

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 9.1.3

[Formerly PDR 2013, para 34; PDR 1989, chap 1, para 26(a)]

PROFESSIONAL SECRECY AND PRIVILEGE

All oral or written communications are privileged, whether they be letters, deeds, bills of costs, entries, statements, or any other communications made to the legal practitioner in the normal course of professional employment, including information obtained by him/her in collecting evidence on behalf of a client.

The privilege applies to communications whether they are made directly or indirectly to the legal practitioner by his/her client, provided they are made to him/her in his/her professional capacity and in the legitimate course of his/her professional employment, even though they do not relate to a cause in progress or even in contemplation at the time the information is communicated.

Privileged information concerning conveyancing transactions is in the same class as privileged information in other cases.

No privilege attaches to the following classes of information:

- (a) Any information which is not confidential in nature.
- (b) Facts which are patent to the senses, for example, the date on which a legal practitioner was first instructed, the fact that the client executed a particular deed, or that the legal practitioner witnessed that deed.
- (c) Communications which client has instructed his/her legal practitioner to repeat to a third party provided the communication to the third party was not intended to be confidential.
- (d) Record of public proceedings.
- (e) Where several parties employ a common legal practitioner, communications are not privileged as between these parties, if they had been made to the legal practitioner in his/her common capacity.
- (f) Communications made to a legal practitioner in furtherance of a fraud or crime, notwithstanding the fact that the legal practitioner might not have been aware of the criminal or fraudulent purpose at the time the communications were made. However, this does not apply to communications made to a legal practitioner for the purpose of a defence in criminal proceedings; such communications are privileged, as long as they are not made in furtherance of a criminal purpose.

The privilege is not the legal practitioner's but the client's and accordingly the client can restrain the legal practitioner from making disclosure or he/she can waive the privilege. Until the client has waived the privilege, it is the legal practitioner's duty, if he/she is requested to make disclosure, to claim the privilege. The duration of the privilege is forever.

Date: 31 January 2019

THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE