

PART VI - DIRECT ACCESS

165. (a) Subject to these rules, a barrister may advise or act in a professional capacity (otherwise than in accordance with rules 126 or 127 upon instructions of a brief received –
- (i) directly from a client; or
 - (ii) from a member of an approved body, acting on behalf of a client of the member; or
 - (iii) from Victoria Legal Aid, acting on behalf of a client, in a criminal matter –
- in accordance with this Part.
- (b) A matter in which a barrister accepts such instructions or a brief is referred to in this Part as a "direct access matter".
166. Deleted.
167. The Rules of Conduct apply to direct access matters.
168. A barrister:
- (a) must not accept any brief or instructions in a direct access matter if he or she considers it is in the interests of the client that a solicitor be instructed.
 - (b) must decline to act in a direct access matter in which at any stage he or she considers it in the interests of the client that a solicitor be instructed.
169. A barrister may appear in a criminal matter in the County Court for a legally aided person if he or she is requested to do so by the Victoria Legal Aid without an instructing solicitor and he or she is satisfied that no prejudice will be suffered either by the barrister or by the client due to the absence of such a solicitor.
170. A barrister may appear in a direct access matter in the Magistrates' Court or the Federal Magistrates Court in a criminal proceeding.
171. A barrister must not, except with the written permission of the Ethics Committee, accept any instructions or brief in a direct access matter:
- (a) to appear in the High Court of Australia, Federal Court of Australia, Family Court of Australia, Supreme Court of Victoria, County Court of Victoria (except in criminal matters where the barrister is instructed by Victoria Legal Aid), or in any civil proceeding in the Magistrates' Courts of Victoria or the Federal Magistrates Court;
 - (b) once proceedings are instituted (if acting for a plaintiff) and served (if acting for a defendant) in any of the courts set out in sub-paragraph (a) hereof.
172. A barrister who has accepted any instructions or a brief in a direct access matter must cease to act once proceedings are instituted (if acting for a plaintiff) and served (if acting for a defendant) in any of the courts set out in Rule 171(a) hereof unless:
- (a) retained by a solicitor to act; or
 - (b) given permission by the Ethics Committee so to act.

173. Notwithstanding anything to the contrary in these Rules, a barrister in a direct access matter must not deliver, file or lodge any document as the legal practitioner on the record in any Court or Tribunal.
174. A barrister who accepts instructions or a brief in a direct access matter must:
- (a) keep a case record in written form which sets out:
 - (i) the date of receipt of the instructions or brief, the name of the client, the name of the case and any requirements of the client as to time limits;
 - (ii) the date on which the instructions or brief were accepted;
 - (iii) the terms on which the instructions or brief were accepted;
 - (iv) the dates of any subsequent instructions, of the dispatch of advices and other written work, or conferences and of telephone conversations;
 - (v) when agreed the fee;
 - (vi) when made any promises or undertakings as to the completion of the work;
 - (vii) as soon as they become apparent to the barrister, any time limits;
 - (b) retain:
 - (i) copies of instructions and briefs;
 - (ii) copies of all advices given and documents drafted or approved;
 - (iii) a list of all documents enclosed with any instructions or brief;
 - (iv) notes of all conferences and of all advice given on the telephone.
175. A barrister must not accept instructions under these Rules:
- (a) to receive or handle client's money;
 - (b) to perform any administrative work not normally performed by a barrister in private practice;
 - (c) to perform inter partes work of a kind not normally performed by a barrister in private practice;
 - (d) from a member of an approved body on behalf of a client in respect of a matter not generally within the professional expertise of that body.
176. A barrister shall not commence any work on a direct access matter until the barrister and the client have executed the standard terms of engagement approved by the Bar Council, except where it is impossible to do so prior to commencing the work, in which case the terms should be executed as soon as is reasonably practicable.
177. All fees paid for direct access work shall be paid into a trust account established pursuant to the Legal Practice Act to be retained in that trust account until a memorandum of fees is forwarded to the client.