

Practice Management

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THE SCOPE AND PRACTICE OF THE LEGAL PROFESSION

- ♠ The practice of law involves
 1. Counselling clients on legal matters
 2. Advocating for clients in transactions and disputes with other individuals, businesses, and the government.
- ♠ These services are provided by licensed attorneys licensed.
- ♠ When an individual hires an attorney, a fiduciary relationship is created between the two of them. The attorney now owes to the client
 1. A duty to be confidential, R 38 GBA Code of Conduct
 2. A duty to avoid conflict of interest
 3. A duty to exercise diligence and competence
- ♠ Law offices range in size from a single attorney with little or no support staff, to large international firms with thousands of attorneys. Law offices with more than one practitioner can be established as partnerships, limited liability companies, professional corporations, and other entities as permitted by law.
- ♠ In order to grow professionally and develop new skills, attorneys network with each other through electronic mailing lists, online discussion groups, social media, and traditional meetings and conventions. Law firms also maintain collections of research materials and subscriptions to online services such as West-law and LexisNexis.
- ♠ Lawyers may be
 1. In House Attorneys
 2. Government Lawyers: A-G, Statutory Entities
 3. Central or local Government Departments
 4. Judiciary
 5. Public Interest
 6. Academics

PRACTITIONER TYPES

1. Attorneys: Persons appointed to act for another in business or legal matters.
2. Lawyer: A person who practices or studies law; an attorney who practices law.
3. Counsel: The lawyer or lawyers conducting a case
4. Senior Counsel
5. Special Counsel
6. Of Counsel: This kind of attorney is neither full partner or associate but has a special relationship at the firm. He may be a semi-retired partner or may work a mixture of firm cases alongside his own cases. The "Of Counsel" may also be known as special counsel. A lawyer employed by a party in a case, especially one who although not the principal attorney of record is employed to assist in the preparation and management of the case or in its presentation on appeal or a lawyer who is affiliated with a law firm though not as member, partner or associate
7. General Counsel: A lawyer or a firm that represents a client in all matters but may refer extraordinary matters like litigation, IP etc to other lawyers; or Senior Counsel. But in practice, general counsel is the chief legal officer in a company (Think of What Rachel did)
8. Trial Lawyer
9. Advocate
10. Prosecutor: A person, especially a public official, who institutes legal proceedings against someone; also a lawyer who conducts the case against a defendant in a criminal court. Also called prosecuting attorney.
11. Notary Public: A person authorized to perform certain legal formalities, especially to draw up or certify contracts, deeds, and other documents for use in other jurisdictions.
12. Law Professor
13. Criminal Attorney
14. Defence Attorney
15. QC (Queen's Counsel): A senior barrister appointed on the recommendation of the Lord Chancellor.
16. SAN: Senior advocate of Nigeria
17. SAG: Senior Advocate of Ghana. Not in practice though
18. Ambulance Chaser: Lawyers who pursue potential injury clients

19. **Fee earner:** a fee earner is a person who is anybody in the firm other than of counsel and a partner. It is a terminology used to describe the situation which is to show that partners do not earn fees but bring in the cases. However other associate members work under partner's supervision

TRADITIONAL CATEGORIES OF LAWYERS

1. **Solicitors:** These are lawyers who provide assistance and advice on matters of law. They are usually the first point of contact for many clients and are mostly limited to cases that do not involve the court scenario
2. **Barristers:** They provide advices on specific contentious legal issues and represent clients in Court/Dispute fora. They advice clients on the law and the strength of their case. They prepare arguments and Court cases
3. **The Solicitor-Barrister:** Which is a hybrid of the solicitor and the barrister. This is what is practiced in Ghana.

EXAMPLES OF WHAT LAWYERS DO DAILY

1. Advisory services on contentious issues
2. Meeting clients, finding out their needs and establishing how to help
3. Researching relevant areas of law and proposing course of action to clients
4. Drafting letters, contracts and other standard legal documents (Pleadings, Motions etc)
5. Giving legal opinions
6. Negotiating settlements to be settled out of court
7. Acting on behalf of clients in negotiations and where necessary representing them
8. Gathering and evaluation of evidence
9. Act as trustee, Agent, Guardian, Executor
10. Sit on boards
11. Administrative duties
12. Do Pro bono
13. Help reform and create changes in policies and law
14. Registrations
15. Monitor compliance
16. Assist in closings: not only closing arguments, but also closing transaction

RENUMERATION OF LAWYERS

- ♣ There are essentially three models:
 - A. **Lockstep model:** This model was developed in UK and spread across other jurisdictions. It is the most popular model. Here, a lawyer within a particular band is paid the same amount of money. Eg associates between 3-5 years will earn same. It doesn't matter how much work he or she brings in or do.
 - B. **Eat what you kill:** Developed in America. Based on the briefs you bring in.
 - C. **Percentage principle:** There is no salary but you take a percentage of the cases you bring in.

SET-UP OF LAW PRACTICES

- ♣ In the private sector, law is practiced in a variety of settings:
 - a) Sole Proprietorships
 - b) Professional Corporations
 - c) Office Sharing Arrangements
 - d) Partnerships
 - e) Limited Liability entities
 - f) Corporate Law departments

SOLO-PRACTITIONERS OR SOLE PROPRIETORSHIPS

- ♣ A sole proprietorship exists when one person owns all the assets the business, in this case, the firm and assumes all its debts.
- ♣ The sole proprietor has personal liability and thus can be sued for debts owed by the firm

- ♣ Many attorneys begin their practices as sole proprietors and may employ other lawyers or be solo practitioners if they choose to practice alone. Where the owner-attorney employs other lawyers, they receive a salary and not a share of the profits
- ♣ A solo practitioner could be a generalist or specialist
- ♣ Most sole proprietorships have few employees: A secretary to perform some paralegal activities otherwise called a legal secretary; A law clerk; and legal interns (paid and unpaid)

OFFICE SHARING ARRANGEMENTS

- ♣ This is an arrangement where two or more attorneys, mostly fresh attorneys with independent practices share the use and overhead of costs of an office. (*Think of Work-Shed & Co-working spaces*)
- ♣ The attorneys practice alone as in a sole proprietorship, only that they share an office
- ♣ Attorneys may share an office for the following reasons:
 1. Budget Constraints
 2. Start-up Considerations.
 3. For the purpose of non-core income, basically to save space to rent out for extra income
 4. To have access to equipment that would have otherwise been purchased by the lawyer himself or the firm. Inadequate legal materials et al
- ♣ In an office sharing arrangement, it is prudent to make the following considerations
 1. That the client knows of the arrangement
 2. That the client is aware that the arrangement does not create a partnership
 3. That there is an office sharing agreement in place. The agreement must have
 - a. an indemnity clause;
 - b. a provision to ensure that no adversarial position is taken against each other;
 - c. a confidentiality clause

PARTNERSHIPS

- ♣ S 1(2) Incorporated Partnerships Act, 1962 (Act 152): A partnership is an association of two or more individuals carrying on business jointly for the purpose of making profits. In Ghana, a partnership must consist of natural persons.
- ♣ Each partner has a personal liability for the debts of the business. Liability is both joint and several.
- ♣ A partnership may be an unlimited or limited (LLPs) entity.
- ♣ S 2 Act 152: A partnership must comprise at most 20 members.
- ♣ A large partnership is most likely to be divided into a series of departments and can include a number of different categories of attorneys like: Associates, Partners; Staff Attorneys; Contract Attorneys etc
 1. **Partners:** The founding Partners contribute to the capital that is needed to create the firm and expand as is needed. They share the profits and losses of the firm pursuant to a partnership agreement. The partners may create an “eat what you kill” system where the amount paid to partners depends on the number of new businesses they attract to the firm. Partners are in other words, the owners of the firm and have a say in the running of the business. A partner may be a senior one or a junior partner.
 2. **Associates:** Associates are attorney employees of the firm who hope to become partners. They are often hired right out of law school or from other law firms (Lateral Hires). After a certain number of years, associates are considered for partnership, if they don't make it they usually leave the firm to practice elsewhere; some may be invited to stay as senior associates. To cure this problem of having to lose equally good associates, different types of partners have been created different tiers of partners instead of the “Up or Out” system like non-equity partners
 3. **Staff Attorneys:** These are sometimes called second tier attorneys and are employees hired with the understanding that they will never be considered for partnership

4. **Of Counsel:** This kind of attorney is neither full partner or associate but has a special relationship at the firm. He may be a semi-retired partner or may work a mixture of firm cases alongside his own cases. The “Of Counsel” may also be known as special counsel
5. **Contract Attorneys:** Sometimes called project attorneys. Such attorneys are hired by the firm when there is a temporary shortage of attorneys or needs an expertise in a certain area for a limited period.
6. **Managing Partner:** The head of the firm managing the Day to day affairs

A typical partnership agreement must entail the following particulars:

1. Name, address and occupation of the partners
2. Partnership name
3. Purpose and objectives of the partnership
4. Term /duration of the partnership
5. Principal office of partnership
6. Date of commencement of operations
7. Partners meetings procedures
8. Respective interest of each partner in the assets, obligations and revenues of the partnership
9. Amount of contribution to capital by each partner
10. Liability of partners
11. Creation of management/executive committee, nomination of members, nomination of a managing partner(s).
12. Matters relating to tax payable by partners for tax purposes
13. Entitlements and benefits
14. Matters relating to drawing of accounts
15. Distribution of profits and losses
16. Books of accounts and audit
17. Right of a partner to buy partnership
18. Relations between partners and clients of the partnership outside business ventures.
19. Admission of additional partners
20. Methods of winding up the partnership
21. Expulsion, voluntary or forced withdrawal of a partner, death or incapacity of a partner
22. Distribution of income and capital in event of dissolution
23. Right to use the name of partners even if they retire or after death
24. Methods of resolving disputes between partners or between the partnership and any individual partner (arbitration)
25. Amendment to the partnership agreement
26. Prohibition of a partner to transfer his or her interest in the partnership or to create a partnership for his or her right title and with respect to interest in the partnership
27. General notice of provisions
28. Date of contract

PROFESSIONAL CORPORATIONS

- ♣ This is a law office that is organized as a corporation rather than as partnership or a sole proprietorship. It is possible for lawyers to incorporate their practice as a professional corporation. From a tax planning perspective, it is advantageous to be a corporation rather than a partnership.
- ♣ The Corporation is a limited liability entity.

CORPORATE LEGAL DEPARTMENTS

- ♣ Many Large Corporations have what they call a “legal department” headed by a general counsel
- ♣ They department consists of attorneys who attend to the day to day tasks of advising the company and handling the corporation’s legal affairs

- ♣ They Corporation hires these attorneys and pays them a salary.
- ♣ Where outside expertise is required, attorneys with that kind of knowledge may be simply held on as retainers

TYPES OF LAW FIRMS

1. Full Service Law Firms: These are often referred to as the “Big Law” Firms and are in themselves large. They have sections and departments that specialise in each category of legal work like BELA.
2. Regional Firms: These are forms who are not global but international in nature
3. Global Firms: These firms may be either Magic Circle firms(White Shoe firms) or City Firms. Magic Circle Firms are the top earning firms in terms of earnings (Top five firms in England). City firms are firms in the top financial centres in the world
4. Silver Circle Firms: The top 50 Earning firms below the magic circle firms
5. Professional Services Corporations: These are companies which have special privileges just because they are owned by professionals
6. Boutique Firms: These are firms of specialists which are not necessarily big or large
7. White Shoe Firms: Not necessarily firms, of American origin, originally for the elite but extended to the top law firms in the States

Firms that have revolutionized law practice

8. Legal Zoom: An American company. Allows clients to do their legal works themselves by for instance, assisting them online and then they pay by credit card
9. Settle it : Been the biggest threat of lawyers in litigation in America. Created a software and the plaintiff goes online as well as the defendants and they enter the reliefs they are seeking . The software then searches through all the precedents and gives an automated advise. It has been proved that 98 percent of all applications to settle it have been settled
10. Artificial Intelligence (AI): law firms are the first targets of artificial intelligence . The most invidious one is a software called ‘COIN’-contract intelligence owned by JP Morgan . Coin can review contract itself. The last review eliminated 72 million dollars of legal fees. It takes the agreement, review it and summarize it to the lawyer. last year they cut legal time by 360,000 hours-interestingly it took 10 seconds to review 599 agreements]
11. Axiom Concept Firms: None of the lawyers are partners. It’s more of a person managing a group of specialist lawyers who may or may not be retired. The lawyers are somewhat retained regularly to fill temporary vacancies in other firms

HOW LAWYERS GET ENGAGED

- ♣ Lawyer can get engaged through dog briefs, usually the “under the tree lawyer” types. These types hang around the courts to scrounge for clients. They may also decide with bail officers, clerks, registrars etc to gain clients
- ♣ A lawyer who is properly hired enters onto a terms of engagement. The conditions of such terms may be the result of just email exchanges, a retainer-ship agreement , etc.
- ♣ No matter how you get engaged, you must make sure that your engagement is reduced into writing.
- ♣ A lawyer may be engaged directly by the client or by a law firm

CONDITIONS OF A TERMS OF ENGAGEMENT

- ♣ The terms of engagement must be arranged in a chronological order.
 1. Intro: Acceptance of the offer to work for the client
 2. Scope of Engagement/Services. Spell out the scope of work to be done. Seek clarifications when instructions are ambiguous.

3. Conflicts of interest. Never accept a brief without conducting a conflict of interest check. Indicate the presence or absence of conflict at the times of engagement.
4. Fees and Cost
5. Payment plan
6. Commencement of services
7. Cessation of Services
8. Terms of engagement
9. Confidentiality. Indicate that during the term and following the termination or expiration of the agreement, all non-public or confidential information of the client shall be kept confidential in accordance with the applicable rules of professional conduct.
10. Applicable Law
11. Instructions & correspondence. How future communication will be effected
12. Anti-Money Laundering requirements. Specify that there will be compliance with the Anti-Money Laundering Act, 2008 (Act 749) which requires that satisfactory evidence is obtained of the client. The Act also requires that any suspicious financial transaction be reported to the Financial Intelligence Unit
13. Data Protection. Emphasize that the use of the information is subject to the Data Protection Act, 2012 (Act 843)
14. Storage of documents
15. Signatures of the lawyer/firm and client

TERMS OF ENGAGEMENT

The purpose of this Letter of Engagement is to set out the terms under which Pentsirr & Co agrees to provide legal services to you.

Scope of Engagement

The Services which we have agreed to undertake and the further terms on which they are based are set out in the accompanying Schedule.

Declaration of Conflict of Interest

We hereby confirm that Pentsirr & Co is not conflicted in acting as your Counsel at the time of this agreement. Where a subsequent conflict of interest arises, it shall be communicated to you in writing.

Fees & Costs

We shall charge legal fees for work done in accordance with the accompanying schedule/ based on time spent with the hourly fee rate of GHC250. Our fees do not include administrative and statutory expenses incurred on your behalf.

Payment Plan

We will send you an invoice at the end of every month indicating the professional fee and statutory or administrative expenses if any.

Commencement of Services

Our engagement shall be deemed to have commenced on (the “Effective Date”),

Cessation of Services

If for any reason you wish to terminate our services, you shall be entitled to pay all outstanding expenses incurred in addition to fees unpaid as well as our percentage in any amount that has been agreed upon as ‘other fee payable’ provided always that a preliminary report has been furnished by us to you prior to the termination.

Both parties have the right to terminate the engagement by giving the other party one (1) month prior notice in writing.

Term of Engagement

Our engagement shall continue for a period of twelve (12) months, or till it is terminated.

Confidentiality

During the term and following the termination or expiration of the agreement, all non-public or confidential information shall be kept confidential in accordance with the applicable rules of professional conduct.

Applicable Law

This engagement agreement shall be governed by Ghanaian Law

Instructions & Correspondence

All instructions may be via

- (a) Writing
- (b) Emails
- (c) Walk-in-consultations
- (d) Telephone calls

Anti-Money Laundering

This agreement shall comply with the requirements of the Anti- Money Laundering Act, 2008 (Act 749) which requires that, Pentsirr & Co obtain satisfactory evidence of the identity of its clients. In order to comply with this requirement, kindly furnish us with evidence of your identity within fourteen days of this engagement.

Data Protection

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

Storage of Documents

Pentsirr & Co will keep a file of your documents (except documents you ask to be returned to you) for not more than six (6) years.

We will keep the file on the understanding that we have the authority to destroy it after six (6) years after the date of the final bill we send to you for this matter.

We will not destroy documents you ask us to keep in safe custody.

SCHEDULE

We propose the following fees for the scope of work detailed below

ACQUISITION OF PROPERRTY

- Conduct searches on land
- Assist in negotiation to purchase land
- Preparation of sale and purchase agreement
- Registration of interest and stamping of document

LOAN TRANSACTIONS

- Initial correspondence
- Review of documents
- Corporate due diligence on borrowers and guarantor
- Advise on corporate and regulatory approvals applicable to the project
- Drafting or revising facility agreement

- Drafting or reviewing security and guarantee agreement
- Drafting or reviewing guarantee agreement
- Assisting with corporate and regulatory filings

LITIGATION

1. Initial correspondence
2. Review of documentation
3. Initial research
4. Preparation and filing of statement of claim
5. Preparation and filing of application for interim injunction
6. Attending court for hearing of injunction
7. Preparation and filing of conditional appearance
8. Application to stay proceedings
9. Preparation and filing of statement of defence
10. Court attendance at trial
11. Drafting and preparation of Pre-trial processes (reply, discovery, application for directions, pre-trial checklist, witness statement)
12. Application for directions
13. Miscellaneous Applications and motions
14. Attending meetings and providing opinions
15. Addresses
16. Expense

CONFLICT OF INTEREST

- ♣ The Legal Profession (Professional Conduct and Etiquette Rules 1969) (LI613) R1(2): A lawyer is under a duty not to have interests that conflict with his duties as a lawyer, he can't be a managing director or executive chairman of a company or an active partner in a business or profession which conflicts or prejudices his independence as a lawyer.
- ♣ R 33 GBA Code: A lawyer must disclose to his client at the time of retainer any relationship which he has with the parties which is inconsistent with the retainer and any personal interest which he may have in the matter in respect of which he is retained; and he has or acquires any financial interest in the subject-matter of his client's action (other than professional fees), except where he himself is also a party to the proceedings
- ♣ R 34, GBA Code: It is a misconduct to knowingly continues to represent two or more clients in any proceedings, action or matter, without their express joint request made after a full disclosure of the facts where it is or has become apparent that a conflict of interest has arisen or may arise, whether alone or in his form
- ♣ R 42, GBA Code: It is misconduct for a lawyer, having acted for a client, to act against him in the same matter or in any other matter related thereto.
- ♣ The Governing Lawyers (US definition of Conflict of interest): A conflict of interest arises where there is 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, a former client or a third person
- ♣ The key question is whether the lawyer's exercise of independent professional judgment is likely to be unduly influenced by other interests.

Ekwan Vrs Ewusie (1980) GLR 171 per Justice Osei Hwere J (as he then was)

There was no general rule that a solicitor who had acted in a matter for one party should not in any circumstances subsequently act in the same matter for the opposing party; but where there was a probability or a danger that the solicitor would disclose to the opposing party confidential information which he had obtained from his original client while acting for him, the court would restrain him by injunction from doing so.

- ♣ It is important to check for conflict always when approached by a client
- ♣ Changes in clients' affiliations or mergers may lead to conflicts and must be monitored. Conflicts may be created when companies merge or engage in takeovers, for example, or where families change through divorce and remarriage. Initial conflict checks will not always avoid conflicts brought about by unanticipated changes, thus monitoring and updating are necessary
- ♣ Conflict of interest may arise in the following cases:
 1. Where the lawyer has a personal interest in the matter.
 2. Using information of client of unethical means.
 3. In respect of corporate clients, the conflict may arise in respect of shareholders and directors.
 4. Representation of two opposing sides in a legal dispute
- ♣ Waiver of conflict of interest duty. A client can waive the conflict and hire a different lawyer so you can proceed to represent the other party. The client can be on a retainer agreement on other issues and not the subject matter of the conflict which has been waived.
NB: Waivers can only be IRO in non-contentious matters. In non-contentious matters, the conflict can be waived if both sides have agreed that their interest is aligned.

DEALING WITH CONFLICT OF INTEREST

A. Develop Conflict Checking Systems (Know Your Client-KYC).

- ♣ Conflict-checking software can be run in conjunction with case management and time and billing software, making it relatively easy to check for potential problems.
- ♣ Develop a procedure for everyone who enters data into any relevant systems to follow, to help ensure all necessary categories are covered.
- ♣ Banks, Financial Entities and Government bodies are often exempted, instead an incumbency check may be done from the necessary authorities.

B. Know the nature and scope of the proposed matter

- ♣ What to check :
 1. Details of the client
 2. The nature and scope of the proposed matter
 3. Check with colleagues if they are aware of any conflict. Large law firms may categorise conflicts by which department the matter is under not by the client information. Eg. finance, property, thus, the conflict is restricted in relation to department (Chinese wall).
 4. Remember office sharing arrangements if applicable.
 5. Use a software if applicable.

C. Workable systems for human follow-up to identify potential conflicts.

- ♣ Designate one or more individuals to be responsible for ensuring and documenting that a full conflict check is performed before work starts on any new client's case.

WHEN TO RUN A CONFLICT CHECK

1. When a potential client informs the lawyer of the intention to hire him.
2. When the client gives you an idea of the scope of the instructions.
3. When the client or potential client gives you the idea of the parties involved.
4. When a new party enters the matter
5. When the lawyer discovers information that suggests that there is a potential conflict

WHAT TO DO ON REASONABLE SUSPICION OF A CONFLICT OF INTEREST

1. Carry out a conflict check. In the interim presume there is a conflict and do any of the following depending on the stage you discovered it:
2. Do not meet potential CLIENTS
3. Do not continue to represent the client/agree to represent the potential client

WHAT TO DO WHEN THERE IS A CONFLICT

1. Reject representation
2. Inform the client if it arises in the course of the work
3. Ask for waiver where relevant.
4. If waiver is denied stop and inform the potential client and refuse representation
5. Do not obtain any confidential information. If the client consents you may recommend another firm.

IMPACT OF SOCIAL MEDIA ON LAW PRACTICE

- ♣ Social media has infiltrated into the practice of law like any other profession. 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 an online environment.
- ♣ R 6 & 9 (1) GBA Code; R 2(1), (2),(3) LI613: It is a misconduct to directly or indirectly apply or seek instruction for professional business or engage in advertisement or permit touting in any form with purpose of unfairly attracting business.
- ♣ R. 8 GBA Code: A practicing lawyer commits misconduct if he gives any interview to a representative of the press on any matter on which he is or has been engaged as counsel.
- ♣ R. 9 GBA Code: It is a misconduct to directly or indirectly solicit for business e.g. includes using the media.
- ♣ On 5th July 2013, the General Legal Council adopted certain guidelines for lawyers to create websites & Place their profile on the internet. The GLC noted:
With the upsurge of the internet in the 1990's methods of communication the world over has changed for easy and instant access to information on the spot. Hard copies of documents are changing to electronic versions and many law libraries are converting from manual to electronic libraries. The search for electronically on the internet and no longer through hard copies of legal directories, journals or publications, letters fax or telephone. Some few legal firms have gone ahead to place their profiles on the internet while the majority are waiting for directions from the regulators of the Legal Profession, The General Legal Council.
- ♣ It is against this merging trend in Information Technology the world over that the Ghana Bar Association adopted the International Bar Association guidelines on websites and proposed to the General legal Council , the regulatory body for the Legal Profession to permit lawyers and law firms to create websites and place their profiles on the internet using the guidelines below.

GUIDELINES

- ♣ An intended internet profile, must include the following :
 1. The full name of the legal firm or lawyer
 2. The location address and postal address
 3. The particulars of telephone contacts.
 4. The email address
 5. The passport pictures of the partners, associates and juniors
 6. The history of the firm
 7. The profile and areas of practice of the firm and or individual members of the firm
- ♣ The firm or lawyer may subject to the approval of their clients list the names of former and current clients in the profile.
- ♣ Firms and lawyers cannot add phrases, adjectives and description such as “best”, “expert” among other such phrases
- ♣ Firms cannot add statements which are inaccurate or likely to mislead, diminish public confidence in the legal profession, the administration of justice or otherwise bring the legal profession into disrepute.

- ♣ Firms cannot criticise other legal firms or lawyers.
- ♣ Firms cannot put out statements about their success rate.
- ♣ Firms cannot put statements which are obstructive as to cause annoyance to those to whom it is directed.
- ♣ A portal will be opened at the GBA website for firms who want to put in their profile at a discounted rate to do so through the GBA. Individual firms will also be permitted to create their own websites. For the avoidance of doubt, social media is not website.
- ♣ The breach of these guidelines to internet profiles would amount to misconduct.

MANAGEMENT OF THE LAW PRACTICE AND RELATED MATTERS

- ♣ In Law practice four skills are key.
 1. Technical Skills: this is the knowledge of law.
 2. Human Skills: this is how you relate with others.
 3. Conceptual skills: help you see the big picture. How the parts of the organisation work together to achieve results. This fosters creativity. It is this skill that causes managers to consider improving processes based on technology, change etc.
 4. Diagnostic Skills: Diagnostic skills include the ability to determine by analysis and examination the nature and circumstances of particular conditions
- ♣ Legal education is focused on the acquisition of technical knowledge. Thus most lawyers who have not independently acquired human and conceptual skills will struggle in staying afloat in a competitive legal market despite having the requisite legal skills.

IMPORTANCE AND ROLE OF MANAGEMENT

1. Achievement of group goals: A human group consists of several persons, each specialising in doing a part of the total task. Management creates team-work and coordination in the group. The manager reconciles the objectives of the group with those of its members so that each one of them is motivated to make his best contribution towards the accomplishment of group goals
2. Optimum utilisation of resources: Managers forecast the need for materials, machinery, money and manpower. They ensure that the organisation has adequate resources and at the same time does not have idle resources. They create and maintain an environment conducive to highest productivity
3. Minimisation of cost: In this era of competition no business can succeed unless it is able to supply the required goods and services at the lowest possible cost per unit. Management directs day-to-day operations in such a manner that all wastage and extravagance are avoided. By reducing costs and improving efficiency, managers enable an enterprise to be competent to face competitors and earn profits.
4. Survival and growth: Modern business operates in a rapidly changing environment. An enterprise has to adapt itself to the changing demands of the market and society. Management keeps in touch with the existing business environment and draws its predictions about the trends in future.
5. Generation of employment: By setting up and expanding business enterprises, managers create jobs for the people. People earn their livelihood by working in these organisations. Managers also create such an environment that people working in enterprise can get job satisfaction and happiness. In this way managers help to satisfy the economic and social needs of the employees

NATURE AND CHARACTERISTICS OF MANAGEMENT

1. Management is goal-oriented: Management is not an end in itself. It is a means to achieve certain goals. Management has no justification to exist without goals. The success of management is measured by the extent to which the established goals are achieved.
2. Management is universal: Management is an essential element of every organised activity irrespective of the size or type of activity. Wherever two or more persons are engaged in working for a common goal, management is necessary
3. Management is an Integrative Force: The essence of management lies in the coordination of individual efforts into a team. Management reconciles the individual goals with organisational goals. As unifying

force, management creates a whole that is more than the sum of individual parts. It integrates human and other resources

4. Management is a Social Process: Management is a social process because it is concerned with interpersonal relations. According to Appley, “Management is the development of people not the direction of things. A good manager is a leader not a boss. It is the pervasiveness of human element which gives management its special character as a social process”
5. Management is a continuous Process: Management is a dynamic and an on-going process. The cycle of management continues to operate so long as there is organised action for the achievement of group goals.
6. Management is multidisciplinary: Management has to deal with human behaviour under dynamic conditions. Therefore, it depends upon wide knowledge derived from several disciplines like engineering, sociology, psychology, economics, anthropology, etc. The vast body of knowledge in management draws heavily upon other fields of study

THE CORE FUNCTIONS THAT CONSTITUTE THE SCOPE OF MANAGEMENT

- ♠ There are three reasons why a lawyer ought to be aware of the management function:
 - a. The internal element of the organisation must be managed
 - b. The external elements must also be managed.
 - c. Historical events that ought to be managed such as responses to things which have happened already
- 1. **Planning:** In the legal context, planning involves determining the number of people to hire, cost and control of finances, logistics. This requires an active participation of the entire organisation. With respect to time and implementation, planning must be linked to and coordinated on different levels. Planning must take the organisation’s available resources and flexibility of personnel into consideration as this will guarantee continuity. In a law firm, this is illustrated by deter
- 2. **Organising:** This comprises allocating time, resources and effort. Examples include the handling of cases, assignment of roles, meeting deadlines. There must be sufficient capital, staff and raw materials so that the organisation can run smoothly and that it can build a good working structure.
- 3. **Staffing:** This is the aspect concerned with getting others to work. It involves the recruitment process, and issues pertaining to retention and exit
- 4. **Directing:** Directing has to do with giving clarity to the day to day activities of the firm. It includes decisions that must be made on a daily basis. Clarity in the implementation of cases and stuff the lawyers deal with
- 5. **Controlling:** Controlling concerns exercising control over the work-in-progress through supervision, meeting deadlines, etc. By verifying whether everything is going according to plan, the organisation knows exactly whether the activities are carried out in conformity with the plan. Control takes place in a four-step process:
 - a. Establish performance standards based on organisational objectives
 - b. Measure and report on actual performance
 - c. Compare results with performance and standards
 - d. Take corrective or preventive measures as needed
- 6. **Leading:** This involves getting commitment towards objectives. It includes giving directions, ensuring focus on the objectives and mission of the firm. When given orders and clear working instructions, employees will know exactly what is required of them. Return from all employees will be optimised if they are given concrete instructions with respect to the activities that must be carried out by them.
- 7. **Monitoring:** This includes the implementation of client satisfaction, delivery and miscellaneous issues

WHY LAWYERS SHOULD STUDY MANAGEMENT

1. It leads to good governance
2. It aids in decision making
3. It improves on the lawyer’s interpersonal skills
4. It aids the lawyer in meeting deadlines and managing time
5. It ensures compliance with firm policies
6. It enables the lawyer meet statutory obligations

HISTORY/EVOLUTION OF MANAGEMENT

- ♣ Up until the industrial age, there were 2 main approaches to management
 1. The Stick and carrot approach
 2. The Servant-Leadership approach
- ♣ The concept of management science entered the scenes under the influence of Adam Smith who propounded the 3 factors of production: Land, labour, entrepreneur, where the entrepreneurs were managers of business also known as Entrepreneur capitalists
- ♣ As business expanded, Managerial capitalists evolved. These were persons who were not entrepreneurs or owners of the business but nevertheless performed the task of managing the business

A. The Management Theory of Frederick Taylor: Scientific Management Theory

- ♣ Frederick W. Taylor was a mechanical engineer whose goal was to improve industrial efficiency
- ♣ His work was based on systematic observation and study. Management is the art of knowing what you want to do and then seeing that it is done in the best and cheapest way
- ♣ His scientific management theory consisted of testing the COMPLETION of various tasks to determine the OPTIMAL AMOUNT of work that could be accomplished within a TIME PERIOD. His theory is therefore hugely based on the concept of 'Time' which is extended to the man hour approach. Hence, the efficiency of a worker would be determined based on the amount of work he/she could do within an hour
- ♣ He also compared the efficiency of machine per hour to that of man to determine which was more productive
- ♣ Taylor posited that as a result of his theory it was possible to measure the productivity of labour per month per hour and compare that productivity per machine per hour. This is what shaped the concept of time for wages
- ♣ In modern times, the time theory is used as a means of billing clients for work done. According to the Labour Act, the standard working hours are from 9-5 (8hrs), and working month is 22 days (Weekdays) per month. This raises the issue of overtime (working beyond working hours).
- ♣ However, there are drawbacks. Law practice is service sector and efficiency is not measured in a quantitative manner. It may result in reduced quality of work if applied (eg. Research time etc). Much of a firm's work may not be standardized thus the limitation.
- ♣ Managers, by Frederick Taylor, have moved from whip bearers to supervisors of human beings. As a result, the concept of foremen (the first among equals) evolved. They supervise and ensure that people are productive.

B. Management Theory of Jules Henri Fayol

- ♣ Fayol was a Frenchman born in 1841 and worked as a mining engineer in a company.
- ♣ His theory of management explains how management interacts with personnel.
- ♣ He authored a book titled, General and Industrial Management in French that was later on translated into English. The book contains the concept that management is an activity common to all human undertakings which can be taught in the classroom or the workplace, home, business etc.
- ♣ He identified fourteen management principles, applicable in all organisations:
 1. Division of labour (specialisation leads to greater efficiency);
 2. Authority (managers have the authority to get things done);
 3. Discipline (members of the organisation need to respect the rules and regulations that govern it);
 4. Unity of command (avoid conflicting and/or confusing instructions);
 5. Unity of direction (only one manager should be responsible for an employee's behaviour);
 6. Subordination of individual interest to the common good (the interests of individual employees should not take precedence over the interests of the entire organisation);
 7. Remuneration (pay for work done should be fair to both the employee and the employer);
 8. Centralisation (managers should retain the final responsibility);
 9. Scalar chain (a single uninterrupted line of authority should run rank to rank from top management to the lowest level position in the company);
 10. Order (materials and people need to be in the right place at the right time);
 11. Equity (managers should be both friendly and fair to their subordinates);

12. Stability and tenure of staff (stability and tenure should be enhanced and high staff turnover should be avoided);
 13. Initiative (subordinates should be given the freedom to formulate and carry out their own plans);
 14. And esprit de corps (promoting team spirit gives the organisation a sense of unity).
- ♣ From these 14 principles, Fayol concluded that management should interact with personnel in five basic ways in order to control and plan production,
 1. **Planning.** Management must plan and schedule every part of the industrial processes. Planning is related to forecast that examines how the future would be like. It is necessary to identify what are the goals and how to accomplish them through a strategy, considering the realistic capabilities and resources to determine appropriate organizational goals.
 2. **Organizing.** Once a plan of action is designed, management needs to put the plan into practice and organize the practicality of achieving those plans. Management also needs to provide everything necessary to carry it out, including raw materials, tools, capital and human resources.
 3. **Commanding.** Management must direct staff through effective communication and the use of discipline & remuneration. Management needs to implement the plan and understand the strengths and weaknesses of their personnel. Fayol stated that management must encourage and direct personnel activity.
 4. **Coordinating.** Management must work to harmonize all the activities to facilitate organizational success. Communication is the most important coordinating mechanism. Fayol stated that management must make certain that personnel work together in a cooperative fashion. Thus, when planning the structure of the organization, management needs to make sure that different sections work and support each other in helping the organization to do well
 5. **Controlling.** Fayol stated that management should monitor that everything occurs in conformity with policy and ensures personnel follow their commands. Management has to make sure that any problems sufficient actions plans are put in place to rectify the problem. At the end of the day, it is management's responsibility that the organization has done well
 - ♣ Today, many professionals and lawyers believe that management is a skill that ought to be acquired and that has become a very important part of law practice over the period

C. Management Theory of Max Weber

- ♣ Max Weber was a German socialist who developed the theory of bureaucratic management
- ♣ He stressed the need for a strictly defined hierarchy governed by clearly defined regulations and lines of authority.
- ♣ Max Weber believed that organisations had grown beyond the industrial age such that the people who would make decisions were to be given 'legal authority' to stabilize the firm as it grew.
- ♣ There should be centralization of power in terms of planning and decision making in the organization. The rules and regulations must be strictly followed and the subordinate must be accountable to the immediate supervisor. There must be a well-defined hierarchy of authority with clear lines of authority and control concentrated at the top.
- ♣ Each level of management should be controlled by the level of management above it in the hierarchy and they should control the lower management below them. This will help the organization proceed in a single direction.
- ♣ Weber also believed that personal and social roles were important to organisational structure and productivity, not just logic. He argued as a result that group pressure was a better way to measure productivity (creating an environment where all workers would work harder because of the need to outshine each other)
- ♣ However, because bureaucratic leaders and workers are required to obey rules and do only what they are told, the leaders seldom think "outside the box" and therefore find it very difficult to adapt to changing environments and new challenges. Thus, individuality and creativity is sacrificed.

D. Management Theory of Robert Greenleaf

- ♣ Robert Greenleaf reinvented the concept of Servant-Leadership
- ♣ As the author of book "*The Servant as a Leader*", he explained that becoming a servant-leader "begins with the natural feeling that one was to serve" followed by the aspiration to lead.

- ♣ Greenleaf's "servant-leader" is intended to describe a type person—a person that has two distinct and different roles : one as a servant and another as a leader. He describes this leader as follows :
The servant–leader is servant first...It begins with the natural feeling that one wants to serve, to serve first. Then conscious choice brings one to aspire to lead. He is sharply different from the person who is a leader first, perhaps because of the need to assuage an unusual power drive to acquire material possessions. For such it will be a later choice to serve—after leadership is established. The leader-first and the servant—first are two extreme types. Between them there are shadings and blends that are part of the infinite variety of human nature.
- ♣ Leaders must lead by example, when they do so, they identify with the subordinates and thus are obeyed because the subordinates follow his example.
- ♣ Greenleaf spelt out actions and activities that servant-leaders do to include,
 1. To care for and know their followers,
 2. To focus on followers and their needs,
 3. To listen , provide vision, grow and develop followers,
 4. To persuade , build strong and loving relationships with followers,
 5. To display humility.
- ♣ Again, there are many other seemingly small actions which servant - leaders take on a routine basis which also help make the work place better. These include for instance, greeting people, speaking kindly, smiling, fostering humor, recognizing and rewarding success and celebrating important occasions.
- ♣ Greenleaf separated leadership as a concept from the concept of management unlike Max Weber who viewed leadership and management as one.
- ♣ Greenleaf posited that the measure of leadership is reflected in the expansion of the followers a leader has. Hence in a law firm, a partner will be measured high if it can be seen that he is able to train a pupil efficiently to become a better associate

E. Management Theory of Peter Drucker

- ♣ Peter Drucker, a social-ecologist was a modern-day advocate for management, author of the "The End of the Economic Man"
- ♣ Drucker insisted that management was not merely about the delivery of results(Fayol and Taylor) but also about the means production was achieved.
- ♣ He drew a distinction between management and leadership. Whereas management was doing things right, leadership was doing right things, "there is nothing so useless as doing something efficiently which must not be done at all" The manager was supposed to follow laid down procedures (Max Weber' bureaucracy) in executing his tasks irrespective of the "rightness" of the task. Rather, the rightness or wrongness of the task must be the concern of the leader.
- ♣ According to Drucker, managers must pay key attention to non-verbal communications, "The most important thing in communication is to hear what is not being said". A lawyer most often has conference with clients, judges, other associates and must read their body language.
- ♣ He invented the concept of management by objective and management by results
 1. Management by Objectives (MBO): Employees who have a say in their objectives will feel more valuable/involved in and will thus take ownership of the objective and do their part.
 2. Management by results (MBR): Ascertaining whether the results have been achieved.
- ♣ Drucker argues for a minimum of hierarchy, there must be decentralisation wherever possible.
- ♣ He also argues that productivity can only be improved through human resourcefulness, and that, to liberate that resourcefulness, people must be encouraged to use their brains productively and that they will only do that if that are given the freedom to develop their own ideas about how to carry on the business of the organization
- ♣ Drucker implicitly rejects mechanistic models of management and assumes that differences of view will arise within organisations. He integrates these tensions into his descriptions of good management and argues that the structures and relationships an organisation has must serve the people who are to carry on the business of the organisation, not the other way round.

THE CONCEPT OF COMPETITION

- ♣ A manager should be able to combat competition

- ♣ **PESTEL** (Political, Economic, Social, Technology, Environment, Legal), identifies how various environmental factors might affect an organisation and its competitive standing. The environment consists of the following :
 1. Political environment. What are the political issues that can affect your plans ?
 2. Economic factors. Inflation, GDP ratio
 3. Social factors. Demographic changes in the society.
 4. Technology. VPN , facebook , Facsmile etc
 5. Environment. Actual environmental issues
 6. Legal factors.
- ♣ **SWOT**: Acronym for Strength, Weakness, Opportunity and Threats. It is a tool for planning. The strengths and weaknesses are internal in the organisation whilst the opportunities and threats are external. Anything outside your control which threatens you is a threat and if you can take advantage, it is an opportunity. If it is within your control it is a weakness and if within your control you can take advantage it is a strength.

MICHAEL PORTER'S 5 FORCES & HOW TO IMPROVE COMPETITIVE POSITIONS

♣ This is a means of judging competition

1. **Bargaining Power of Suppliers/Supplier Power:** The bargaining power of suppliers is also described as the market of inputs. Suppliers of raw materials, components, labor, and services (such as expertise) to the firm can be a source of power over the firm when there are few substitutes. If you are making biscuits and there is only one person who sells flour, you have no alternative but to buy it from them. Suppliers may refuse to work with the firm or charge excessively high prices for unique resources. An assessment of how easy it is for suppliers to drive up prices. This is driven by the: number of suppliers of each essential input; uniqueness of their product or service; relative size and strength of the supplier; and cost of switching from one supplier to another.
2. **Threat of New Entrants:** Profitable markets that yield high returns will attract new firms. This results in many new entrants, which eventually will decrease profitability for all firms in the industry. Unless the entry of new firms can be blocked by incumbents (which in business refers to the largest company in a certain industry, for instance, in telecommunications, the traditional phone company, typically called the "incumbent operator"), the abnormal profit rate will trend towards zero (perfect competition). Comes in several forms. Look at the focus of your practice
3. **Threat of Substitute:** This refers to the likelihood of your customers finding a different way of doing what you do. The existence of products outside of the realm of the common product boundaries increases the propensity of customers to switch to alternatives. For example, tap water might be considered a substitute for Coke, whereas Pepsi is a competitor's similar product. Increased marketing for drinking tap water might "shrink the pie" for both Coke and Pepsi, whereas increased Pepsi advertising would likely "grow the pie" (increase consumption of all soft drinks), albeit while giving Pepsi a larger slice at Coke's expense.
4. **Bargaining Power of Customers/Buyers:** The bargaining power of customers is also described as the market of outputs: the ability of customers to put the firm under pressure, which also affects the customer's sensitivity to price changes. Firms can take measures to reduce buyer power, such as implementing a loyalty program. The buyer power is high if the buyer has many alternatives. The buyer power is low if they act independently e.g. If a large number of customers will act with each other and ask to make prices low the company will have no other choice because of large number of customers pressure.
5. **Competitive Rivalry:** For most industries the intensity of competitive rivalry is the major determinant of the competitiveness of the industry. Factors such as degree of transparency, level of advertising costs have a huge influence on the competitiveness of the company. This looks at the number and strength of your competitors. How many rivals do you have? Who are they, and how does the quality of their products and services compare with yours? Where rivalry is intense, companies can attract customers with aggressive price cuts and high-impact marketing campaigns. Also, in markets with lots of rivals, your suppliers and buyers can go elsewhere if they feel that they're not getting a good deal from you.

THE CONCEPT OF HUMAN CAPITAL

♣ The staffing function of management deals with the human resource/capital of an organisation. This function includes:

1. Selection
2. Recruitment
3. Employment legislation
4. Promotion
5. Discipline
6. Development
7. Rewards systems
8. Training
9. Trade Unions
10. Productivity
11. Motivation



♣ The human resource of a firm must be managed as well.

PERSONNEL MANAGEMENT IN LAW PRACTICE

Recruitment & Selection

- ♣ Recruitment/selection is the process of hiring and engaging new staff. It entails steps taken by an employer to generate applications from potential candidates. Advertisement in the media or engaging a recruitment agency are part of the recruitment process. Likewise, headhunting, outsourcing, short-listing and screening applications are recruitment activities.
- ♣ Selection on the other hand, is the process of hiring the right candidate to occupy the vacant position in the business. It considers the Job description, job/person specifications, required skills, experience, exposure and qualities the new person must have.
- ♣ Job Opportunities
 - } The recruitment and selection process begins with the occurrence of a vacancy.
 - } Before taking any step towards inviting applications, the role, responsibilities, required skills, experience and qualifications will have been defined.
 - } Notice about the vacancy may be via newspaper, online, recruitment agency, GBA, Notice Board of the Court, word-of-mouth notices or referrals by existing staff and professional colleagues. Law Faculties and Law Schools for interns and pupils.
- ♣ Evaluation of Applicants
 - } Evaluation keeps in view the requirements of the job
 - } Resumes are vetted and separated based on an approved selection and exclusion criteria.
 - } Successful applicants are invited for either screening, interviews or tests based on the recruitment policy of the organisation.
- ♣ Interview
 - } The actual selection process, normally by interview(s) or tests will often be based on parameters such as:
 - a) Appearance/Comportment/ Communication Skills
 - b) Commitment
 - c) Knowledge/Education/Qualification
 - d) Skill/Experience/Exposure
 - e) Critical thinking/Intelligence
- ♣ Actual Section
 - } Face-to-face interviews ought to be arranged before the selection process is completed
 - } Background checks and references are taken to ensure that the applicant is who s/he claims to be.
 - } Resumes are self-serving facts, verification process must start from the resume and other materials supplied by the applicant.
 - } Maintain contact with candidates who have met the selection criteria to ensure that they remain engaged with the firm until they are issued with engagement letters.
- ♣ Induction/Orientation

- } Upon the completion of the contract process, the selected candidate is supposed to be given briefing and encouraged to ask questions
- } These will be about their roles, responsibilities, the history and culture of the business, work philosophies, practices, etc.
- } Orientation is an important exercise aimed at achieving an expedited integration of the new employee into the business
- ♣ Promotion
 - } Promotion is an alternative to recruiting from outside, promote someone within to fill the vacant position.
 - } Promotion motivates existing staff or rewards good/long service.
 - } The promoted employee is already part of the firm and is familiar with the work environment and s/he knows the policies of the firm.
 - } Money and time are saved through promotion
 - } The firm may be denied the opportunity to access new ideas, practices and the creativity that can come from an outsider.
 - } Promotion may leave a vacancy, leaving another position to be filled from outside or from within.
- ♣ Demotion
 - } On some occasion demotion may also necessitate recruitment to fill the position previously occupied by the demoted employee.
 - } Demotion is the precise opposite of promotion as the employee is reassigned to a job lower in terms of position and responsibilities.
 - } If it is aimed at filling a vacancy at a lower level, it reduces operating expense as the demotion of the employee comes with lower remuneration due to reduced responsibilities.
 - } Demotion has many disadvantages: employee's pride and confidence suffers, especially if a junior is now performing his previous functions.
 - } Demotion not every popular, most employers preferring to terminate the appointment of the employee instead.
 - } Causes of Demotion
 - a) Shortcomings with regard to performance, meeting targets, poor attitude or inability to comprehend simple instructions;
 - b) Re-organisation or redundancy within the business resulting from unfavourable business climate or closure of a department or branch of the business;
 - c) Disciplinary problems associated with the deviant employees;
 - d) Ageing or loss of physical strength may render an employee unsuitable for an existing function, thus justifying demotion; and
 - e) Changes in technology, systems or practices, may render an employee unsuitable for a particular position, warranting his/her demotion.
- ♣ Termination/Dismissal/Resignation
 - } Vacancy may also occur because of the removal of an employee from office by his employer due to under-performance, insubordination, gross misconduct, gross negligence, dereliction of duty, etc.
 - } The employee may also end the employment contract by means of resignation with or without notice. Either way, the recruitment and selection process may be triggered.

The Staffing Process

- ♣ **Job analysis** is the process of putting together information about the content and the **human** requirements of a job, including job description, job specification, person specification and so on. Job analysis will determine who is fit to perform a role at a particular place and why.
- ♣ **Job description** is a general written statement about a specific job, following job analysis. Job description states the job title, responsibilities, objectives, scope and the name or position of the person to whom the employee reports.
- ♣ Staffing

- ♣ **Job Specification** - Statement of educational qualifications, experience and qualities required to perform a function. It may also include communication skills, physical or technical requirements as well as emotional intelligence and maturity the job demands.
- ♣ **Person Specification** – Personal qualities to be possessed by a potential employee, such as qualifications, knowledge, skills, experience, special traits or attributes the person under consideration must have to be able to perform the job duties. Helps the prospective employees understand the requirements of the job and make a decision whether to go for the job or not.

Objectives of Staffing & Personnel Management:

1. To procure right type of people for right jobs
2. To train and develop human resources
3. To develop personnel policies
4. To establish desirable working relationship
5. To ensure satisfaction of the needs of the employees

IMPORTANCE OF PERSONNEL MANAGEMENT

1. Observation of working staff.
2. Selection of eligible and best persons according to need of organisation.
3. Provision of training for increased efficiency of staff members.
4. Removal of the problems of staff members.
5. Addressing employee situations in a respectful manner
6. Development of the work efficiency of human power.

THE ROLE OF A PERSONNEL MANAGER

- ♣ A Personnel manager is the head of personnel department. He performs both managerial and operative functions of management. His role can be summarised into the following:
 1. Provision of assistance to top management: The top management are the people who decide and frame the primary policies of the concern. All kinds of policies related to personnel or workforce can be framed out effectively by the personnel manager.
 2. Giving advise to the line manager as a staff specialist: Personnel manager acts like a staff advisor and assists the line managers in dealing with various personnel matters.
 3. Counsellor duties: As a counsellor, personnel manager attends problems and grievances of employees and guides them. He tries to solve them in best of his capacity.
 4. The Personnel manager acts as a mediator: He is a linking pin between management and workers.
 5. He acts as a spokesman: Since he is in direct contact with the employees, he is required to act as representative of organisation in committees appointed by government. He represents company in training programmes.

LEGAL & POLICY ISSUES AFFECTING EMPLOYMENT

A. Discrimination/Equal Opportunity

- ♣ Article 17(2) of the Constitution prohibits discrimination. In employment practice, acts of discrimination based on a person's gender, race, colour, ethnic origin, religion, creed, or social or economic status may be challenged under Article 17 of the Constitution.
- ♣ This means equal opportunity for all persons, the best person for the job or promotion is the person who earns that position based on qualifications, experience and knowledge.

B. Protection of Women

- ♣ Under the 1992 Constitution and the Labour Act it is unlawful to refuse employment to a woman based on her age, marital status, pregnancy, childbirth or any related medical condition.
- ♣ The basic principle is that a woman whether affected or likely to be affected by pregnancy or other related condition or circumstance, must be treated the same way as any other applicant.

C. Sexual Harassment

- ♣ The Labour Act defines sexual harassment as any unwelcome, offensive or importunate sexual advances or request made by an employer or superior officer or a co-worker, whether the worker is a man or woman.
- ♣ If an employee resigns due to the employer's failure to act against sexual harassment, such resignation amounts to unfair dismissal.
- ♣ Criminal Offences Act defines indecent assault to include sexual bodily contact with another person without the consent of that person or that which sexually violates the body of that person in any manner not amounting to carnal knowledge or unnatural carnal knowledge.
- ♣ This is a crime and on conviction, the offender may face up to 6 months.

D. Written Particulars of Employment

- ♣ Act 651 (Labour Act) requires that every employee be furnished with a written statement containing particulars of the contract of employment. These will include the names of the parties, effective date of the contract, job title or grade, pay or mode of calculating same, leave entitlement, notice required to terminate the contract, disciplinary/grievance rules or procedures, etc.

E. CHRAJ (Commission for Human Rights and Administrative Justice)

- ♣ Article 216 of the 1992 Constitutions provided for the creation of the Commission on Human Rights and Administrative Justice (CHRAJ) to, among others investigate complaints of:
 - violations of fundamental human rights,
 - injustice, corruption,
 - abuse of power, and
 - and unfair treatment of any person.

F. Affirmative Action

- ♣ This is a U.S. practice aimed at neutralising the harsh effects of past discrimination against minorities and women in employment matters such as recruitment, promotions and termination. It is a form reverse discrimination intended to achieve equity and diversity in schools and places of work.
- ♣ In Ghana affirmative action derives support under Article 17(4) of the Constitution.
- ♣ Article 17(4) makes it legitimate for policies to be adopted with the aim of bridging the gap between men and women both in admissions at school or employment.
- ♣ Different methods may be used. A quota system may be employed so as to enable certain percentage of government jobs, political positions, and school vacancies to be reserved for the disadvantaged.
- ♣ In some cases, preferential or special consideration may be extended either in the selection processes or in the grant of concessions and waivers.
- ♣ One main criticism of the practice is that it is discriminatory as the benefits it confers are intended to benefit one group to the detriment of another.

G. Nepotism

- ♣ This happens when family members are hired by those in management.
- ♣ When hiring relatives, it is good practice to require family members to work in different areas so as to avoid issues of favoritism and drop in morale among employees.
- ♣ It is often problematic for one family member to be in a role where s/he is required to supervise a relative.

H. Local Content

- ♣ Petroleum (Local Content and Local Participation) Regulations, Legislative Instrument (LI) 2204, was passed in 2013.
- ♣ It requires that priority be accorded Ghanaians in terms of award of particular contracts and employment in the oil and gas sector.
- ♣ The idea being to ensure enhanced participation of Ghanaians in the exploitation of our natural resources.
- ♣ LI 2204 seeks to, among others promote the maximisation of job creation through the use of local expertise, goods and services, business and financing in the petroleum industry; Achieve the minimum local employment local expenses.
- ♣ The LI also requires that at least 5% shares in a foreign company be held by an indigenous Ghanaian company while a company recognised as Ghanaian must have 51% of its shares held by Ghanaians, 80% of executive/ senior management positions and 100% non-managerial positions occupied by Ghanaians.
- ♣ The Ghana Investment Promotion Centre Act, 2013 (Act 865) also reserves some businesses for Ghanaians. Selling in a market, petty trading, the operation of taxi or car hire service, beauty/barbering saloon, retail of finished drugs, production and distribution of sachet water.
- ♣ These restrictions will naturally limit recruitments to local persons.

I. Employee empowerment

- ♣ Offers employees some level of independence and responsibility for decision-making in the performance of their roles. This policy permits decisions to be taken at lower levels, at which employees have a direct knowledge and understanding of the issues or problems.
- ♣ Empowerment comes with unique advantages such as deeper worker participation, increased employee commitment, ownership and responsiveness to issues affecting the business.
- ♣ Disadvantages include lack of consistency in decision-making or lack of coordination leading to drop in efficiency.

J. Job Satisfaction

- ♣ Job satisfaction is the feeling of contentment or a sense of accomplishment, an employee obtains from his/her job. Job satisfaction helps in determining whether or not an employee enjoys his or her work

K. Work Life Balance

- ♣ Work Life Balance ensures that an employee maintains a good balance between time at work and time for personal matters.
- ♣ A good balance, ensures healthy work life devoid of stress, mental or physical breakdown.
- ♣ This improves productivity in the office as employees are able to make time for their personal commitments.
- ♣ Work Life Balance may be achieved through initiatives taken by the employer such as the provision of a nursery facility for nursing mothers, lounge for healthy breaks, paternity leave for male workers, etc.
- ♣ Employees also can take several steps towards achieving healthy work life balance and these may include creating “me time”, being able to say “no” when it would not constitute rudeness or insubordination, or by creating boundaries as to where or when phones cannot be used.

TRAINING AND CAPACITY BUILDING:

- ♣ Training is generally imparted in two ways:

- A. **On the job training:** On the job training methods are those which are given to the employees within the everyday working of a concern. It is a simple and cost-effective training method. The in-proficient as well as semi-proficient employees can be well trained by using such training method. The employees are trained in actual working scenario. The motto of such training is “learning by doing.” Instances of such on-job training methods are job-rotation, coaching, temporary promotions, etc.
- B. **Off the job training:** Off the job training methods are those in which training is provided away from the actual working condition. It is generally used in case of new employees. Instances of off the job training methods are workshops, seminars, conferences, etc. Such method is costly and is effective if and only if large number of employees have to be trained within a short time period. Off the job training is also called as vestibule training, i.e., the employees are trained in a separate area (may be a

hall, entrance, reception area, etc., known as a vestibule) where the actual working conditions are duplicated.

- ♣ Training could also take place in the following ways:
 - A. Orientation courses to give new entrants.
 - B. Service training programs.
 - C. Workshop in special areas to develop technical skills.
 - D. Short term courses
 - E. Continuing education programs
- ♣ Training provides new skills of rate employee; keeps the employee up-to-date with changes in the field; and aims to improve efficiency

Personal Growth and Career Development

- } Developing the employee is akin to investing in a valuable asset.
- } It acts as a source of motivation and helps the employee
- } Could be through mentorship, promotions and opportunities
- } May require counselling
- } Practice, Work exposure
- } CLE Programmes
- } Local and International Bar Associations
- } Continuous Reading
- } Staying abreast
- } Maintaining a high level of intellectual curiosity
- } Observing proceedings in court, and taking notices
- } Being active while playing a supporting role
- } Listening and Contributing to discussions at work
- } Reading law reports for no reason, and taking notes

COMPENSATION

- ♣ A law firm manager must understand compensation and benefits. The challenge about compensation in law firms include competitiveness.
- ♣ The other factor about compensation is industry and country factors. If a law firm does the lock step, the compensation takes factors in the country like the living standards in the different countries.

Compensation Models in Law Firms

- A. **Profit based compensation.** This is normally for a proper partnership (set up under the partnership Act). In this method, the partners do not earn salaries as such but estimate the profit and make drawings
- B. **Contribution to business:** similar to the contribution u bring to the business eg how you market
- C. **Partner compensation:** This will normally be only one of the two : lock step or eat what you kill. With a lock step, Once you become a partner u get the same compensation and doesn't matter the work you bring in. Another situation is what is based on experience so if you have a certain number of years as a partner u all get the same. For eat what you kill, you get based on the cases you bring (whether you worked on it or not)
- D. **Level of effort compensation.** This is what you contribute to a particular case
- E. **Time based compensation :** This is normally used for of counsel. Multiply your rate by hours
- F. **Case based compensation:** This normally applies when there is more than one lawyer in the case and the person wants to pay based on the case based compensation
- G. Incentive based Schemes

Challenges of Compensation in Model law firms

1. Uncertainty in income sources

2. Cost Control challenges
3. Competition with the salaries of both rival law firms and non-law firm employment. As a result law firms have developed compensation methods such as the case based compensation method. The disadvantage may be that you may not get your SSNIT' etc

PERFORMANCE ASSESSMENT: EVALUATION AND APPRAISAL

- ♣ This is the evaluation of an individual employees to determine the strengths and weakness of staff. It is a measure of performance
- ♣ It is an appraisal and should be nonjudgmental and for the purposes of measuring productivity, time utilisation and accomplishments
- ♣ The purpose of this exercise is to lead to improved performance, award/reward, incentives for best performances.
- ♣ Concept of Career Development : Nobody expects to remain at his level forever. Evaluation is used as a basis for career growth.

CONFLICTS AND DISCIPLINE

- ♣ Conflict is inevitable and will arise in the working environment and lawyers like any other managers should be aware of this
- ♣ Grievance Procedures: Grievances are complaints of the employee usually made in connection with breaches of statute, employment contract, work place practice. The procedure to follow is usually spelt out in a Collective Bargaining Agreement (CBA) in the case of unionized staff, in other cases it may be in the Conditions of Service, Internal Manual, Handbook, etc.
- ♣ The presence of a grievance procedure,
 1. Prevents arbitrary decisions of management regarding discipline, terminations, promotions, or remunerations.
 2. Provides a formal process for enforcing the provisions of contracts.
 3. Prevents needless litigation.

Dealing with conflicts

1. It must be formal
2. It must be clear and well structured, eg, verbal warnings, written warnings
3. Make room for audi alteram

Discipline methods

1. Verbal Warnings
2. Written Warnings
3. Grievance procedures
4. Disciplinary Committees
5. Queries and replies

Benefits of Disciplinary Procedure

1. Consequences of breaches known in advance
2. Ensures consistency, fairness and maintenance of standards
3. Sanctions by NLC may be avoided where internal disciplinary procedures were adhered to
4. Sanctions by GLC following clients complaints may also be mitigated
5. Clients may be too slow to report the firm to the GLC, where internal processes are gone through

LAWYERS AWARENESS OF CHANGING THINGS

Generational differences: As time goes on demography changes.

- ♣ **Maturists:** born before 1945; think about owning house; only 3% are in employment
- ♣ **Baby boomers** born immediately after 1945 may be very rich; 33% of the current employment sector; born after WW II; concerned about job security
- ♣ **Generation X:** they began this whole thing about work life balance and have been described as digital immigrants' born between 1961-1980, Concerned about work life balance
- ♣ **Generation Y:** Born between 1981 and 1995 : they like freedom and flexibility and are digital immigrants; 29% of the employment.
- ♣ **Millenials:** technology based, little attention span, value achievements; Born after 1995.
- ♣ As a law manager u need to understand these different generations so as to understand and appreciate what your lawyers do

LEGAL ASSISTANTS /PARALEGALS & SUPPORT STAFF IN A LAW FIRM

- ♣ As the legal industry evolves, the delivery of legal services has become more sophisticated and complex. Although a law firm comprises of one or more lawyers, today's law firms employ many more non-lawyers in various managerial, professional and administrative roles. Most of these positions require an entirely different skill set than that of lawyers.
- ♣ The American Association for paralegals defines a paralegal 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
- ♣ Paralegal roles include Finance assistants and specialist; technology support staff; Recruitment Co-ordinator; Training Managers; Administrative Managers, Practice Managers
- ♣ **Practice Manager:** Normally a position held in a firm of solicitors; akin to the Senior Clerk in a firm of Barristers. Duties include overseeing all support systems; ensuring compliance and management of the practice to enable the solicitors focus on the practice
- ♣ Non-lawyers in a firm include Interns; Summer Associates; Mini-pupils; Legal Assistants, clerks
- ♣ Some law firms divide their paralegal team into two: Transactional and Litigation
- ♣ Independent Paralegals: These are independent contractors who sell their paralegal services to and works under the supervision of one of the attorneys. They could also refer to paralegals who sell their services directly to the public without attorney supervision

RULES ON PARALEGAL FEES

1. Paralegals must keep detailed records of tasks they perform and the time spent performing them
2. Attorneys in private firms can charge clients a separate fee of the non-clerical work done by the paralegal
3. The amount of time a paralegal spends on a task must be reasonable in light of the nature and complexity of the task
4. The amount of the itself must be reasonable

DUTIES OF THE PARALEGAL

General Duties

1. Legal Research and Presentations
2. Assistance in the preparation for trials, hearings and closings
3. Analysing of information presented
4. Preparation of written reports
5. Summarisation of client testimonies
6. Organisation and tracking of case files
7. Building and maintenance of databases and files
8. In some jurisdictions, the drafting of legal documents like briefs, pleadings, legal memoranda

Administrative Duties

1. Filing papers
2. Answering phone calls
3. Maintaining and organising reference files
4. Calling clients, lawyers, experts and court personnel to schedule interviews, hearings, and meetings
5. Travel arrangements
6. Maintaining the schedule of their assigned lawyers

ROLES OF VARIOUS PARALEGALS IN A BARRISTER SETTING

A. The barrister clerk or advocates clerk

1. Diary and practice Management: This involves all activities relating to the barrister getting to and from court like managing court diaries, planning workload etc
2. Fees Management: Ensuring barrister's fees are created for the work they do and are collected; keeping accounts and arranging for the collection of fees
3. Business Development
4. Compliance Matters
5. Administrative duties

B. Senior clerk Aka the Head clerk

1. Check for the potential of conflict of interests where barristers from the same chambers are representing opposite sides
2. Discussion with clients to pair up the clients with the most suitable barristers for their problems
3. keeping of records of specialisation, skills and experience of barristers
4. Planning the timetable of cases to avoid clashes in the timetables of each barrister and between them as well
5. Proactively seeking work for the barristers
6. informing clients of progresses in their cases
7. Monitoring of accounts and fees collection
8. Arranging meetings on behalf of barristers
9. Negotiation of fees to be charged
10. Referral of cases to a more suitable chamber where there is a lack in the expertise needed to address the clients problem

C. Junior Barrister Clerk

1. Finding statutory and case law materials
2. Carrying books, papers and robes to and from court rooms
3. Delivering urgent documents to other chambers
4. Making travel and accommodation arrangements
5. General administrative duties

D. Chief Financial Officer (CFO)

- } The CFO is a high-level financial manager. CFO roles primarily exist in the largest firms, often those operating at a global level who have high revenues and require savvy financial management is critical.
1. He directs and oversees the financial aspects of the firm including accounting, forecasting, financial planning and analysis, budgeting and financial reporting.
 2. He shapes the firm's financial future and establishing operating policies, exploring growth opportunities and protecting the firm's financial stability.

E. Law Firm Administrator

- } Sitting at the executive level, law firm administrators; also known as executive directors, chief managing officers (CMOs) or chief operating officers (COOs); are highly skilled non-lawyer

professionals. In small firms, this position might be called an office manager and held by a senior level paralegal or secretary.

1. Their role is to manage the business side of law practice.
2. Their role encompasses everything from strategic vision, competitive intelligence, knowledge management, hiring, branding, marketing, human resources, compensation, benefits, business development, technology and client service.

F. Legal Secretary

- } A legal secretary (also known as an administrative assistant, legal assistant or executive assistant) is a secretary who is trained in law office procedure, legal technology and legal terminology.
1. While legal secretaries perform clerical functions such as filing, typing, answer the phone and organising files,
 2. They also possess specialised, practice-specific skills and knowledge that help lawyers' practices run smoothly. Legal secretaries usually work for one or more paralegals and/or attorneys.

G. Court Runner

- } Also known as a law firm messenger,
1. The court runner files documents with the court and performs other errands for law firm lawyers and staff.

H. Law Librarian

1. A law librarian conducts legal research using both computerised and manual methods;
2. Acquires and preserves library materials;
3. Is an expert in legal and nonlegal research methods/tools; advises attorneys and legal professionals on legal research methods;
4. Maintains, classifies, indexes, and stores library materials;
5. Manages the library/legal research budget and may coordinate the use of electronic resources, such as West-law, LexisNexis, and other services.

FINANCE & ACCOUNTING AS A COMPONENT OF LAW PRACTICE & MANAGEMENT

LAW FIRM EXPENSES AND HOW LAWYERS GENERATE INCOME

- ♣ Money as a Resource to the Firm
- ♣ **Account Receivables:** This entails monies that the law firm will be expecting and as part of the heads of expenses, the law firm would be spending money
- ♣ **Client Account**
- ♣ **Trust Account:** The purpose of this account is to hold monies the client asks the firm to keep for them and not necessarily for client expenses or recoveries made on behalf of the client. The account must be in accordance with the Anti-money laundering provisions to ensure that unscrupulous clients do not use the account to launder money

EXPENDITURE (EXPENSES)

- ♣ The expenses of a firm varies depending on the type of practice

A. Expenses of Traditional Law Firms

- ♣ This is also referred to as the Chamber System or Office Sharing Arrangements

- ♣ Expenses are narrowed down because they go into a “common pot” in other words a common fund consisting of contributions from partners in the firm. The fund covers all expenses and money is withdrawn usually by the office clerk or practice clerk
- ♣ Other expenses the firm incurs include:
 1. Salaries and wages
 2. Staff Cost: This comprises medical expenses and the like. Costs that are not directly staff related but which are incurred or likely to be incurred by staff
 3. Individual expenses like cost of newspapers etc
 4. Client related expenses like filing fees, costs
 5. Individual taxes

B. Modern Law Firms

- ♣ In modern law firms the expenses can be individualistic, because there is not “Common Pot” for which expenses must enter.
- ♣ Examples of such expenses are ICT, Internet, Office Equipment, Transportation, Furniture and Fittings, Corporate tax, Audit fees, salaries, staff cost etc.

SOURCES OF ACCOUNT RECEIVABLES/INCOME

- ♣ All expenses are met from the income the firm generates.
- ♣ According to the GBA Scale of Fees, the services that lawyers charge for may be either core income, or non-core income
- ♣ Core Income: This refers to income generated from services and charges. This includes fixed fees, Hourly fees, Hourly fees or fixed fees plus success fee, a hybrid of fixed fees and hourly fees. This could be through referrals, networking, creation of briefs etc
- ♣ Non-core Income: This refers to other means of generating income other than through legal services and charges, for example, renting out extra space in a law duplex
- ♣ A good invoice includes the following:
 1. Legal fees
 2. Statutory fees like filing fees, basically fees prescribed by law
 3. Administrative expenses like transport, airfare etc

GBA SCALE OF FEES

- ♣ According to the GBA Sale of fees, remuneration for legal services must be commensurate with the value of the time value created as determined by the economic environment in which the service is provided.
- ♣ The Scale of fees does not touch on the following areas regarding fees: Blended Rate and “Fee Cap”
- ♣ The GBA emphasizes that because of time as well as the economic factor in all the areas the law firm operates or works, the following are the sources of account receivables (in respect of core income for the law firm):
 1. Fixed fee
 2. Fixed fee plus success fee
 3. Hourly fee
 4. Hourly fee plus success fee; and
 5. Fixed fee for part of the work and hourly fees for the other part.
- ♣ Issues not covered or adequately dealt with by the BAR SCALE
 1. Capped fees/Fee Cap: A ceiling on the fees
 2. Blended rates: It is the average rate of all the hourly rates of the workers on the team not firm. EG if lawyer A charges 100 and lawyer b charges 300, the blended rate is 200. Mathematically, it is calculated as $(100+300) / 2$

TIME AS A CONCEPT/MAJOR RESOURCE IN LAW FIRMS

- ♣ Time is always an input in law firms.

- ♣ Service or products offered by Law firms are in reality knowledge, skill, network applied over time thus the need to compute time as a measure for payment
- ♣ According to Abraham Lincoln, a Lawyer's time is his stock in trade
- ♣ Time may be recorded using paper (a Time Sheet) or using computer software.
- ♣ It's important to record time (time as a major resource) as a lawyer because:
 1. There is a competing demand for the lawyer's time
 2. Client Perception
 3. Non-tangibility of service which requires time as a measure of productivity
 4. Deadlines and compliance requirements
 5. Impact of failure to meet deadlines

BILLABLE TIME

- ♣ This concept evolved from Frederick Taylor's concept of time.
- ♣ Billable time is charged to a client or internally to another team or organisation. It is time worked on business matter that will be charged to a client according to a contractual rate.
- ♣ In accordance with the principles of billable time, time is tracked.
- ♣ Time tracking in its extreme form is through the Stopwatch approach

What Qualifies as Billable Time

- ♣ To determine what qualifies as billable time, it is important to first record all the time related to the work done by the lawyer. This is done on the basis of rounding up
- ♣ The concept of rounding up presumes that it is impossible to accurately calculate the minutes or seconds a lawyer spends on a task. The lawyer does not necessarily use an hour, but a component of an hour rounded up
- ♣ The most common rounding up policy is the 1/10 Policy which provides that an hour is divided into 10 with every component of that hour being six minutes. **Illustration:** If client A approaches lawyer B for legal advice and the lawyer began advising the client at 10 am and finishes at 10.08 am, the recorded time will be 12 minutes (i.e although the actual time spent is 8 minutes, this will be rounded up to 12 minutes based on the 1/10th rule).
- ♣ Other rounding up policies are the 1/12 policy (5 mins), the 1/5 (12 mins) policy

Components of Time-Keeping Transactions or Time Sheets

1. Date(s) the work was performed
2. Identity of lawyer performing the task: This is dependent on the policy of the firm. Some firms would require name only, while some firms would require name and position
3. Actual time spent on the task, not the rounded-up time. The concept of rounding up would only come into play where the minutes used are less than the hour component used. For instance, where the 1/10 rule is applied and the time spent is 4 minutes, then the time would have to be rounded up to 6 minutes
4. Concise description of the task
5. Total of each input
6. Overall total time to be converted into fees

Challenges in Time Sheet Recording

1. Vague descriptions
2. Block/Group time: This arises where the lawyer puts all things together. For example, draft settlement terms, court attendance, conference with plaintiff over 4 hours. The components must be individually recorded with their times not be made into a lump sum

Submission of Time Sheets

- ♣ Every firm has a "submission date". These are firm or client specific. Depending on the time of firm, the submission date could be due:
 1. daily
 2. weekly
 3. monthly

4. quarterly or
5. based on specific engagement terms

Non-Billable Time

- ♣ Non-billable time is time usually spent on internal meetings, calls or emails, overcoming miscommunication, or things like fixing bugs, code refactoring and code review, etc.
- ♣ In billing it is important to note that only about 40-70% of the work done is billed because not all times are billable as mentioned above.

VALUE BILLING AND NON-TRADITIONAL TIME-BASED BILLING

- ♣ This is a method of billing for legal services based in factors like the complexity of the case rather than the number of hours worked. It is classified as Non-traditional because they are not captured under the GBA Scale of fees
1. **Blended Rate:** This refers to rates where all of the parties working on a transaction or assignment for a client are averaged. It is not simply a multiple of rates by the rounding up policy in place, but an assumption that irrespective of who is working on the transaction, the collective agreement is that the rate is to be averaged. The rate changes as the number of lawyers working on the assignment change
 2. **Flat rate:** A charge or level of payment that is the same in all cases. Thus, irrespective of the rates of the parties working on the task, or of the number of lawyers on an assignment if the agreed rate is xx, it remains xx
 3. **Daily rate:** This is linked to Frederick Taylor's concept of time –output being man per hour. Lawyers charge based on the time worked and this led to the rounding up principle.
 4. **Weekly Rate:** This is on the assumption that the work a lawyer does is between Monday to Friday.
 5. **Monthly rates** where the average man-month is 22 working days
 6. **The Capped Fee:** This is based on a client's proposal taking into consideration his or her budget. For instance, even the client may propose to pay the lawyer at an hourly rate or daily rate, his or her budget is GHC 1000. Thus, the fees to be charged must be within the state cap
 7. **Referral Fee:** A lawyer who refers you to another lawyer may ask for a portion of the total fee you pay for the case. Referral fees may be prohibited under applicable state codes of professional responsibility unless certain criteria are met. Just like other fees, the total fee must be reasonable and you must agree to the arrangement. Your state or local bar association may have additional information about the appropriateness of a referral fee.

UNETHICAL AND UNPROFESSIONAL TIME COMPILATION

1. False recording
2. Padding: This is where the lawyer pads the bill by adding flimsy matters which have no connection to the work he has done
3. Time Dragging: This is where a lawyer deliberately drags what he can do shorter in a shorter time and as such makes it longer.
4. Charging lawyerly rates for paralegal work
5. False expenses
6. Unconscionably high percentage of recovery fees
7. Time-based forgery

NON-TIME-BASED CHARGES

1. **Retainer charges:** This refers to time the client wishes to retain services of the lawyer of a specific time and is not related to a specific assignment.
 - } It could be a commitment only retainer or a bulk work retainer.
 - } In a commitment retainer, the client engages the lawyer on the agreement that the lawyer or his firm will work on his briefs any time he brings them. In this arrangement, whether or not the client brings a brief, the lawyer is entitled to be paid the retainer fees.
 - } Bulk work retainers demand the negotiation of a certain sum by the parties to cover all manner of work. Like a "down payment" against which future costs are billed.

- } Many retainer fees are non-refundable. There should be a clause in the retainer, stipulating what happens at the end of the retainership agreement.
- 2. **Contingency fees aka Success Fees:** The lawyer's fee is based on a percentage of the amount awarded in the case.
 - } If you lose the case, the lawyer does not get a fee, but you will still have to pay expenses.
 - } Contingency fee percentages vary. A one-third fee is common. Some lawyers offer a sliding scale based on how far along the case has progressed before it is settled.
 - } Courts may set a limit on the amount of a contingency fee a lawyer can receive. This type of fee arrangement may be charged in personal injury cases, property damage cases, or other cases where a large amount of money is involved.
 - } Lawyers may also be prohibited from making contingency fee arrangements in certain kinds of cases such as criminal and child custody matters.
- 3. **No cure no fee arrangements:** Usually for debt recoveries
- 4. **The loser pays principle:** Common in litigation. The loser pays the fees of both lawyers. Similar to financial transactions, that the borrower pays the lawyer of the lender too. Common in Arbitration too Where there is a counter offer as to the claim to be paid, if the offeree doesn't accept and is awarded a less amount as compared to the initial offer, the offeree pays the offeror's lawyers in accordance with the loser pays principle out of the amount so awarded.
- 5. **Costs and expenses incurred by the lawyer**
- 6. **Percentage based charges:** this could be a percentage of cash received by the client or a percentage of the work done by the lawyer
- 7. **Lumpsum** (often called 'fixed lumpsum"): Lawyers who find themselves at the niche end of the price spectrum charge lumpsum.

FACTORS AFFECTING NON-TIME BILLING

1. Experience
2. Reputation
3. Specialisations
4. Ethical and professional considerations like padding, time dragging etc
5. Obligations to the client

HOW TO IMPROVE FINANCES OF THE FIRM

1. Use legal Software
2. Enter your time dockets contemporaneously as you complete tasks throughout the day.
3. At the end of each day spend a few minutes reviewing your dockets and make any necessary corrections or additions while things are still fresh in your mind.
4. Don't do accidental pro bono work. Make sure you get an adequate retainer agreement up front, replenish it when needed, and stop work if you aren't being paid (subject to meeting the requirements of the Rules of Professional Conduct). Some lawyers highlight in retainers or engagement letters the fact they will end the representation if fees are not being paid.
5. Keep the client informed of the ongoing costs of the work you are doing for them with regular billings. Consider billing monthly, and always send reporting letters and accounts when milestones are reached to report how the matter is progressing.
6. Give discounts for prompt payment of bills.

FILE AND INFORMATION MANAGEMENT AKA RECORDS MANAGEMENT

- ♠ 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.
- ♠ It is a legal requirement to properly maintain records according to Act 32 and LI 613.
- ♠ Firms may maintain the following
 1. Diaries: it helps avoid clashes

2. Work files: this is a temporary file that holds data during process. It is used daily. It may contain a initial draft of documents etc
3. Client documents
4. Documents generated by lawyer
5. Time sheets
6. Messenger's receipt book. Given o a messenger when he delivers documents. He records place time name etc
7. Storage system, physical and electronic. A firm must have storage systems ideally both physical and electronic in order to enhance convenience. Eg. Usage of the cloud etc

KEY REQUIREMENTS TO KNOW REGARDING DOCUMENTATIONS:

1. Opening of files
2. Keeping of active client files: What is an active client depends on the firm's policy
3. Conflict Check : You cannot have a file in your office which does not have a KYC and conflict
4. To know when to dispose off closed files (the file is not active anymore) and
5. Keeping safe custody of client's property: These include wills, PoAs, Title Deeds and Securites
6. The lawyer must also keep good accounting records. This is a requirement under Act 32 and also LI 613
7. Where there is more than one lawyer or it's a team, each lawyer must keep his own records

CHARACTERISTICS OF A GOOD FILE AND RECORD SYSTEM

1. **Completeness:** The files (hard copy and/or electronic) are complete and contain all of the information relevant to the case or matter.
2. **Retention:** Filing procedures ensure that all items are retained for the appropriate length of time.
3. **Integrity:** Files are maintained so that they are accurate, sound, and reliable.
4. **Ease of Use:** The file structure and file access provide for quick and easy location of files. Electronic file systems are readily available to all staff.
5. **Security:** Files (hard copy and electronic) are maintained in a safe environment which prevents unauthorised access to the system as a whole or to individual files.
6. **Ease of Learning:** The file system is candid, straightforward, and easy for others to learn.
7. **Adaptability:** The file system is flexible and easy to modify if structural or functional changes in the organisation are necessary.

CHARACTERISTICS OF A POOR FILE AND RECORDS SYSTEM

1. Files (hardcopy and electronic) are lost and cannot be found.
2. Files are messy and disorganised.
3. Office staff is unclear about how the filing system works.
4. Attorneys and legal assistants do not trust the file system and keep their own files or keep the office's files in their possession.
5. Staff is constantly exasperated and frustrated over the file system.
6. Large amounts of time and money are wasted trying to find the file and information.
7. Poor-quality legal services are given to clients because of the poor filing system.
8. Electronic file systems are unreliable or do not work.

ORGANISATION & CODING OF FILES

1. Organisation depends on the firm's policy and laws of the land.
2. It is recommended that all documents are organised in codes or any other form of the classification in a chronological order. Everything, including dog briefs and telephone conversation must be put in writing
3. Keep copies of all original document and only keep original document when necessary 3. Keep billing information, which contains enough information to justify the charge
4. Keep records of results of legal research
5. Keep names and details of clients
6. Use reference or matter numerous

7. Separate active from closed client files
8. Keep records of conflict

PRESERVATION OF CLIENT'S PROPERTY :

♣ Property, left to lawyer by client , whether original or not for purposes of being preserved must be well kept by the lawyer. Examples include :

1. Original wills
2. Power of attorney
3. Valuable client property, such as title deeds and securities

♣ In addition, a lawyer must at all times keep the following :

1. Inventory of documents received from the client
2. Documents must be placed on the client's file

♣ S 24, Data Protection Act: A data controller who records personal data shall not retain the personal data for a period longer than is necessary to achieve the purpose for which the data was collected

OPENING A FILE

1. When a new or existing client comes into the office with a new legal matter, a new file should immediately be opened. The opening of a file should be standardised and requires certain information about the legal matter. A file-opening form or an electronic version (sometimes called a new client/matter form or case sheet) is customarily completed when opening a new file.
2. The file opening form is used for a variety of purposes, including to check potential conflicts of interest, to assign a new case number and attorney to the matter, to track the area or specialty of the case, to set forth the type of fee agreement and billing frequency in the case, to enter the case in the timekeeping and billing system, to make docketing entries (such as when the statute of limitations in the matter might run), and to find out how the client was referred to the law office.
3. Although file-opening forms are commercially available, most law offices choose to customise the form to reflect their own needs.
4. Copies of the file-opening form may be sent to the managing partner, other attorneys, accounting department, docket-control department, and the responsible attorney.
5. A client must be made completely aware before his or her file is closed. It is strongly recommended that the law firm send a disengagement letter to the client, letting him or her know in writing that the file is being closed and that the client can have documents, evidence, or even the whole file returned to him or her. Electronic records also need to be purged or backed up at the same time the hard copy of the file is closed.
6. Retention of client files and client-related documents depends on the ethical rules in your state.
7. Before destroying a client file, contact the client to make sure he or she does not want the file or want something out of the file.
8. When destroying client files, burn, shred, or recycle them to ensure client confidentiality.

CLOSING, STORING & PURGING FILES

1. After a legal matter has concluded and the final bill has been paid, the file is closed and taken out of the storage area of active files. It is boxed up and kept in the office's basement or an off-site storage facility for a certain number of years, until it is destroyed or put on microfilm, microfiche, or stored electronically on CDs or other storage devices. Modern firms store information electronically to save storage space
2. The period of storage is dependent on the firm's policy and the laws of the country of the firm
3. A closed file is sometimes called a "dead file" or a "retired file." Some offices give the closed case a new number, to differentiate it from active cases
4. When to close a file:
 - a. You close a file when all the work for which the client is retained has come to an end or all the work has been completed by the lawyer or where the lawyer has withdrawn for stated reason eg of conflict of interest or the lawyer was discharged. When the client is taking his file away, it is best practice to list everything on the file , eg folio one is this and that etc , sign the inventory and take one and keep on top and you also keep one

- b. The lawyer has reported to the client: slipping to the client (6 -1- 2 rule), if you don't see the client in 6 months for instance you close. Although you have every right to close, you must report to him before.
- c. When the final invoice of the client has been paid or the firm has written off any balance
- d. When the lawyer has accounted for all balances standing to the credit in the client's account. If there is money and you have not accounted for it, you cannot close it. You have to account for it and return the money

♠ **NB: Let the client know when the client will be closed in the letter of engagement.**

♠ What a lawyer does when the case ends

1. The lawyer must finalize the accounts and outstanding bills settled.
2. He must return all documents (original/property) back to the client subject to the engagement rules and regulatory requirements. Eg where the client demands same be kept for him under a new arrangement.
3. In doing all these, he must observe the requirements of the law . Eg the limitation rule regarding keeping and destruction of documents

FILING SYSTEMS

- A. **The Alphabetical System:** In an alphabetic filing system, cases are stored based on the last name of the client or name of the organisation. There is a natural tendency to alphabetise because it is a system that most people understand. In addition, staff members do not need to memorise case numbers or use numerical lists. On the down side, the larger the number of cases the law office is handling, the more problems it will experience with an alphabetical system. This is because names are not all that unique; many clients may have the same last name, unlike the numerical system where each client is identified by a unique number. Plus, the system is difficult to expand and can require constantly shifting files to make room for more.
- B. **The Numerical System:** In a numerical filing system, each case or legal matter is given a separate file number. This is similar to when a case is filed with a court; a clerk assigns each action or lawsuit a separate case number. Case identifiers can be, but do not necessarily have to be, composed of all numbers. Variations can be used, such as alphanumeric, in which letters and numbers are used. For instance, a letter might be used in the case number to reflect which branch office is handling the case, and two of the numbers might reflect the year the case was filed. Another numerical filing method is to assign a range of numbers to a particular type of case, such as 000–999 for trusts, 1,000–1,999 for tax matters etcetera. A filing rule that sometimes bears out is that the longer the case number, the more misfiling and other types of errors occur; shorter numbers can also be remembered more easily
- C. **The Bar-Coding System:** Bar coding is a file management technique in which each file is tracked according to the file's bar code. Each time a user takes a file, the file's bar code and user's bar code are scanned into a computer. The computerised system then tracks which user checked out which file. When the file is returned, the file's bar code is scanned back into the computer. A report can be generated any time, listing what files are checked out and by whom. Using this system, it is possible to find the location of files quite easily.

CORPORATE, GOVERNMENT, AND LEGAL AID FILING METHODS

- ♠ Corporate law and government departments may arrange their matters differently. They may file matters by subject, by department, or by other means that suit their particular industry or need.
- ♠ A fundamental law office filing consideration is whether the filing system will be centralised or decentralised.
- ♠ A centralised file system is where a file department or file clerk stores and manages all active law office files in one or more file rooms.
- ♠ In a decentralised file system, files are kept in various locations throughout the law office, such as each department storing its own files or each attorney keeping his or her own files.
- ♠ Whether an office uses a centralised or decentralised system depends on the size of the office, type of cases handled, and the needs of the personnel involved.

ETHICS IN FILE MANAGEMENT

1. Duty to Turn Over File When Client Fires Attorney: An attorney also has a duty to turn over to a client his or her file when the client decides to fire an attorney and hire another one. What must be turned over to the client depends on the ethical rules and case law
R 4, GBA Code: The papers in a brief delivered to a lawyer are the property of the client, and the lawyer has no right to lend them to any other person without the consent of the client.
2. Confidentiality: An attorney's duty to maintain the confidentiality of client-related matters should be a factor when considering a law office file management system. Files must be maintained so that sensitive information about a case or client is kept private. The confidentiality rule also does not stop once the case is closed. Law offices should be careful to destroy or dispose of files in a manner consistent with the confidentiality requirements.
R 38, GBA Code; R 5(30&(4) LI 613: A lawyer owes a duty of confidentiality to clients; past and present
S 18, Data Processing Act: A person who processes personal data shall ensure that the personal data is processed: without infringing the privacy rights of the data subject
3. Preservation of Client Property: A client must be made completely aware before his or her file is closed. It is strongly recommended that the law firm send a disengagement letter to the client, letting him or her know in writing that the file is being closed and that the client can have documents, evidence, or even the whole file returned to him or her.

DOCKET MANAGEMENT

- ♣ Docket control is typically a law-office-specific term that refers to entering, organising, and controlling all the appointments, deadlines, and due dates for a legal organisation. There are many legal-specific software programs and manual systems that perform docket control functions for law offices, corporate law departments, and government law departments.
- ♣ In many law offices, legal assistants operate the docket control system for the whole office, while in others, legal assistants only use the system to manage and track cases
- ♣ Common docket control entries include:
 1. Expiration dates for statutes of limitations
 2. Judgment renewal dates
 3. Employee-benefit annual filings
 4. Renewal dates for copyrights, trademarks, and patents
 5. Renewal dates for leases and licenses
 6. Renewal dates for insurance coverage
 7. Trial court appearance dates
 8. Due dates for trial court briefs
 9. Due dates on various pleadings: answers; depositions; replies to interrogatories and requests for admissions; various motions and notices, etc.
 10. Due dates in probate proceedings, such as inventory and appraisal dates
 11. Appearances in bankruptcy proceedings
 12. Action dates in commercial law matters
 13. Due dates in corporate or security matters
 14. Closing dates for real estate transactions
 15. Due dates for appellate briefs and arguments
 16. Tax return due dates
 17. Due dates in estate matters, such as tax return dates, valuation dates, and hearing dates
 18. Dates of stockholder meetings
 19. Dates of board of directors meetings

MANUAL DOCKET CONTROL SYSTEMS

- ♣ There are many types of manual docketing systems, including a simple calendar, a card system, and others. Manual docketing systems work best for fairly small law offices. As a law office grows, manual systems become more difficult to manage.

Calendars

- ♣ Small law offices may use simple computer calendar programs or a page-a-day calendaring system. Many calendars provide a section to record “things to do” or reminders, in addition to providing a place to schedule appointments.
- ♣ As cases or legal matters are opened, deadlines and reminders (i.e., “Ticklers”) are entered into the calendar. Notices from courts, attorneys, and so forth also are entered. In addition to the due dates or appointment date being entered, reminders also must be manually entered into the calendar. This process of manually entering due dates and reminders can be very time consuming; for instance, if a deadline with two reminders was entered, the whole entry would have to be manually entered a total of three times in three places.
- ♣ In some offices, each attorney and legal assistant maintains his or her own separate calendar. The issue with this approach is that often the attorneys and legal assistants fail to coordinate their schedules and calendars. This can be a serious problem.
- ♣ Finally, if attorneys wanted a short list of things to be done, appointments, or critical deadlines for a day, week, or month, it would have to be compiled and entered into a word processor by a staff member.
- ♣ Manual calendaring systems also lack the ability to track information by case. For example, if a client asked to see all the upcoming events for his or her case, a staff person would have to go through the calendar and manually put together a list. Depending on the case, there could be many entries. Again, this is a time consuming process.
- ♣ Another problem with a manual calendaring system is that successive calendars must be purchased every year (e.g., one for 2006, one for 2007, one for 2008, and so on). It is also difficult to schedule dates far in the future—five years down the road for a statute of limitations entry, for instance—because you will need the appropriate calendar.
- ♣ Manual calendaring systems are prone to error and time consuming to administer. Because the process is slow and tedious, it encourages users to make as few docket entries as possible. Further, manual systems simply do not have the flexibility and reporting capabilities that computerised versions can deliver.

Card System

- ♣ A card system (sometimes called a “tickler card system”) uses index cards or their equivalent to track deadlines and things to be done.
- ♣ A manual card or form is used for each deadline or task to be completed and includes client name, action to be performed, client number, reminder date, and due date. Cards can be colour-coded to indicate different types of deadlines. In most cases, the card or slip of paper is kept in duplicate or triplicate; copies are used as reminders and filed before the actual due date. An index-card holder or expanding file folder with dividers for each month and each day must be maintained to file each card.
- ♣ When the date on a card tickler is reached, the card is pulled and given to the appropriate person to perform the task, or a list of the deadlines and things to do is made.
- ♣ An individual must check the card system every day in order for it to work properly. However, if a slip is lost or misfiled, the system breaks down. Although computerised systems may occasionally break down as well, manual systems are far more likely to be error prone than their computerised counterparts. In addition, like the manual calendar, any daily, weekly, or monthly report must be typed by hand.

THE DOCKET CYCLE

- ♣ The docket cycle refers to how information is entered into a case management program. There are three primary ways that information can flow into and out of such a program: a centralised method, decentralised method, and combined method.

Centralised Docket Control Cycle

- ♣ In a centralised docket control cycle, one person typically is responsible for entering all docket entries into the docket program. This is usually a secretary or, in some cases, a legal assistant.
- ♣ In this type of system, step one would be for a user to manually complete a docket slip.

- ♣ In the second step, the secretary enters the event into the docket control program.
- ♣ The third step is for reports to be generated, and the last step is for entries to be marked “done.”

Decentralised Docket Control Cycle

- ♣ In a decentralised docket control cycle, the user enters docket information directly into the computer, controlling her or his own docket.
- ♣ In this type of system, the first step would be for the user to enter a docket entry into the case management program.
- ♣ Second, the user views or prints reports as necessary, and
- ♣ Third, the user marks entries “done.” The advantage of this system is that the user has ultimate control over his or her own docket; the disadvantage is that the user is doing the data entry instead of a clerk or secretary.

Combined Docket Control Cycle

- ♣ In a combined docket control cycle, a user can decide whether to enter information into the program or have a clerk or secretary do it.
- ♣ Some docket control programs allow multiple people to enter data into a user’s schedule. For example, some networked docket programs allow both an attorney and his or her secretary to enter information into the attorney’s schedule. Both have full access to the attorney’s calendar.
- ♣ In this type of system, the first step would be for either the user or a third party to enter a docket entry into the case management program.
- ♣ Second, either the user or the third-party views or prints reports as necessary, and third, either the user or third-party marks entries “done.”
- ♣ In some ways, this is the best of both worlds, since the user still has control over his or her calendar but can delegate the data entry to someone else.

LAW LIBRARY ORGANISATION & MANAGEMENT

- ♣ Professional librarians may coordinate and manage the law library in medium to large-sized law offices. In smaller law offices, however, legal assistants or associate attorneys may perform these duties.
- ♣ The Internet, CD-ROM libraries, and data services such as West-law and LexisNexis have changed how and where lawyers and legal assistants access legal research. While hard copy books will probably never be completely replaced by their electronic counterparts, many libraries are going digital, and this has changed how libraries are managed
- ♣ As a law office’s practice changes, the library also will need to change to keep information that is current with the needs of the law office
- ♣ Possible Holdings in a Law Library

a. Case Law	f. Periodicals	k. West-law
b. Citators	g. Reference Works	l. Internet Access
c. Digests	h. Statutes	m. LexisNexis
d. Encyclopaedias	i. Treatises	
e. Index to Periodicals	j. CD-ROM Libraries	

LIBRARIAN RELATED DUTIES

1. Training and supervision of staff
2. Explains research techniques to lawyers and legal assistants, and answers questions
3. Compiles legislative histories and bibliographies
4. Selects and orders books, CD-ROM libraries, and other library resources
5. Reviews and approves bills for payment

6. Plans library growth
7. Catalogs and tracks library resources using computerised methods
8. Routes library-related materials to appropriate staff
9. Files loose-leaf services and other library-related documents
10. Manages check out of books and re-shelves material
11. Performs or assists legal professionals in legal research, particularly regarding computed-assisted legal research and legal and factual research on the Internet

MODERN LIBRARY SYSTEM

- ♣ In Modern Library System, Library Professionals are required for:
 1. Developing digital information resource base;
 2. Building Library Collection and managing information systems and networks;
 3. Providing consultancy and remote support to end users;
 4. Value addition through analysis and interpretation of information;
 5. Planning, developing, delivering and marketing information products;
 6. Training and helping the end users in information search for research;
 7. Managing the contents accessible through intranet;
 8. Archiving e-resources for future use;
 9. Developing interactive website for the library and managing its contents;
 10. Manage both implicit and explicit knowledge available in the library.

TRADITIONAL LIBRARIES

- ♣ Traditional Libraries gives emphasis on storage and preservation of physical items, particularly books and periodicals those in which librarian were a custodian of the library. Information is physically assembled in one place; users must travel to the library to learn what is there and make use of it.
- ♣ The measure of performance of the system may be given in terms of the size of the collection and the ability on the part of a user to retrieve a document from the collection
- ♣ A traditional library is characterised by the following:
 1. Emphasis on storage and preservation of physical items, particularly books and periodicals
 2. Cataloging at a high level rather than one of detail, e.g., author and subject indexes as opposed to full text
 3. Browsing based on physical proximity of related materials, e.g., books on sociology are near one another on the shelves
 4. Passivity; information is physically assembled in one place; users must travel to the library to learn what is there and make use of it

THE REGULATION OF LAW PRACTICE

- ♣ The General Legal Council (GLC) created under the Legal Professional Act, 1960 (Act 32) is the statutory body responsible for the regulation of legal education, enrolment of lawyers, lawyers' professional conduct, law firms and the legal market.

S 1 Act 32: There shall continue to be a body, to be called the General Legal Council, which shall be concerned with the legal profession and, in particular:—

- (a) with the organisation of legal education, and*
- (b) with upholding standards of professional conduct.*

- ♣ The primary objective of the GLC is to ensure maintenance of the legal high professional standards. The GLC does this through:
 1. Legal Education
 2. Enrollment of lawyers
 3. Pupillage for young lawyers

4. Licensing of Lawyers
 5. Registration of Law Firms
 6. Code of Ethics
 7. Discipline/Sanctions
- ♣ The Ghana Bar Association (GBA) collaborates with the GLC in ensuring the proper discharge of the statutory functions of the GLC. Licensing of both lawyers and law firms is carried out by the GLC with logistical support from the GBA.

FUNCTIONS OF THE GLC

A. Legal Education

- ♣ S 13 Act 32: It is the duty of the GLC to set up and run a system of legal training. The duty of the GLC includes the following:
 1. Establishing a system of legal education,
 2. Selecting the subjects in which those seeking to qualify as lawyers are to be examined,
 3. Establishing courses of instruction for students and, generally, for affording opportunities for students to read and to obtain practical experience in the law,
 4. Regulating the admission of students to pursue courses of instruction leading to qualification as lawyers, and
 5. Holding examinations which may include preliminary and intermediate examinations as well as final qualifying examinations.
- ♣ The duties of the GLC may be delegated to a Board of Legal Education.

B. Roll of Lawyers/Practice Certificate

- ♣ S 3 Act 32: Qualification and enrolment of lawyers is defined by section 3. To qualify for enrolment, character is an additional requirement apart from academic qualifications. Lawyers called to the Bar are entitled to practice as solicitors or barristers or both.

S 3 Act 32: A person shall be qualified for enrolment if he satisfies the GLC

(a) that he is of good character, and

(b) that he holds a qualifying certificate

- ♣ S 2 Act 32: A person whose name is entered on the Roll *is entitled, to practice as a lawyer, whether as a barrister or solicitor or both, the fees, charges and disbursement for services rendered as a lawyer, and is an officer of the Courts. He is also subject, when acting as a lawyer, to the liabilities that attach by law to a Solicitor.*
- ♣ S 8 Act 32: All persons other than the AG or an officer of the AG's dept ***shall not practice as a Solicitor unless that person has a valid annual Solicitor's license issued.***
 Korboe Vrs Amosa, (J4/56/2014) 21st April 2016, Unreported, per Dotse JSC,
 "In essence, once Justin Pwavra Teriwajah lost his license at the material time to practice as a lawyer when he prepared and filed the process for and on behalf of the Respondent, the said processes and appearance of the said lawyer must be deemed to be invalid for all purposes. As a matter of fact, courts of law have no option other than to hold that any such defaulting lawyer should not be permitted to practice law because of the mandatory shall used therein. The rationale for the above conclusion stems from the fact that, having lost his right to practice law pursuant to section 8 (1) of Act 32, it is apparent that no validity flows from any process or appearance that such a lawyer will offer any client. It is unfortunate that a client, through no fault of his, would have to suffer the consequences of his defaulting lawyer... I will in its place order that a lawyer who has not taken out a Solicitor's License in any year unless granted a waiver by the General Legal Council for any length of time, cannot practice as a professional lawyer in any court of competent jurisdiction in Ghana and or sign any legal documents.

C. Chambers/Pupillage

- ♣ R 4, LI 613: A lawyer shall not practise unless he is a member of professional chambers or the pupil of such a member. A lawyer shall not receive a pupil into his chambers unless that lawyer has been in practice for a period of not less than seven years and has notified the Council in writing of the proposed pupillage

- ♣ Membership to a law firm requires that the lawyer's name be exhibited and should have access to the firm's clerical staff.
- ♣ The Lawyer's residence can also be used for professional work so long as that part is separated from the purely residential part.
- ♣ All professional chambers shall be registered with the General Legal Council.

D. Discipline

- ♣ The rationale behind the rules regarding maintenance of discipline and good professional conduct is the protection of clients.
- ♣ One of the mandates of the GLC is to receive complaints from clients or the public regarding the conduct of lawyers in a professional respect. This is done through the Disciplinary Committee.
S 17 Act 32: The GLC shall appoint from among their members, or persons who hold or have held high judicial office, or former members of the Council who are practising as lawyers, a Disciplinary Committee.
- ♣ S 18 Act 32: Any complaint by a person relating to the conduct of a lawyer shall be referred to the Disciplinary Committee and,
- ♣ S 16 & 16A Act 32: After hearing a complainant and a finding of grave misconduct is found against the lawyer whose conduct is complained of, the GLC may remove his name from the Roll of lawyers or suspend him from practice for a specified period.
- ♣ Information about pending disciplinary proceedings or outcomes can be accessed on the website of the GLC.
- ♣ Some of the complaints dealt with by the GLC relate to conflict of interest, advertising/touting, misappropriation of clients' funds, overcharging of clients for legal services, fraud and other malpractices.

E. Bar Associations

- ♣ The GBA is a voluntary association of lawyers called to the Bar in Ghana.
- ♣ GBA Constitution, Code Of Ethics And Regulations, Par 1&2: The GBA was set up for
 1. The defence and upholding of freedom and justice in Ghana;
 2. The maintenance of the honour, independence and integrity of the legal profession;
 3. The maintenance of the independence of the Judiciary;
 4. The organisation and promotion of legal education;
 5. The maintenance of professional standards, discipline and etiquette;
 6. The establishment and maintenance of a system of efficient legal aid and advice
 7. The promotion and support of law reform and the pursuit of legal research;
 8. The furtherance of good relations between the Association and similar organizations of lawyers in other countries;
 9. The protection of human rights and fundamental freedoms as defined under the United Nations Universal Declaration of Human Rights and Fundamental Freedoms, the African Charter on Human and Peoples Rights, the Constitution of Ghana, and other international treaties and conventions to which Ghana is a party; and
 10. The conferment of honour on deserving member promote the interests of lawyers and the legal profession.
- ♣ Membership to international Bar Associations such as the IBA, CLA, ABA also help to widen the network lawyers build as well as enhance their knowledge, confidence and stature through their Continued Legal Education Programmes.