

Personal Injury Services Advertising

The *Personal Injuries Proceedings Act 2002* (PIPA) restricts the advertising of personal injury services by legal practitioners and others.

It is every legal practitioners' responsibility to understand and comply with the restrictions in PIPA. This regulatory guideline is not intended to be a comprehensive interpretation of the restrictions, but highlights some of the more often misunderstood or overlooked requirements and definitions.

Personal Injury Services Advertising

Personal injury services can only be advertised or published in accordance with sections 64, 65 and 66 of PIPA.

Advertising personal injury services can be any statement in an advertisement that, either directly or indirectly, contains a reference to:

- personal injury, accident, or damages, or
- uses words related to making a claim for compensation or damages; and
- which encourages the making of a claim or encourages a person to use a specific firm in the making of a claim.

However, the word 'compensation' can be used where it clearly relates to an area of law other than personal injury services.

What is allowed?

Personal injury services can only be advertised by a published statement containing:

- the **name and contact details** of a legal practitioner or law practice, **and**
- information about the **area of practice or specialty** of the legal practitioner or law practice. (This does not include information about the law of negligence and a person's rights).

Publishing a recognised accredited specialist symbol or a list of legal services provided (e.g., sport injuries, medical negligence, motor vehicle accidents, etc) is permissible in a published statement.

Legal practitioner or law practice websites

A website of a legal practitioner or law practice means the website domain registered in the legal practitioner's or law practice's name. It does not include social media platforms, such as Facebook, Instagram or LinkedIn.

The following additional content can be included on a legal practitioner's or law practice's own website, if the website page relates to personal injury services:

- information about the law of negligence and a person's rights
- the conditions under which the legal practitioner or law practice is willing to provide personal injury services (e.g., free initial consultations, 'no win, no fee' services)

If a website is viewed in Queensland, then it is considered to have been published in Queensland, regardless of its place of origin or the location of the website owner or promoter.

What's not allowed?

Advertisements for personal injury **must not** include the following content:

- photographs, images or videos of any kind (including individuals, law practices or landmarks)
- Statements of self-promotion such as:
 - "We have a reputation for getting great results"
 - "Our caring, professional yet tenacious approach ensures success"
- Client testimonials or 'war stories'
- Logos based on legal images or themes
- Slogans, mottos or claims containing statements like 'industry leaders' or '20 years' experience'

Examples of methods of publication that are not permitted include:

- advertisements on radio and television
- the public exhibition of photographs, films or other recordings of images or sound (e.g., cinema advertising)
- recorded telephone messages
- statements on appointment cards

A personal injury services advertisement must not be in or on a hospital, gratuitously sent or delivered to a hospital, or left in a hospital or on any vehicle in the vicinity of a hospital.

Section 63 of PIPA broadly defines 'hospital' and extends to other allied health services, as well as adjacent land and premises.

Internet and Social Media publication

Any form of advertising for personal injury services on the internet or social media platforms (e.g. Facebook, Instagram, LinkedIn, Twitter) must comply with the above outlined PIPA restrictions. This includes, but not limited to, banner or pop-up ads, click bait, paid search result promotions and search engine optimised results.

Additional content may be published on a legal practitioner's or law practice's own website, as outlined above.

Client Enquiries

A person does not breach the advertising restrictions if the advertisement is viewed or received by a person who is already a client of a law practice. A client includes anyone who makes a genuine enquiry of the legal practitioner or law practice.

A person viewing or browsing a website or social media pages is not a client or genuine enquirer.

Additional steps should be taken to ensure that restricted content is only accessible to existing clients or genuine enquirers. This may include requiring a password to access this content or the person to input further contact information.

A simple 'Yes' and 'No' tick box enabling access to this restricted content is not sufficient.

Prosecuting breaches of PIPA

A breach of the PIPA advertising restrictions is a summary offence and significant penalties can apply, including:

- a maximum fine of up to \$41,355.00 (as at 1 March 2022), and
- for legal practitioners – a breach (whether separately prosecuted as a summary offence or not) is capable of amounting to unsatisfactory professional conduct or professional misconduct.

Flagrant or deliberate breaches of the restrictions, repeated minor breaches, and where steps to remedy a breach aren't taken or demonstrable, the Commissioner will consider if prosecution of the PIPA offence and / or a disciplinary response under the Legal Profession Act 2007 is warranted.

Any breach of the PIPA advertising restrictions will be considered on its own facts.

Individual practitioners or other persons may be prosecuted or face disciplinary action. Legal practitioner principals remain responsible for the conduct of employees and agents in complying with PIPA requirements. This includes external consultants and

service providers engaged to develop advertising for personal injury services.

Further Information

This guide was published on 16 March 2022 and will be updated from time to time and should be regularly reviewed on the Commission's website (www.lsc.qld.gov.au).