

## PRACTICE NOTE 3

### CONDUCT OF REPRESENTATIVES IN THE EMPLOYMENT RELATIONS AUTHORITY

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1. Representatives have twin duties:
  - to assist their client in pursuing or defending a matter in the Authority; and
  - to assist the Authority in meeting its statutory obligation to resolve employment relationship problems.
2. In carrying out those duties representatives are expected to:
  - be polite and constructive in their dealings with Authority Officers, Authority Members and other representatives;
  - to comply strictly with the timetables or other orders issued by the Authority including providing all information the Authority requires; and
  - to fairly and fully disclose to their clients the Authority's directions in the client's matter.
3. Where representatives fail in that duty the Authority may:
  - Engage directly with the parties themselves or one of them; and/or
  - complain to the representative's professional body (if any); and/or
  - impose a penalty on the advocate personally under s 134A of the Employment Relations Act 2000 where the Authority is satisfied the representative has obstructed or delayed the Authority's investigation.
4. Before recourse is had to those complaint and penalty provisions the Chief of the Authority may arrange to meet a representative, who in the opinion of an Authority Member, is failing in his or her professional duty and discuss how the representative can adjust their behaviour to resolve that concern.
5. Representatives are also expected to observe the following conventions at the investigation meeting:
  - have finished sorting their papers and talking to clients before the appointed starting time for the investigation meeting so they can then all listen quietly to the Authority Member's introduction at the beginning of an investigation meeting; and

- arrange for both representatives to be present if it is necessary to talk to the Authority Member before the investigation meeting or during breaks; and
  - do not leave the Authority Member alone with the representative of the other party or any of the witnesses, before, during or after the end of the investigation meeting.
6. Those conventions are intended to protect the integrity of the Authority investigation and enhance the confidence of parties and witnesses in a fair process without improper influence.

**James Crichton**  
**Chief of the Employment Relations Authority**  
**30 April 2019**