. **The impact of technology on timekeeping**

Originally only manual methods were used for lawyer time keeping but technology has emerged and students will be given an illustration of this.

## 8. **Compensation Model In Law Firms**

To give students an appreciation of how lawyers in practice earn income.

This lecture will cover the following:

- a. The Challenges of Compensation
  - i. Uncertainty in income sources
  - ii. Cost control challenges
  - iii. Competition with non-law firms salary
- b. Types of compensation

Students will be given an overview of the types of compensation used in private practice and relevant variations. Examples will include:

- i. case-based compensation method
- ii. Incentive-based schemes
- iii. Level of effort arrangement
- iv. Time-based compensation
- v. Partner compensation
- vi. Lockstep
- vii. Eat-what-you-kill
- viii. Profit based concept
- ix. Contribution to business
- x. Others

## **TUTORIALS AND PRACTICALS**

Students will be given practical task of converting time sheet time into fees

Students will be asked to take good note of how time spent on client's work is converted into invoices. They will also be taught how to avoid unethical acts relating to billing. Reported cases involving lawyers in billing malpractices will be discussed.

PART III: LAW OFFICE SYSTEMS AND  
MISCELLANEOUS ISSUES



# LECTURE 10

## NON-LAWYERS AND SUPPORT STAFF IN A LAW FIRM

### 10.1 Objective

The objective of this part is to draw the attention of students to the fact that the personnel in a law office include non-lawyers/ paralegals. Students must understand the key roles played and how the human relationship aspects of management affect non-lawyers in the legal set up. They will be familiarized with the various roles below.

### 10.2 The Paralegal

The American Association for Paralegal Education (AAfPE) definition of a paralegal will be adopted for this lecture in view of the absence of a Ghana specific statutory definition: In the USA, a paralegal has been defined as someone who “performs substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney”.

The development of paralegals will be further explained. They are now equipped with knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility.

### **10.3 Duties of the Paralegal**

The General duties will be discussed including:

- a. Legal Research and Presentations
- b. Help to the attorney in preparing for trials, hearings and closings
- c. Conducting legal research
- d. Gathering relevant information
- e. Prepare correspondence
- f. Organize and track case files
- g. Maintain law library (where no librarian)
- h. Co-ordinate law office activities
- i. Help with trial preparation including witness lists, exhibits and trial binders
- j. In some jurisdictions - assist the lawyer in the courtroom

The scope of law office administration will be illustrated.

### **10.4 Other Law Office Administration Functions**

Other law office administrative tasks such as the following will be explained:

#### **10.4.1 Administrative Assistants**

- a. Filing papers
- b. Answering telephone calls
- c. Maintaining and organizing reference files
- d. Maintaining the schedule of lawyers

The emergence of Independent paralegals will be discussed

The role of full time paralegals in both solicitors and barrister setting will be illustrated

- a. Diary and practice management
- b. Fees management
- c. Business development
- d. Compliance matters

## **10.4.2 Clerk/ Senior Clerk/ Head Clerk**

## **10.4.3 Practice Manager**

The emergence of the role of ‘practice manager’ will be discussed.

## **10.4.4 Other Emerging “Paralegal” Roles**

Other “paralegal” roles that will be illustrated will include:

- a. Finance assistant/ specialist
- b. Technology support staff
- c. Recruitment coordinator
- d. Training managers
- e. Client service assistant
- f. Administrative manager

## **Suggested Reading**

Various Practice Aid/ Guides On: The Essentials of Law Office Management - mainly published by state bars in the USA

# LECTURE 11

## RECORDS AND INFORMATION MANAGEMENT

### 11.1 Objective

In order to function effectively, a lawyer must understand how to manage records and information including those belonging to the clients. This lecture seeks to help students appreciate the importance of record keeping at an early stage. Students must understand that:

- a. Information management refers to the process of receiving or acquiring, information, processing, storing and distributing the information and ultimately disposing of, destroying or deleting the information.
- b. Lawyers gather a lot of records and information especially pertaining to clients and the matters they handle.
- c. Lawyers are required to maintain this in accordance with the law accordingly.

Students will be taken through the information lawyers manage including the following:

### 11.2 Information Lawyers Manage

- a. Diaries
- b. Work files
- c. Client file
- d. Case file
- e. Client date
- f. Timesheets
- g. Documents- client documents

- h. Documents- lawyer generated
- i. Storage systems, physical & electronic

### **11.3 Key Requirements of Information Management**

#### **11.4 Organization and Coding of Files**

#### **11.5 Preservation of Client Records/ Property**

#### **11.6 What to Do When the Case Ends**

#### **11.7 Legal Requirements**

## LECTURE 12

### IMPACT OF SOCIAL MEDIA ON LAW PRACTICE

#### 12.1 Objective

- a. Lawyers may be involved in the use of social media but must observe the boundaries between personal and professional use and must recognize that ethical obligations also apply to professional conduct in the online environment. This is particularly necessary if they are to comply with the rules on touting.
- b. Social media is increasingly affecting every aspect of life. Social networking web sites such as Facebook, LinkedIn and Twitter weblogs and personal blogs, forums and discussion boards such as WhatsApp, Yahoo Groups or Google Groups etc. are gradually eating into the practice of law. Students must know the scope of the dos and don'ts of this social trend.

#### General Recommended Reading

Abrams, L. L. (2000) *The Official Guide to Legal specialties: an Insider's Guide to Every Major Practice Area.*

Arron, D. (2004). *What Can You Do With A Law Degree: A Lawyer Guide to Career Alternatives Inside, Outside & Around*

General Legal Council Guidelines For Lawyers To Create Websites & Place Their Profiles On The Internet

**Case Law:**

- The Republic V General Legal Council Ex Parte: Francis Xavier Sosu Suit No Hr/00098/2017
- Kwabena Ofori Addo v Hidalgo Energy & Julian Gyimah Suit No. AC 198/2015
- IFS Financial Services Limited v Jonathan Mensah & Another
- Ursula Owusu-Ekuful v Kwame Asare-Obeng (a.k.a A-Plus)