

Getting value from ethics CPD as a **senior lawyer**

Ethics is the cornerstone of the legal profession. When a lawyer's ethics and competence are brought into question, it damages the reputation of the profession and can undermine public trust and confidence in the justice system.

Behaving ethically is so much more than just knowing the rules, knowing what is right or being a good person or lawyer.

As a senior lawyer, you should already be well aware that adherence to high ethical standards is critical to maintaining public confidence in the profession and your good reputation. You are likely now at a point in your career where you routinely exercise 'designated responsibility' over a matter, supervise others, and take or share significant responsibility for the culture and standards of both your immediate team and the wider organisation.

These responsibilities can bring with them significant work, life stresses and ethical challenges. It is therefore imperative that you review your ethical radar and leadership skills, to ensure you are able to maintain your integrity and, where relevant, the integrity of your organisation.

Understanding ethical frameworks

There are many frameworks that can help promote good ethical practices in your career. To help you more easily identify areas to focus on in your continuing professional development (CPD), we have amalgamated them under four interrelated headings:

- 1. Sensitivity** – Being sensitive means recognising ethical conflicts or the need to take ethical action. As well as understanding the ethical codes that govern the legal profession, you must be able to recognise when and where ethical risks and conflicts may arise so that you know to address them.
- 2. Context** – To be ethical, you need to be aware of and have tools in place to address the situational and organisational factors and thinking errors that may influence you in either taking or not taking ethical action. Wellbeing and practice management are also relevant considerations here, as neglecting these areas can put you at risk of unethical behaviour and/or may reflect an already poor ethical working environment.
- 3. Confidence** – Having the confidence to know how to apply the rules is fundamental to feeling empowered to take ethical action and make ethical decisions.
- 4. Leadership** – Senior lawyers routinely carry formal obligations and informal expectations to promote ethical behaviour within their teams, organisations and the profession at large, which requires effective leadership skills.

Now is the time in your career to reinforce the routines and ways of thinking that will help you get the most out of your CPD – including in ethics – and be the best lawyer and role model for more junior lawyers that you can be.

Adopting a reflective mindset

A critical part of being a lawyer is the ability to reflect on the way you think about situations and your subsequent behaviour, so you can identify areas for improvement and create new processes for addressing the complex legal and social problems you encounter.

We recommend bringing an active reflective mindset to your CPD. This involves:

- taking note of what you already know, feel and understand about a process, action or concept;
- considering and acknowledging whether there is a difference between what you say you do and what you actually do;
- identifying gaps in your knowledge, skills or other areas and competencies for improvement;
- charting a path to undertake this improvement; and
- evaluating whether the remedial action taken achieved the outcomes that you were seeking and identifying any further action.

Putting in place this reflective approach will help you avoid becoming complacent about your ethical obligations.

Refining your CPD plan using our reflective questionnaire

Our reflective questionnaire is a good starting point when considering potential CPD activities for ethics.

While not a diagnostic tool, it offers a set of prompts to help you identify gaps in your ethical skills and knowledge and develop an action plan to address them over the coming 12 months or so.

You may find it useful to talk to a trusted peer or colleague before (or after) completing the questionnaire or choosing CPD activities to address your needs.

In keeping with the reflective process, we recommend maintaining a record of your answers and your CPD plan. After taking actions to address areas of identified need, you can circle back to your record to see whether you feel you have achieved the outcomes you were seeking.

Reflective Questionnaire

Ethical decision-making is affected by your ethical sensitivity, personal context and your confidence in dealing with ethical issues in your practice.

The first part of this questionnaire asks you to consider statements and decide how frequently they apply to you in the areas of sensitivity, context, confidence, and leadership. Carefully consider the statements on the left and select the frequency with which the statement applies to you.

Once complete, please move on to the 'Suggested actions and opportunities' section.

Areas of ethical consideration, behaviours and capabilities

Frequency – how often the statement applies

	Never applies to me	Rarely applies to me	Sometimes applies to me	Frequently applies to me
Sensitivity				

1A I don't need to consider ethical dilemmas in my area of practice

1B I don't take time to reflect on the ethical considerations of the matters I am working on

1C I feel uncertain about some of the ethical rules/ boundaries that apply to my extended role (for example, having recently taken on greater management or supervisory responsibility)

1D I do not have clear processes in place to deal with ethics issues as they arise (e.g. conflicts of interest)

Areas of ethical consideration, behaviours and capabilities

Frequency – how often the statement applies

		Never applies to me	Rarely applies to me	Sometimes applies to me	Frequently applies to me	
Context	Behavioural	2A	I do things in legal practice without considering the ethics of the situation because that is how I was taught early on in my career			
		2B	As I am now a role model to other lawyers, I feel pressure to know everything			
		2C	I feel I need to 'toe the firm/organisation line', even when I am uncomfortable with it			
		2D	I find myself reluctant to query whether what I and others are doing or being asked to do for a client is ethical			
		2E	I have felt pressure to take an ethical shortcut because there was a rational reason why it was okay, e.g. it didn't hurt anyone's interests			
	Practice Management	2F	I am not confident that I am aware of the status of all matters that I am responsible for			
		2G	I have so much other work that I can't keep on top of everything			
		2H	I feel like I can't delegate work because it doesn't get completed exactly how I like it			
		2I	I feel like I am jumping from one crisis situation/ problem to another			
		2J	I regularly enter my time billing (if applicable) and/ or complete my file notes more than 24 hours after completing the work.			
	Wellbeing	2K	I put off doing the things that assist me to de-stress or unwind because I have important work to get done			
		2L	I feel torn between my personal and professional obligations so that I feel I am not achieving my potential in either			
		2M	I feel overwhelmed by the extent of my responsibilities			
		2N	I work late and/or feel fatigued at the start of each day			
		2O	I rely on stimulants to wake up and/or suppressants, e.g. alcohol or medication, to calm down enough to go to sleep			

Areas of ethical consideration, behaviours and capabilities

Frequency – how often the statement applies

		Never applies to me	Rarely applies to me	Sometimes applies to me	Frequently applies to me
Confidence	Decision-making	3A I don't have a clear decision-making process that I use in making ethical decisions			
		3B I feel very isolated in making decisions in practice, i.e. I have no one I can talk to			
		3C I experience situations where the requirements of the ethical rules/boundaries do not 'feel right' to me			
		3D I experience situations where the ethical rules/boundaries appear to conflict, and I don't know how to resolve them			
	Taking Ethical Action	3E If my client instructs me to do something that is against my ethical obligations, I feel pressure to do it and/or I don't know how to say that I can't			
		3F I have identified unethical patterns of behaviour in my workplace but I do not know how to raise or resolve them			
		3G When I make an error, I feel that I need to fix it without letting anyone know (e.g. to maintain client relationships and/or to be efficient and/or avoid embarrassment or criticism).			
		3H I don't have any plans/words to respond to the more difficult ethical situations that I face in practice			
Leadership	4A At work I am primarily focussed on achieving my own goals and targets				
	4B I am uncomfortable delegating challenging responsibilities as I don't believe they could be handled properly by others in my team or organisation				
	4C I find that ethical discussion is not encouraged in my workplace				
	4D I don't report bad news in my organisation as it will generally not be well received				
	4E I feel uncomfortable or uncertain as to what to do when my team raises an ethical issue with me				
	4F I have not complimented/rewarded my team for acting with integrity				

Suggested actions and opportunities

After you have completed the reflective questionnaire, take time to review the responses and make note of statements that apply to you “sometimes” and “frequently”. These answers suggest that you may be in need of further information, support or skills to assist you to make ethical decisions.

Use your answers from the reflective questionnaire together with the table below to identify what you can do to address any gaps. For example, if you’re concerned about your response to Question 3B, go to the corresponding area of consideration in the table (CONFIDENCE – Decision-making) for suggested CPD opportunities. As you do, reflect on the following questions:

- What outcomes do you want for yourself from any ethics-related CPD?
- What forms of CPD are going to assist you to address areas of ethical uncertainty and achieve your desired outcomes?

Area of Consideration	Suggested CPD Opportunities
<p>Sensitivity</p>	<ul style="list-style-type: none"> • Identify CPD opportunities that are relevant to senior lawyers, related to your area of practice, and that embed ethical considerations into their program. We recommend that, to best meet your needs, the programs should facilitate opportunities for you to actively engage in identifying ethical issues and how to resolve them. This could include CPD activities involving dialogue style panels or interactive workshop models where, rather than a lecture/seminar, you are facilitated to explore ethical issues with colleagues. • Establish discussion groups with other senior colleagues in your area of practice and explicitly include discussions about common or emerging ethical issues they encounter and/or debrief in relation to the areas of ethical practice that you are encountering – ensure that the environment is diverse so that you are not just getting just one viewpoint. • Once you have identified once you have identified any ethical issues or concerns in your area of law, consider putting in place checklists or other workflow management practices so you do not overlook them when they occur.
<p>Context – Behavioural</p>	<ul style="list-style-type: none"> • Identify CPD opportunities that will build your understanding of behavioural ethics i.e., the impacts of situational, organisational and thinking errors on your performance. Ideally, these offerings should provide you with interactive, reflective and action planning opportunities so that you can put what you have learnt into practice. • Explore online resources such as Ethics Unwrapped and conduct a reflective evaluation of how you can lead CPD opportunities in this area in your team/organisation. • Cultivate peer review or peer support relationships or networks that specifically consider issues that may be affecting your practice. • Consider whether you can create a safe and productive space for promoting the discussion of ethical issues and practices in your team. Lead by example in bringing difficult issues to be discussed so that those in your team may feel encouraged to raise issues.

Context – Practice Management

- Consider whether there are any underlying stressors or health issues that are affecting your ability to manage your practice; you may be better off addressing those as a first priority, not the symptoms.
- Do a self-assessment to determine what specific skills and competencies you want to develop further, e.g. goal setting, setting priorities, time management, effective people management, leadership skills, project management.
- Identify CPD or other training opportunities that will support you in developing the practice management skills relevant to your role and practice area. Particularly look for training that will give you good practical tips and outcomes. As some of these skills are generic, you may find it helpful to look beyond traditional CPD offerings to find the product that you need; remember that professional development doesn't have to be delivered by lawyers or legal CPD providers to be acceptable for the purposes of your CPD requirements. Also remember that 'mastery' may take more than 60 minutes!
- If you have concerns that your workload is excessive and you cannot provide – or supervise the provision of – competent legal services, be aware that this is potentially a professional disciplinary problem for yourself and/or your employer, and a potential OHS risk, as an excessive workload may affect you or your organisation's ability to deliver competent legal services. With regards to concerns about excessive workload, we encourage you to raise your concerns with an appropriate person in the organisation if you are able to do so, or contact the LIV's [Guidance Contacts & Support Lines](#). If you are the appropriate person, you may also need to consider whether this problem is personal to you or endemic to the organisation and take steps to resolve it.
- If you are concerned about workplace bullying or issues with supervision and training, you can contact the VLBS+C or Worksafe as external regulators.

Context – Wellbeing

- Identify the key stressor(s) that may be affecting your wellbeing and consider whether the stressor(s) are most effectively dealt with through training, mentoring, health interventions or support, or even by identifying further opportunities outside the legal profession to support your wellbeing.
- If the problem can be resolved by training and development, identify the knowledge/skills that, if enhanced, would make a positive difference to your comfort and effectiveness, either in the workplace specifically or more generally:
 - Consider whether there are CPD offerings that may assist you in developing these skills – noting that you may need to access training offerings provided by non-legal CPD providers. There are various options depending on your budget and needs. Some examples are the 14-day Mindful Billable Unit Bootcamp from [The Mindful Lawyers](#), the [Mindarma](#) online e-learning program, and training from [FrontTier](#).
 - The University of Melbourne's [Mindfulness and Stress Reduction Resources](#) also provides a list of relevant books, apps and online modules on wellbeing and mindfulness that may be helpful. Another option is for your workplace to engage a provider to run a whole-of-workplace course through providers including the [Delphi Centre](#) and [FrontTier](#).
- Cultivate peer review or peer support relationships or networks that provide you with the opportunities to debrief from your practice experiences in an ethically sound manner.
- Consider whether engaging or re-engaging with a hobby and/or family or community members/organisations may enhance your wellbeing.
- Consider whether you are taking adequate time out from work including annual leave, mental health days and other sick leave, long service leave, or time-in-lieu.

**Context –
Wellbeing**
Continued

- Employ a suitably qualified life/career coach to formally assist you to work through your values and how they align or don't align with the areas of practice you are working in.
- Please consider whether a health intervention or similar support is appropriate. The VLSB+C recognises that legal practice can place significant pressures on lawyers and your wellbeing is paramount.
- There are dedicated organisations and services that provide care, and assistance and information for lawyers who are experiencing difficulties coping. These include:
 - [LIV Member Counselling Service](#) – a 24-hour confidential, independent wellbeing service for LIV members (telephone 1800 818 728);
 - [Victorian Bar Health Crisis Help Services](#) – a 24-hour confidential, counselling service for barristers (telephone 03 9650 5540 or 1300 687 327); and
 - [Minds Count Foundation's](#) research and resources (formerly the Tristan Jepson Memorial Foundation, their objective is to decrease distress, disability and the causes of depression and anxiety in the legal profession).
- There are also general support organisations and services that you can access:
 - [beyondblue](#) – an Australia-wide mental health organisation, providing comprehensive online information on the signs and symptoms of depression and anxiety and how to help someone (telephone 1300 22 4636);
 - [The Black Dog Institute](#) – a not-for-profit, educational, research, clinical and community-oriented medical research institute offering specialist expertise in depression and bipolar disorder;
 - [Blue Knot Foundation](#) – the National Centre of Excellence for complex trauma, which provides resources and advocacy for those who have experienced or are caring for someone dealing with complex trauma (telephone 1300 657 380).
- The Legal Practitioners' Liability Committee also provides a [resources page](#) on wellbeing and mental health.
- If you are concerned that your circumstances are such that your ability to satisfactorily carry out the inherent requirements of legal practice may be affected, you should read the [VLSB+C's Mental Health Policy](#). The policy makes it clear that we will treat lawyers with mental health conditions fairly and sensitively. We encourage lawyers who are experiencing a mental health condition to voluntarily seek appropriate treatment and only require lawyers to disclose mental health conditions to us if their condition will affect their ability to meet their legal practice obligations.

**Confidence –
Decision-making**

- Familiarise yourself with resources and/or literature on ethical decision-making and other ethics resources, such as:
 - the Law Institute of Victoria's [Ethics Information Hub](#) (for members)
 - the Queensland Law Society's [Ethical Deliberation Questionnaire](#)
 - the Ethics Centre's [Ethics Unboxed](#) online course and other articles and research in ethics
- Access the LIV's [Ethics Support Line](#) on **03 9607 9336** (which is available to all members of the profession) for specific work-related questions.
- Look for CPD opportunities that are suitable for senior practitioners and involve active and interactive learning and take a problem-solving approach to ethics issues. These might include panels or workshops that focus on current or emerging ethics issues or focus on issues related to your area of practice that embed ethical considerations into their design and delivery.
- Cultivate formal or informal mentoring relationships with practitioners you respect and who may be able to help you develop your sense of professional values and decision-making skills.

Confidence – Taking Ethical Action

- Look for CPD opportunities involving active and interactive learning that provides you with opportunities to practise how you are going to respond to ethical conflicts in the workplace when you know the right thing to do but need to feel empowered to take action.
- Consider whether this is an opportunity for you to bring in, or work with others to develop, a CPD opportunity that can be delivered in-house to improve ethical processes within your team/organisation.
- For general support, consider accessing resources on ethical actions such as the Giving Voices to Values curriculum by Mary Gentile – available through [Ethics Unwrapped](#) or the [Darden University website](#).
- Establish peer review or peer support relationships or networks that provide you with opportunities to practise how to take ethical action in a supportive environment.

Leadership

- Familiarise yourself with ethical leadership resources including [The Ethical Leader](#) by Morgan Witzel, and [Moral Leadership](#) by Deborah Rhode (ed.).
- Knowledge and skills are often transferable across business contexts, so if you cannot find specific CPD to support you in developing your leadership capabilities, you may find non-specific training useful and rewarding, as well as an opportunity to share experiences across business and professional domains:
 - Many Victorian universities offer a variety of short and structured programs in business leadership, and in some cases, more specifically in legal or ethical leadership.
 - Some of these offerings can be studied entirely online, either via the provider direct or through [Open Universities Australia](#). A number of leading international universities also offer relevant online programs and short courses, either on their own platforms, or on platforms such as Coursera or FutureLearn.
- Consider building peer review or peer support relationships with a leader whose ethical approach and leadership style you admire. Use this to provide yourself with opportunities to practise supported ethical leadership.

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We acknowledge the Traditional Owners of the land on which our office sits, the Wurundjeri People, and pay our respects to their Elders; past, present and emerging.