

# THE LAW SOCIETY OF SINGAPORE

## GUIDANCE NOTE 7.3.1

*[Formerly GN 2013, para 10; Council's Guidance Note 2 of 2012]*

### **GUIDELINES FOR HANDLING OF CLIENTS' FILES WHEN A LEGAL PRACTITIONER LEAVES A LAW PRACTICE TO PRACTISE IN ANOTHER LAW PRACTICE**

1. This Guidance Note applies to both the law practice ('Current Law Practice') and the legal practitioner ('Exiting Legal Practitioner') who leaves the Current Law Practice with the intention to practice as an employee or member of another law practice ('New Law Practice').
2. It sets out guidelines on how the file(s) of a client(s) ('Client') of the Current Law Practice being handled by the Exiting Legal Practitioner should continue to be managed when the Exiting Legal Practitioner intends to leave the Current Law Practice.
3. The guidelines are based on the following principles:
  - (a) The primary consideration in all cases is that the Exiting Legal Practitioner and the Current Law Practice must act in the best interests of the Client and ensure that the Client's interests are not prejudiced by the Exiting Legal Practitioner's leaving the Current Law Practice.
  - (b) The Client has at all times the right to decide on the law practice that will represent the Client, which could be the Current Law Practice, the New Law Practice or a third law practice ('Third Law Practice').
  - (c) The Client must be promptly notified in a professional manner of the Exiting Legal Practitioner's departure and given sufficient information in order to decide on the law practice that will represent the Client.
  - (d) The Client is the client of the Current Law Practice and the Current Law Practice has a right to retain the Client.
  - (e) The Exiting Legal Practitioner must comply with all such contractual, fiduciary and confidentiality obligations that the Exiting Legal Practitioner may owe to the Current Law Practice despite leaving the Current Law Practice.

#### **Guidelines**

4. Where the Exiting Legal Practitioner intends to take the Client's file to the New Law Practice, each of the following steps should be followed.
5. The Exiting Legal Practitioner must inform the Current Law Practice first before informing the Client of the intention to leave the Current Law Practice. To inform the Client first and then the Current Law Practice would be unethical.
6. Unless agreed between the Current Law Practice and the Exiting Legal Practitioner, the Exiting Legal Practitioner must not remove lists of Clients' names and addresses or other proprietary information from the Current Law Practice.
7. The Current Law Practice and the Exiting Legal Practitioner should jointly and promptly notify the Client of the Exiting Legal Practitioner's proposed departure. If this is not possible,

the Current Law Practice or the Exiting Legal Practitioner may unilaterally notify the Client, but the notification to the Client should be professional and especially should not solicit or suggest (as the case may be) that the Client has an obligation to retain the Exiting Legal Practitioner's New Law Practice or that the Client has an obligation to stay with the Current Law Practice. The contents of the notification must be in accordance with the principles stated in paragraph 3 above.

8. If the Current Law Practice is instructed by the Client to transfer the file(s) to the New Law Practice or to the Third Law Practice, the Current Law Practice should expressly acknowledge this instruction and facilitate the transfer of the Client's file in accordance with rule 26 of the Legal Profession (Professional Conduct) Rules 2015 (S 706/2015).

9. If the Current Law Practice receives no instructions from the Client to transfer the file(s) to the New Law Practice or the Third Law Practice, it is assumed that the Client intends to continue with the Current Law Practice and the Exiting Legal Practitioner must not take the Client's file to the New Law Practice or otherwise undermine the existing legal practitioner-client relationship between the Current Law Practice and the Client in any way. The Client remains the client of the Current Law Practice and the Current Law Practice must continue to represent the Client in accordance with the required professional standards.

10. In all matters concerning the procedure in paragraphs 7–9 above, it is preferable, whenever possible, that the Current Law Practice and the Exiting Legal Practitioner should communicate with each other and with the Client (whether individually or jointly) in writing rather than orally.

Date: 31 January 2019

**THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE**