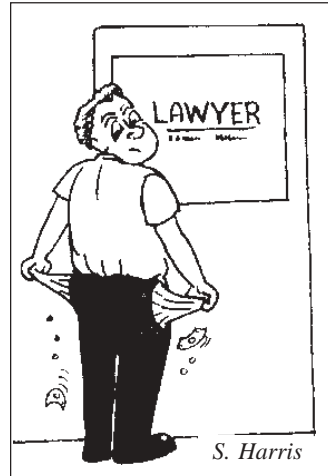


Lawyers

Who Are Lawyers?

Lawyers are persons who have been admitted to practice law before the courts. They are called **legal practitioners** and **attorneys-at-law**. The term “counsel” is also used.

Lawyers in **private practice** represent private persons while those in government service represent the State. Most lawyers in **government service** work at the Attorney General’s Chambers or the Chambers of the Director of Public Prosecutions.



What Do Lawyers Do?

- * Give legal advice
- * Prepare legal documents
- * Represent clients in and out of court

Some lawyers specialise in particular kinds of legal work, such as criminal or civil work, litigation (contested court actions) or matters not involving litigation.

Do I Need A Lawyer?

In both criminal and civil matters you have the right to act on your own behalf or to employ a lawyer of your choice to act for you.

In all but the smallest and simplest matters it is better to have a lawyer’s advice and presentation (if needed). But lawyers’ services do not come free and unless you can afford to pay for them you may have to do without.

Some lawyers are sometimes prepared to act for poor persons for no or little charge; the Guyana Association of Women Lawyers runs a small legal aid clinic and murder accused are provided by the State with a lawyer if they can’t afford one.

But there are many people who suffer great disadvantage for lack of legal help because they can't afford a lawyer.

What Authority Does My Lawyer Have?

Your lawyer must act on your instructions but she/he has control over how they are carried out.

Implied authority. You can expressly limit what your lawyers can do on your behalf but if you don't you will be taken to have authorised her/him to:

- (a) conduct the presentation of your case in court as she/he sees fit whether you are there or not, e.g. in deciding whether or not to call or cross-examine a witness, agree to a settlement or consent to judgment.
- (b) accept service of documents on your behalf, except those which must be personally served upon you, e.g. a divorce petition; and
- (c) receive payment of debts, damages and costs.

Can I Have More Than One Lawyer?

You can have as many lawyers as you like (and can afford) **but** if you already have a lawyer other lawyers should not advise you without your lawyer's knowledge and consent. To do so would be unethical.

Can I Dismiss/Change My Lawyer?

You can withdraw your instructions from (i.e. dismiss) your lawyer at any time you like and either take the matter over yourself or employ another lawyer.

If you have paid your lawyer for the work she/he has done for you she/he must give you your papers relating to the matter. If you haven't paid, your lawyer can keep your papers until you have.

What Obligations Does My Lawyer Have To Me?

1. To use reasonable skill and care. If your lawyer fails to do this you may be entitled to damages for negligence and breach of duty. But losing your case doesn't automatically mean that your lawyer has been negligent.

2. To act in good faith. Your lawyer must make full disclosure to you of any conflict of interest, e.g. if she/he is personally interested in a matter which she/he is handling for you.
3. To keep your confidences. This duty is so strong that even if you tell your lawyer that you have committed a crime she/he must not tell the police.

How Much Do I Have To Pay My Lawyer?

1. Fixed fees. The amount that your lawyer can charge you for certain work (e.g. in relation to buying and selling a property and obtaining probate or letters of administration of an estate) is fixed by law. You can ask to be shown how the amount you are asked to pay has been calculated.
2. Fees by agreement. You and your lawyer can agree how much you will pay for the work she/he is to do for you. This agreement must be in writing. If you are making a claim for damages you may agree to pay your lawyer a percentage of the damages awarded. The percentage should be reasonable and certainly not more than 33% except in very small cases.
3. Fair and reasonable fees. If your lawyer's fees are not fixed by law or agreed with you she/he can charge what she/he likes but the amount must be fair and reasonable.
4. Taxation. If you have paid the amount charged but are not satisfied that it is fair and reasonable you can, within 1 month after payment, require your lawyer to have the amount charged taxed by the Registrar of the Supreme Court. The Registrar will look at the amounts charged for items of work done and allow or disallow them depending on whether or not she/he thinks they are fair and reasonable.
5. Your lawyer cannot sue you for unpaid charges unless she/he has had a bill taxed by the Registrar and an account of the amount allowed on taxation has been delivered to you.
6. Your lawyer's bill should contain separate amounts for professional fees charged and expenses paid on your behalf and give credit for amounts paid on account.
7. If you have made payments on account you can require your lawyer to give you a bill (showing work done and the charge for

- it) every 3 months.
8. Make sure that you get a receipt for all payments made.
 9. Remember that your lawyer can keep your papers until you have paid for work done.

If I Win The Case Won't My Costs Be Paid By The Other Side?

If you win the court will probably order the other side to pay your costs.

The amount of these may be fixed by the court, agreed between the lawyers or taxed by the Registrar.

But whatever the amount, it will not be as much as the amount you can be charged by your lawyer. This is because your lawyer can charge you for certain kinds of work that a losing side doesn't have to pay for. In some cases your lawyer may agree to accept the costs paid by the other side in settlement of her/his charges.

How Do I Make A Complaint Against My Lawyer?

If you are dissatisfied with your lawyer, e.g. she/he has taken your money but failed to turn up in court or has failed to follow your instructions, you can:

1. Make a complaint to the legal practitioners' disciplinary committee. A formal written complaint must be made to the Registrar (who must tell you all you need to know about how to make a complaint), who passes it on to the committee. If the committee thinks the complaint doesn't show any misconduct it can dismiss it but must first give you a chance to put your case. If the committee thinks that your complaint may be well founded it will hold a hearing which you and the lawyer should attend. At the end of the hearing the committee can dismiss the complaint or refer it to the judges of the High Court. If the complaint is referred to the judges they will hold a hearing. If the lawyer cannot give a good reason why she/he should not be disciplined the judges may order that she/he be suspended from practice for as long as they think fit or that her/his name be **struck off the Roll of lawyers**. A lawyer whose name has been struck off the Roll is not entitled to practice law.

2. **Write to the Chancellor of the Judiciary, the Attorney General or the Chief Justice.** The complaint will be investigated and if it is found to have merit the lawyer will be called upon for an explanation. If the explanation is not satisfactory the matter will be referred to the judges of the High Court (See 1 above).