



TASMANIAN LEGAL PRACTICE COURSE

Conducted by Centre for Legal Studies Ltd (ACN 079 628 390)

UNIT OUTLINES 2012

Graduate Diploma in Legal Practice

University of Tasmania (UTAS)

CONTENTS

1. Introduction	4
2. Information about Units and Assessment	5
3. LCA101 Civil Litigation Practice – Supreme Court Practice and Advocacy	8
3.1. Module 1 – Familiarisation with the Court	10
3.2. Module 2 – Litigation Strategy (overview)	11
3.3. Module 3 – Conducting Civil Litigation	12
3.4. Module 4 – Applications in the Supreme Court (practice and advocacy)	13
3.5. Module 5 – Negotiation and Mediation	14
3.6. Module 6 - Introducing Evidence at Trial (civil)	15
LCA101 Tribunal Practice (incorporating Workers Compensation Practice & Mental Health Tribunal Practice & Industrial Relations Practice)	16
3.7. Module 1 – Workers Compensation Practice	18
3.8. Module 2 – Mental Health Tribunal	19
3.9. Module 3 – Industrial Relations Practice	20
4. LCA102 Criminal Law Practice – Magistrates’ Court Practice and Advocacy	21
4.1. Module 1 – Familiarisation with the Court	23
4.2. Module 2 – Applications and Submissions (practice and advocacy)	23
4.3. Module 3 – Conducting Defended Criminal Proceedings	26
5. LCA103 Commercial and Corporate Practice	28
5.1. Module 1 – Conducting Commercial Transactions	30
5.2. Module 2 – Setting Up Commercial Structures	31
5.3. Module 3 – Dealing With Loans and Securities	32

5. 4.	Module 4 – Revenue Implications	32
6.	LCA104 Property Law Practice (incorporating Conveyancing Practice, Land Use Practice and Wills and Estate Practice)	33
6.1.	Module 1 – Real Estate Conveyancing	36
6.2.	Module 2 – Creating and Releasing Securities Over Property	37
6.3.	Module 3 – Residential and Commercial Leasing	37
6.4.	Module 4 – Land Use	38
6.5.	Module 5 – Wills and Estate Administration	38
7.	LCA105 Trust and Office Accounting	40
7.1.	Module 1 – Trust Accounting	42
7.2.	Module 2 – Office Accounting (for clients)	42
8.	LCA106 Family Law Practice – Family Law Practice & Procedure	44
8.1.	Module 1 – The Family Law System	47
8.2.	Module 2 – Children’s Matters	47
8.3.	Module 3 – Property Proceedings	48
8.4.	Module 4 – Divorce and other relevant matters	48
9.	LCA107 Skills, Ethics and Professional Responsibility	50
9.1.	Module 1 – Lawyers’ Skills	56
9.2.	Module 2 – Ethics and Professional Responsibility	57
9.3.	Module 3 – Problem Solving Skills	58
9.4.	Module 4 – Work Management and Business Skills	58
9.5.	Module 5 – Workplace Experience	59

1. INTRODUCTION

When reading this Unit Outline booklet, trainees should note that -

- Each Unit is broken down into sub-units called “Modules”.
- In each Unit the competency standards applicable to it are made up of a number of “elements”, and that for each element there are a number of “performance criteria”.
- Each of the Units LCA101, LCA102, LCA103, LCA104 and LCA106 (“practice units”) has its own discrete set of competency standards and in that sense each stands alone but that,
- Each of the practice units also incorporates the competency standards applicable to Units LCA105 and LCA107.
- All competency standards (their elements and performance criteria) are those required under the “*National Competency Standards for Entry Level Lawyers*” adopted by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC).

2. INFORMATION ABOUT UNITS AND ASSESSMENT

UTAS UNIT CODES	UNIT TITLE
LCA101	Civil Litigation Practice - Supreme Court Practice and Advocacy Tribunal Practice (incorporating Workers Compensation Practice & Mental Health Tribunal Practice & Industrial Relations Practice)
LCA102	Criminal Law Practice - Magistrates Court Practice and Advocacy
LCA103	Commercial and Corporate Practice
LCA104	Property Law Practice (incorporating Conveyancing Practice, Land Use Practice and Wills and Estate Practice)
LCA105	Trust and Office Accounting
LCA106	Family Law Practice – Family Court Practice and Advocacy
LCA107	Skills, Ethics and Professional Responsibility

ASSESSMENT

General

Subject to attendance requirements being met, a trainee may expect to satisfactorily complete the TLPC if they demonstrate that they have complied with the competency standards for each Unit.

Assignments

Each Unit Outline sets out in general terms the assignments (both written and oral) which will be undertaken by trainees during the Course of the TLPC, and trainees should note that all assignments undertaken will be assessed against the relevant competency standards.

Trainees should also note, however, that in some cases passing a particular assignment will count towards the successful completion of the TLPC, and in some cases it will not.

Those assignments which must be passed by a trainee as a pre-requisite to completing the TLPC satisfactorily will be “summatively” assessed, and those which do not will be “formatively” assessed.

By way of explanation -

- “Summative” assessment is the formal assessment of whether or not a trainee has demonstrated the achievement of the competency standards relevant to the assignment, and
- “Formative” assessment is the on-going assessment or feedback in the training process by which a trainee first identifies their personal initial levels of competence and understanding, and learns from that feedback what is required and how to improve their competency.

In all the Unit Outlines the nature of the assessment of performance in assignments is addressed, and in some, the assessment is expressed as being either “summative” or “formative”. Where this is not the case the Unit Coordinator will clarify the position at the commencement of the TLPC.

Practical Tasks

Towards the middle, and towards the conclusion of the TLPC a series of practical tasks will be undertaken by trainees under examination conditions.

Those tasks will –

- take at least 3 hours to complete
- be summatively assessed
- be “open book”, and
- be of a type which an entry level lawyer might be expected to undertake in their “day to day” practice in a legal office.

The tasks to be undertaken will be formulated “at random” from more than one of the TLPC Units.

Tests

Some Unit instructors may require trainees to undertake informal tests from time to time, and these tests may be summatively assessed.

Pass Marks

No assessment process at the TLPC will involve the awarding of “marks”, in percentage terms, or otherwise. Marks may be relevant to school and university assessment processes, but they are not relevant in the context of work undertaken at the TLPC. That is because in legal practice, service to clients is not measured in percentage terms, but in being efficient and effective.

A trainee’s work at the TLPC either meets the competency standard of an “entry level lawyer”, or it does not – and that is how their work will be assessed.

3. LCA101 CIVIL LITIGATION PRACTICE SUPREME COURT PRACTICE AND ADVOCACY

Practice and Procedure in Civil Matters in the Supreme Court

COORDINATOR The Honourable Justice Alan Blow, OAM
Judges Chambers - Supreme Court of Tasmania
Salamanca Place, Hobart, 7000
Email: supreme.court@justice.tas.gov.au

**CIVIL LITIGATION
PRACTICE COORDINATOR** Tom Cox
Barrister
Malthouse Chambers
Email: tom.cox@tasmanianbar.com.au

CONTENT

This Unit is organised into six modules:

1. Familiarisation with the Supreme Court
2. Litigation Strategy
3. Conducting Civil Litigation
4. Applications in the Supreme Court (practice & advocacy)
5. Negotiation and Mediation
6. Introducing Evidence at Trial (civil)

OBJECTIVE

At the conclusion of the Course, trainees should be able to “...conduct civil litigation in first instance matters in Courts of general jurisdiction, in a timely and cost-effective manner.”

COMPETENCY STANDARDS

In this Unit trainees will be required to meet the following elements of the *Civil Litigation Practice* components of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Assessing the merits of a case and identifying the dispute resolution alternatives	<ul style="list-style-type: none">• Assess the strengths and weaknesses of both the client’s and opponent’s cases.• Identify the facts and evidence required to support the client’s case• Identify all means of resolving the case, having regard to the client’s circumstances.

	<ul style="list-style-type: none"> • Advise the client of relevant rights and remedies in a way in which the client can easily understand. • Where possible, confirm in writing any instructions given by the client in response to initial advice. • Identify and comply with the relevant limitation period.
2: Initiating and responding to claims	<ul style="list-style-type: none"> • Identify an appropriate claim or defence. • Identify a Court of appropriate jurisdiction. • Identify the elements of the claim or defence, according to law. • Follow procedures for bringing the claim or making the defence in accordance with the Court's rules and in a timely manner. • Draft all necessary documents in accordance with those procedures.
3: Taking and responding to interlocutory and default proceedings	<ul style="list-style-type: none"> • Identify any need for interlocutory steps or default proceedings, according to the Court's rules. • Follow procedures for taking those steps or proceedings in accordance with the Court's rules and in a timely manner. • Draft all necessary documents in accordance with those procedures and rules.
4: Gathering and presenting evidence	<ul style="list-style-type: none"> • Identify issues likely to arise at the hearing. • Identify evidence needed to prove the client's case or disprove the opponent's case, according to the rules of evidence. • Gather the necessary evidence. • Present that evidence according to law and the Court's rules.
5: Negotiating settlement	<ul style="list-style-type: none"> • Conduct settlement negotiations in accordance with specified principles. • Conduct formal mediation in accordance with good practice. • Identify any revenue and statutory refund implications. • Properly document any settlement reached
6: Taking action to enforce orders and settlement agreements	<ul style="list-style-type: none"> • Identify procedures for enforcing the order or settlement according to law and the Court's rules. • Follow those procedures in a timely manner.

GENERAL FORMAT

Throughout the duration of the Course, judges and practitioners will give lectures, conduct workshops and issue exercises on all aspects of this Unit. Every second Tuesday afternoon, trainees will appear in the Supreme Court to argue applications and make submissions. By way of introduction, during the first four weeks of the Course, trainees will receive

instruction on a 'simple' litigation file. The file will run for three weeks and provide trainees with an overview of a civil litigation file. Trainees will then be required to conduct a more complex personal injuries file, which will run for the balance of the Course.

ASSESSMENT

The assessment of work in each module is indicated in each Module Outline (see below).

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes, sample documents and exercises will be distributed in lecture sessions.

Specific Legislation

- *Evidence Act 2001 (Tas)*
- *Supreme Court Rules 2000*
- *Supreme Court Civil Procedure Act 1932*
- *Civil Liability Act 2002*
- *Motor Accidents (Liabilities and Compensation) Act 1973*
- *Workers Rehabilitation and Compensation Act 1988*
- *Alternative Dispute Resolution Act 2001*

Recommended Reading

- Aronson, M., Henning, T., & Hunter, J., *Litigation – Evidence and Procedure*, Lexis Nexis, Australia, 2005.
- Cairns, B., *Australian Civil Procedure*, Thomson Law Book Co, NSW, 2007.
- Cairns, B., *The Use of Discovery and Interrogatories in Civil Litigation*, Australian Institute of Judicial Administration, Vic, 1990.
- Glissan, James., *Cross-Examination Practice & Procedure – An Australian Perspective*, Legal Books Ltd, Sydney, 1985.
- John Phillips, *Advocacy with Honour*, The Law Book Company Limited, 1985.
- Harold Luntz, *Assessment of Damages for Personal Injury and Death*, Butterworths.

3.1. MODULE 1 – FAMILIARISATION WITH THE COURT

FORMAT

During weeks one and two of the Course, trainees will be given a tour of the Supreme Court, and a series of lectures by the judges and the Registrar about the Court and its management, and general Court etiquette, practice and procedure. Trainees will gain further familiarity with the Court by appearing in Court throughout the duration of the Course (see "3.4. Module 4 – Applications in the Supreme Court (practice and advocacy)" below).

ASSESSMENT

Trainees will be assessed in this Module “by attendance” at the Court.

3.2. MODULE 2 – LITIGATION STRATEGY (OVERVIEW)

FORMAT

This module will be covered by trainees participating in the **Litigation Overview** file and the **Personal Injuries** file. Commencing early in the Course, there will be a series of workshops conducted by practitioners in which trainees will be introduced to the important general elements common to all litigation matters. After the introductory workshops the trainees will be given lectures and participate in workshops to progress a complex litigation file in the Supreme Court. Throughout the Unit the trainees will be given instruction on a broad range of elements involved in litigation matters, such as -

- taking instructions
- cost, costing, and payment of disbursements
- letter of retainer
- setting up and keeping the file
- reporting to client
- gauging chances of successfully resolving issues
- time limits
- ensuring client’s expectations are realistic
- tactics to employ with opposing practitioner
- proofing client and witnesses
- briefing counsel (chronology etc)
- ethical considerations
- risk management generally
- entering judgment
- enforcing judgment

ASSIGNMENTS

Litigation Overview File

Trainees will be given an overview of the litigation process and with the assistance of their instructors will maintain a ‘simple’ file involving a motor vehicle accident. The action will involve a claim for property damage only (no personal injuries) and will incorporate the basic elements of a Supreme Court action. The file will run for three weeks and is designed to give trainees an overview of the litigation process before commencing their more complex file.

Personal Injuries Litigation File

Starting in the fifth week, the Trainees will be required to act for a plaintiff in a personal injuries claim and maintain a file which will incorporate all of the common elements of litigation matters (as outlined above). The instructors will act for the defendant and also act in the role of client, witness or the like. The file will be conducted in sequence, from taking instructions to obtaining judgment and enforcing it.

ASSESSMENT

(See below at 3.3)

3.3. MODULE 3 – CONDUCTING CIVIL LITIGATION

FORMAT

This module will also be covered by trainees participating in the **Litigation Overview** file and the **Personal Injuries** file.

Throughout the conduct of the files, trainees will be required to –

- Draft pleadings, and other processes such as affidavits of discovery, interrogatories, interlocutory applications and offers of compromise.
- Draft letters and memoranda of advice to their client or partner (e.g. as to liability and quantum) at appropriate times.
- Undertake various ad hoc tasks. These tasks and the trainees' efforts in executing them must be recorded and placed on file
- Attend and represent either the plaintiff or defendant at mediation

Periodically, each trainee's file will be audited by the Unit instructors (and this will include the auditing of trust and office account records kept in conjunction with it).

ASSESSMENT

The Litigation Overview File will have one assessable component which will be assessed formatively. The Personal Injuries Litigation File, and its various components, will be in the most part formatively assessed. However, a number of those assignments will be summatively assessed and these will be identified for trainees when distributed.

3.4. MODULE 4 – APPLICATIONS IN THE SUPREME COURT (PRACTICE AND ADVOCACY)

FORMAT

Trainees will be divided in to two groups (Montagu and Pedder) and will remain in those groups throughout the Course for the purposes of this Module only.

There will be a series of on-site lectures given by the judges and practitioners instructing in this Unit to all trainees together. Trainees will undertake ten exercises each throughout the Course. Lectures on the Supreme Court Rules will be given in tandem with the content of the exercises.

In the process of completing the exercises, trainees will be required to draft and file pleadings and other documents. Each trainee will be required to attend the Court on ten occasions and participate in a hearing on behalf of his or her client. The format outline for the distribution of the exercises commencing, say, “Week One” for Montagu, will be as follows –

Week	Montagu	Pedder
1	<ul style="list-style-type: none"> • Court Tour and Introductory Appearance • Receive <i>Exercise One</i>
2	<ul style="list-style-type: none"> • File pleadings and other documents for <i>Exercise One</i> 	<ul style="list-style-type: none"> • Court Tour and Introductory Appearance • Receive <i>Exercise One</i>
3	<ul style="list-style-type: none"> • Attend Court and argue in support of application for <i>Exercise One</i> • Receive <i>Exercise Two</i> 	<ul style="list-style-type: none"> • File pleadings and other documents for <i>Exercise One</i>
4	<ul style="list-style-type: none"> • File pleadings and other documents for <i>Exercise Two</i> 	<ul style="list-style-type: none"> • Attend Court and argue in support of application for <i>Exercise One</i> • Receive <i>Exercise Two</i>
5	<ul style="list-style-type: none"> • Attend Court and argue in support of application for <i>Exercise Two</i> • Receive <i>Exercise Three</i> 	<ul style="list-style-type: none"> • File pleadings and other documents for <i>Exercise Two</i>

(PLEASE NOTE that the above table is for illustration purposes only. It shows how the receipt of exercises, the submission of written work to the Court, and the oral submissions to the Court are staggered as between the two groups – nothing more.

The complete, and detailed litigation timetable will be issued as a separate document prior to the commencement of the Course.)

ASSIGNMENTS

Exercises

During the “familiarisation” weeks, trainees will be obliged to make a short “*ex tempore*” application of their choice.

The exercises following the “*ex tempore*” application, will be formulated from the following practice areas -

- setting aside judgments
- summary judgments
- renewing writs
- substituted service
- pleadings
- interrogatories
- cross vesting
- lower Court appeals
- statutory demands

Some Court applications made by the trainees will be *ex parte*, and some will be opposed, either by trainees or practising lawyers.

Trial Advocacy Exercise

The remaining exercise will be a trial advocacy exercise conducted as part of “3.5. Module 5 – Introducing Evidence at Trial (civil)” (see below).

ASSESSMENT

Later exercises will be summatively assessed but earlier ones will be formatively assessed. The instructors will advise in advance those exercises which will be summatively assessed.

3.5. MODULE 5 – NEGOTIATION AND MEDIATION

FORMAT

Throughout the Course lectures will be given and workshops will be conducted addressing negotiation practice and procedure generally. Particular emphasis will be given to the negotiation of a settlement of the plaintiff’s claim in the personal injuries action. Trainees will also be given instruction in the Supreme Court mediation process.

ASSIGNMENTS

Trainees will be required to prepare for, and participate in a mediation conference at the Supreme Court between the parties to the personal injuries action. At that conference trainees will take instructions from members of the profession, acting as clients.

In that setting, trainees will be required to present arguments addressing the issue of liability and the issue of quantum. The object of the conference is for the trainees to settle the action favourably from their client's perspective.

ASSESSMENT

All written work undertaken as preparation for the mediation conference will be assessed summatively. Trainees' performance in the mediation conference will be assessed formatively.

3.6. MODULE 6 – INTRODUCING EVIDENCE AT TRIAL (CIVIL)

FORMAT

In the process of conducting the Civil Litigation Personal Injuries File trainees will be required to obtain evidence such as witness statements and medical reports; draft, file and serve the relevant documents on the defendant; and consider the need for discovery and/or interrogatories and prepare the relevant documents.

The **Trial Advocacy Exercise** will cover the introduction of civil evidence at trial by the process of –

- pre-trial preparation (e.g. discovery, interrogatories, proofing witnesses),
- subpoenaing witnesses and documents,
- leading evidence,
- cross-examination, and
- introducing documentary evidence in Court.

Trainees will be required to attend Court and lead evidence from one witness and cross-examine another witness. They will also be required to take a turn at being the witness to be examined and cross-examined. Trainees will decide the relevance of their questions and the issues that they wish to develop or attack by their questions.

ASSIGNMENTS

- Elements contained within the personal injuries file and the Trial Advocacy exercise.

ASSESSMENT

Assessment will be summative.

COORDINATORS

**Module 1 Coordinators
(Workers Compensation
Practice)**

Alison Quinn
Practitioner
Dobson Mitchell & Allport
Email: Alison.Clues@utas.edu.au

Leigh Mackey
Practitioner
Ogilvie Jennings
Email: Leigh.Mackey@utas.edu.au

**Module 2 Coordinator
(Mental Health Tribunal)**

Diane Sharman
Practitioner
Coordinator Mental Health Tribunal
Representation Scheme, Advocacy Tasmania
Email: Diane.Sharman@utas.edu.au

**Module 3 Coordinator
(Industrial Relations Practice)**

Sandra Taglieri
Barrister
Derwent and Tamar Chambers
Email: sandra.taglieri@tasmanianbar.com.au

CONTENT

This Unit is organised into three modules:

1. Workers Compensation Practice
2. Mental Health Tribunal; and
3. Industrial Relations Practice

OBJECTIVES

At the conclusion of the Course, trainees should be able to –

- Obtain information.
- Obtain review of administrative decisions.
- Represent a client.
- Assess the merits of the dispute and identify dispute resolution alternatives.
- Advise clients on procedures.
- Commence negotiations.
- Initiate and respond to proceedings.
- Take action to implement outcomes

COMPETENCY STANDARDS

In this unit trainees will be required to meet the following elements of aspects of the *Administrative Law Practice, Employment and Industrial Relations Practice* and *Advocacy* components of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Obtaining information	<ul style="list-style-type: none"> ● Identify whether freedom of information legislation applies to the situation. ● Identify the specific legislation under which the information may be obtained. ● Take steps required under that legislation. ● Identify and take any other practical steps required to obtain the information.
2: Obtaining review of administrative decisions	<ul style="list-style-type: none"> ● Conclude correctly that the decision may be reviewed. ● Identify and discuss with the client alternative means of obtaining a review. ● Complete all preparation required by law, good practice and the circumstances of the matter.
3: Representing a client	<ul style="list-style-type: none"> ● Identify all alternative means of obtaining redress and discuss them with the client. ● Complete all preparation required by law, good practice and the circumstances of the matter. ● Represent the client effectively at any mediation, hearing or other forum.
4: Assessing the merits of the dispute and identify dispute resolution alternatives	<ul style="list-style-type: none"> ● Identify the relevant facts. ● Assess the strengths and weaknesses of the dispute according to the relevant law. ● Identify all means of resolving the dispute, having regard to the client's circumstances.
5: Advising client on procedures	<ul style="list-style-type: none"> ● Advise the client of means to avoid a dispute, where appropriate. ● Advise the client of available steps to strengthen the client's position.
6: Commencing negotiations	<ul style="list-style-type: none"> ● Explore all opportunities for a negotiated settlement, subject to the client's instructions. ● Represent the client effectively at any negotiations.
7: Initiating and responding to proceedings	<ul style="list-style-type: none"> ● Identify the appropriate jurisdiction. ● Initiate or oppose a claim in accordance with the rules of the relevant Court or tribunal, in a

	<p>timely manner.</p> <ul style="list-style-type: none"> • Obtain all necessary evidence and draft all necessary documents in accordance with those rules.
9: Taking action to implement outcomes	<ul style="list-style-type: none"> • Properly document any order or settlement and explain it to the client in a way which the client can understand. • Identify and carry out any procedures required to enforce the order or settlement.

GENERAL FORMAT

Format of each Module is indicated in each module outline (see below).

ASSESSMENT

Assessment of each Module is indicated in each module outline (see below).

RESOURCES AND REFERENCES

Specific Legislation

- *Workers Compensation Act 1988* and relevant decisions pertaining to the legislation.
- *Mental Health Act 1996 (Tas)*
- *Industrial Relations Act 1984 (Tas)*
- *Fair Work Act 2009 (Cwth)*

Recommended References

- Christopher Bartlett's "*Annotated Workers Rehabilitation and Compensation Act 1988*"
- Advocacy Tasmania Incorporated's "*Mental Health Tribunal Representation Scheme Training Manual*"

3.7. MODULE 1 – WORKERS COMPENSATION PRACTICE

FORMAT

There will be a series of seven on-site formal lectures given by practitioners in this unit. Trainees will be acquainted with the statutory provisions relating to this compulsory statutory insurance scheme. Emphasis will be placed on the operation of the *Workers Rehabilitation and Compensation Act 1988* from a practical perspective and will include training in taking instructions in these types of matters, and the initial action to be undertaken.

ASSIGNMENTS

There will be two exercises requiring trainees to provide written advice to clients about specific factual scenarios, and trainees will make an appearance before the Commissioner and deputy Commissioner in the Workers' Compensation Tribunal.

ASSESSMENTS

- Assessment of the written work in both exercises will be summative.
- Assessment of oral submissions made in the Tribunal will be formative.
- Attendance at the Tribunal is compulsory.

3.8. MODULE 2 – MENTAL HEALTH TRIBUNAL

OBJECTIVES

- To increase awareness amongst professionals about mental health and the issues faced by people with mental disorders
- To provide a good level of skills training to enable professionals to better work with people with mental disorders
- To ensure that advocates representing persons appearing before the Mental Health tribunal have a good understanding of –
 - their role in the process
 - the relevant law
 - the legal functions and practices of the Tribunal
 - the rights of persons with a mental illness

FORMAT

There will be a series of five compulsory lectures intended, amongst other things, to teach the skills required in working with clients with mental illness. At the conclusion of those lectures, trainees will be given the option of continuing with a further series of lectures and workshops to enable them to represent persons coming before the Mental Health Tribunal.

ASSESSMENT

Assessment will be “by attendance”.

3.8. MODULE 3 – INDUSTRIAL RELATIONS PRACTICE

FORMAT

There will be workshops designed to promote an understanding of the State and Federal industrial relations systems and their relationship to the applicable common law principles. The focus of the Module will be on “unfair dismissal.”

ASSIGNMENTS

There will be one exercise requiring trainees to provide written advice to clients about a specific factual scenario.

ASSESSMENTS

Assessment of the written work will be summative.

4. LCA102 CRIMINAL LAW PRACTICE MAGISTRATES' COURT PRACTICE AND ADVOCACY

Practice and Procedure in Criminal Matters in the Magistrates Court

COORDINATOR

Magistrate Peter Dixon
Magistrates Court of Tasmania
23-25 Liverpool Street, Hobart, 7001
Email: magistrates.Court@justice.tas.gov.au

CONTENT

This Unit is organised into three modules:

1. Familiarisation with the Court
2. Applications and Submissions (practice and advocacy)
3. Conducting Defended Criminal Proceedings

OBJECTIVES

At the conclusion of the Course, trainees should be able to –

- Advise clients before arrest.
- Apply for bail.
- Make pleas.
- Participate in minor contested hearings.
- Assist in preparing cases for trial.

COMPETENCY STANDARDS

In this Unit trainees will be required to meet the following elements of the *Criminal Law Practice and Advocacy Skills* components of the APLEC Competency Standards for Entry-Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Providing advice	<ul style="list-style-type: none">• Identify the client's legal rights and legal powers of the police or other prosecutors or investigators in the situation.• Inform the client of those rights and powers in a way which the client can easily understand.• Identify the legal elements of any offence with which the client is charged.

	<ul style="list-style-type: none"> • Where possible, confirm in writing any instructions given by the client in response to initial advice. • Implement the client's instructions when it is appropriate in the circumstances to do so.
2: Applying for bail	<ul style="list-style-type: none"> • Identify the client's options and communicate them to the client in a way that the client can easily understand. • Help the client make an informed decision about which option to select. • Make an application for bail or take other action effectively in the circumstances. • Fully advise the client of any bail conditions.
3: Making pleas	<ul style="list-style-type: none"> • Identify the client's options and communicate them to the client in a way the client can easily understand. • Identify and gather all material useful to the plea according to law and good practice. • Present the plea in an effective and persuasive manner, having regard to the circumstances of the case. • Advise the client fully of the outcome in a way the client can easily understand.
4: Representing a client in minor matters	<ul style="list-style-type: none"> • Complete all preparation required by law, good practice and the circumstances of the case. • Represent the client effectively at a contested and uncontested hearing.
5: Assisting to prepare cases for trial	<ul style="list-style-type: none"> • Identify and gather the evidence needed to support the client's case. • Identify and brief appropriate experts (including counsel) having regard to good practice and the requirements of the case.

GENERAL FORMAT

Throughout the duration of the Course lectures and exercises will be given, and workshops will be conducted by practitioners covering all aspects of this Unit. Furthermore, every two weeks trainees will appear before the Court to make applications and submissions.

ASSESSMENT

Assessment of each Module is indicated in each Module Outline (see below).

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes, sample documents and exercises will be distributed in lecture sessions.

Specific Legislation

- *Bail Act 1994*
- *Criminal Code Act 1924*
- *Evidence Act 2001 (Tas)*
- *Family Violence Act 2004*
- *Justices Act 1959*
- *Police Offences Act 1935*
- *Road Safety (Alcohol and Drugs) Act 1970*
- *Sentencing Act 1997*

Recommended Reading

- Blackwood, John Burns & Warner, Kate., *Tasmanian Criminal Law: Text and Cases*, Vol 1 & 2, University of Tasmanian Law Press, Hobart, 2006.
- Warner, Kate., *Sentencing in Tasmania*, Federation Press, NSW, 2002.

4.1. MODULE 1 – FAMILIARISATION WITH THE COURT

FORMAT

During the first two weeks of the Course trainees will be given a tour of the Magistrates' Court building, and a series of lectures by the Magistrates and the Registrar about the Court and its management, and general Court etiquette, practice and procedure. Trainees will gain further familiarity with the Court by appearing in Court throughout the duration of the Course (see "4.2. Module 2 – Applications and Submissions (practice and advocacy" below).

ASSESSMENT

Trainees will be assessed "by attendance" at the Court.

4.2. MODULE 2 – APPLICATIONS AND SUBMISSIONS (PRACTICE AND ADVOCACY)

FORMAT

There will be a series of on-site lectures given by the practitioners instructing in this unit. Throughout the Course, a series of up to eight exercises will be distributed.

Lectures on the relevant areas of the law will be given in tandem with the content of the exercises. In some exercises trainees will be required to draft and file documents prior to appearing in Court. Each trainee will be required to attend the Court every second week and argue in support of the application that he or she has to make.

As with module 3.4 in “LCA101 Civil Litigation Practice – Supreme Court Practice and Advocacy” the format outline for the distribution of the exercises commencing, say, “Week One” for Pedder, will be as follows –

Week	Pedder	Montagu
1	<ul style="list-style-type: none"> • Court tour and introduction • Receive <i>Exercise One</i> during the week. 	...
2	<ul style="list-style-type: none"> • File any relevant documents by the end of the week. 	<ul style="list-style-type: none"> • Court tour and introduction • Receive <i>Exercise One</i> during the week.
3	<ul style="list-style-type: none"> • Attend Court and argue in support of the application made • Receive <i>Exercise Two</i> during the week. 	<ul style="list-style-type: none"> • File any relevant documents by the end of the week.
4	<ul style="list-style-type: none"> • File any relevant documents by the end of the week. 	<ul style="list-style-type: none"> • Attend Court and argue in support of the application made. • Receive <i>Exercise Two</i> during the week.
5	<ul style="list-style-type: none"> • Attend Court and argue in support of the application made... 	<ul style="list-style-type: none"> • File any relevant documents by the end of the week.

ASSIGNMENTS

Exercises

The series of eight exercises will be as follows -

Exercise One

Trainees will be required to make an application for an adjournment without plea.

Prior to the application all trainees will be required to submit written advice:

- on the defendant’s rights at a police interview, and
- outlining the Acts and law governing:
 - possession of stolen property,
 - an appearance in the Court,
 - an application for an adjournment, and
 - any other steps to be taken prior to appearing in Court.

Exercise Two

Trainees will be divided into two groups. One group will make a bail application on behalf of the defendant and the other group will appear for the prosecution and oppose the application.

Prior to the application all trainees will be required to submit written advice:

- on the general principles relating to bail, and
- steps to be taken prior to appearing in Court.

Exercise Three

Trainees will be divided into three groups, and will deliver pleas in mitigation for one or other of the three defendants.

Prior to the application all trainees will be required to submit written advice:

- on the general principles upon which the Court would rely in determining an appropriate sentence for the defendant in this matter, with reference to any relevant legislation or cases, and
- any other steps to be taken prior to appearing in Court.

Exercise Four

Trainees will be divided into three groups, and will deliver pleas in mitigation for one or other of the three defendants and make restricted license applications on behalf of their clients.

Prior to the application all trainees will be required to –

- file in the Registry an outline of the following matters:
 - what rights they would inform the defendant he had,
 - the general principles upon which the Court would rely when making its decision as to penalty in this case and upon the hearing of the application for a restricted license with particular reference to any relevant legislation or cases, and
 - prepare and file an application for a restricted license application on behalf of the defendant.

Exercise Five

This exercise will be an *ex tempore* (without preparation) exercise. Its content will be advised one hour (or less) prior to the appearance in Court.

Exercise Six

Trainees will be divided into two groups, and in both exercise they will appear for the complainant in an *ex parte* restraint/family violence order application.

Prior to the application all trainees will be required to submit to the Magistrates an outline of the following matters –

- what would they inform the applicant as to the rights she has arising out the instructions she has given;
- an outline of the appropriate legislation and any authorities on applications for Restraint Orders and Family Violence Orders, and
- file an application for an Order on behalf of the applicant for *ex parte* orders.

Exercise Seven

This exercise will be an *ex tempore* exercise. As with Exercise 5 its content will be advised one hour (or less) prior to the appearance in Court.

Exercise Eight

This exercise will concern an assault in the context of the Family Violence legislation. Trainees will be divided into three groups. One group will make bail applications, another will oppose the applications, and the other group will deliver pleas in mitigation.

ASSESSMENT

Later exercises will be summatively assessed but earlier ones will be formatively assessed. The instructors will advise in advance those exercises which will be summatively assessed.

4.3. MODULE 3 – CONDUCTING DEFENDED CRIMINAL PROCEEDINGS

FORMAT

Exercises 9 & 10

These exercise will be distributed after Exercise 8 (see “3.2. Module 2 – Applications and Submissions (practice and advocacy)” above) and will concern the charges of common assault, and stealing. Depending on numbers the Group will be divided into six teams - three prosecution teams, and three defence teams.

There will be three prosecution witnesses – and one defence witness.

Prior to the Court appearances in Exercise 9 trainees will be required to prepare, and submit a form of written advice to the Legal Aid Commission (in support of an application for aid to defend the charges), or to the DPP, as to the prosecution’s chances of success. Trainees

appearing for the defendant will prepare the former, and those appearing for the prosecution will prepare the latter.

In Court each member of a team will lead, or cross examine a witness depending upon whether the team is defending or prosecuting.

The members of each team will decide amongst themselves who will lead, or cross-examine each witness; and who will open and close the case.

ASSESSMENT

Assessment of individual performances in all components of this exercise will be formative.

5. LCA103 COMMERCIAL AND CORPORATE PRACTICE

COORDINATOR

Phillip Kimber
Practitioner
Butler, McIntyre & Butler
Email: Phillip.Kimber@utas.edu.au

CONTENT

This Unit is organised into four modules:

1. Conducting commercial transactions
2. Setting up commercial structures
3. Dealing with loans and Securities
4. Advising on Revenue law and practice

OBJECTIVES

At the conclusion of the Course, trainees should be able to –

- Conduct commercial transactions such as the sale or purchase of a small business.
- Set up standard business structures using entities such as companies, trusts and partnerships.
- Provide basic advice on finance and securities and the obligations of companies and their officers.
- Appreciate the type of advice needed to assess the revenue implications of standard commercial transactions.

COMPETENCY STANDARDS

In this Unit trainees will be required to meet the following elements of the *Commercial and Corporate Practice* components of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Conducting commercial transactions	<ul style="list-style-type: none">• Identify the nature of the transaction properly.• Undertake sufficient searches and inquiries to investigate any relevant issues of title to real or personal property.• Draft documents, have them executed, and (if necessary) certify, stamp and register them, according to law and good practice.

	<ul style="list-style-type: none"> • Obtain or give any necessary consents to, or notifications of, the transaction required by law
2: Setting up commercial structures	<ul style="list-style-type: none"> • Select a structure that will achieve the client's objectives. • Draft all documents required to set up the structure (including establishing any discrete entities that will form part of the structure), have them executed and (if necessary) certified, stamped and registered, according to law and good practice. • Inform the client of any continuing obligations in relation to the structure, and where the structure involves a corporation, the continuing obligations of the company and its officers.
3: Dealing with loans and securities	<ul style="list-style-type: none"> • Identify the various appropriate types of financial arrangements and securities available to the borrower and lender. • Inform the borrower and lender of their immediate, continuing, and potential liabilities under any proposed financing and security arrangements. • Draft loan or security documents which reflect the agreement between lender and borrower. • Have the loan or security documents executed, and (if necessary) stamped and registered according to law.
4: Advising on revenue law and practice	<ul style="list-style-type: none"> • Identify the possible general revenue implications of the client's proposed commercial venture or arrangement. • Refer the client to experts for more comprehensive or detailed advice, where appropriate.

GENERAL FORMAT

There will be a series of introductory lectures to familiarise trainees with the work undertaken by solicitors in commercial practice generally, and the sale and purchase of businesses in particular. At the conclusion of those lectures trainees will be required to conduct commercial transactions involving the sale and purchase of businesses. Those transactions will be overseen by the Instructor on a continuous basis throughout the Course.

ASSESSMENT

Assessment of each Module is indicated in each Module Outline (see below).

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes, sample documents and exercises will be distributed prior to lectures.

Specific Legislation

- *Corporations Act 2001*
- *Bills of Sale Act 1900*
- *Business Names Act 1962*
- *Partnership Act 1891*
- *Duties Act 2001*
- *Fair Trading Act 1990 – and Code of Practice for Retail Tenancies*
- *Legal Profession Act 2007*
- *Bankruptcy Act 1966 (Cth)*
- *Income Tax Assessment Act 1936 (Cth)*
- *Income Tax Assessment Act 1997 (Cth)*
- *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*

Recommended Reading

General text books and loose leaf services covering the law of Contracts, Corporations, Securities, Leases, CGT, GST, Partnership, Consumer protection, and commerce generally. Aust & NZ Conveyancing Reporter.

Websites

Australian Taxation Office, Austlii.edu.au, LexisNexis (Halsbury's Laws of Australia, Australian Encyclopaedia of Forms and Precedents, Bankruptcy, and Corporations Law Principles and Practice), ASIC website, CCH website for Lang's Commercial Leases.

5.1. MODULE 1 – CONDUCTING COMMERCIAL TRANSACTIONS

FORMAT

In the first weeks of the Course there will be a series of lectures/seminars during which the various areas of law relevant to the sale and purchase of businesses will be identified and discussed. There will be a particular emphasis on contract drafting in the commercial context.

Trainees will then conduct two sale and purchase files. They will be paired off, acting for the vendor in one file and the purchaser in the other.

ASSIGNMENTS

As part of the conduct of the sale and purchase files, trainees will be required, amongst other things to –

- Take instructions from their client
- Negotiate terms of the agreement

- Draft contract documents from available precedents
- Draft letters to their client and other relevant persons and entities
- Conduct due diligence enquiries and searches
- Undertake pre-settlement work
- Attend to settle the transaction
- Undertake post settlement work
- Maintain trust and office accounting records

ASSESSMENT

Each stage of each transaction will be assessed for compliance with good commercial practice, drafting skills, professional relationships with the client and other parties, risk management, file management, and trust and office accounting, as appropriate.

Key elements of both transactions will be assessed on a summative basis. Other elements will be assessed on a formative basis.

5.2. MODULE 2 – SETTING UP COMMERCIAL STRUCTURES

FORMAT

In both the transactions to be undertaken in “5.1. Module 1” trainees acting for the purchaser will be required to

- Select a structure (partnership, trust or company) that will achieve the client’s objectives.
- Draft all documents required to set up the structure (including establishing any discrete entities that will form part of the structure), have them executed and (if necessary) certified, stamped and registered, according to law and good practice.
- Inform the client of any continuing obligations in relation to the structure, and where the structure involves a corporation, the continuing obligations of the company and its officers.

ASSIGNMENTS

Various documents relating to the establishment of structures will be drafted from precedents.

ASSESSMENT

Assessment of documents will be formative.

5.3. MODULE 3 – DEALING WITH LOANS AND SECURITIES

FORMAT

During and following a series of three two hour workshops, trainees will carry out work which will require them to -

- Identify the various appropriate types of financial arrangements and securities available to a commercial borrower and lender;
- Inform the borrower and lender of their immediate, continuing, and potential liabilities under any proposed financing and security arrangements;
- Draft loan or security documents which reflect the agreement between lender and borrower, and
- Have the loan or security documents executed, and (if necessary) stamped and registered according to law.

ASSIGNMENTS

Relevant loan and security documentation will be drafted from precedents.

ASSESSMENT

Assessment of documentation will be summative.

5.4. MODULE 4 – REVENUE IMPLICATIONS

FORMAT

Government revenue raising measures and laws relevant to business transactions will be addressed in lectures in this Unit, the Trust and Office Accounting Unit, and the Property Law Practice Unit. Trainees will also be required to deal with revenue matters in the two transactions to be undertaken in “5.1. Module 1”.

ASSIGNMENTS

Trainees will be required to address revenue implications in letters, tax invoices and statements.

ASSESSMENT

Assessment of letters and other documents will be summative.

6. LCA104 PROPERTY LAW PRACTICE

COORDINATOR

Hugh Murray
Practitioner
Centre for Legal Studies
Email: hugh@hughmurray.com.au

CONTENT

This Unit is organised into five modules:

1. Real Estate Conveyancing
2. Creating and Releasing Securities over Property
3. Residential Leasing
4. Advising on Land Use
5. Wills and Estate Administration

OBJECTIVES

At the conclusion of the Course, trainees should be able to –

- Convey, lease and mortgage real property.
- Provide general advice on standard matters arising under legislation relating to land use in Tasmania.
- Draft wills.
- Administer deceased estates.
- Take action to resolve problems about wills and estates.

COMPETENCY STANDARDS

In this unit trainees will be required to meet the following elements of the *Property Law Practice* and aspects of the *Wills and Estates Practice* components of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Transferring title	<ul style="list-style-type: none">• Identify the nature of the interest being dealt with properly, having regard to the applicable title system.• Prepare, comment on and advise on an appropriate contract of sale or other type of agreement and had it executed according to law and good practice.

	<ul style="list-style-type: none"> • Undertake sufficient searches and inquiries to investigate title, any issues about land use and responsibility for outgoings. • Draft an appropriate instrument of transfer or conveyance and have it executed and (if necessary) stamped and registered, according to law. • Obtain or give any consents to, or notifications of, the transfer or conveyance according to law.
2: Creating leases	<ul style="list-style-type: none"> • Make and obtain all searches and consents required by law and good practice. • Draft, comment on and advise on a lease in a form allowed by law, reflecting the agreement between lessor and lessee and protecting their respective interests. • Arrange for the lease to be executed and (if necessary) stamped and registered, according to law.
3: Creating and releasing securities	<ul style="list-style-type: none"> • Make and obtain all searches and consents required by law and good practice. • Draft, comment on and advise on an effective instrument to create or release the security, reflecting the agreement between the grantor and grantee and protecting their respective interests. • Arrange for the instrument to be executed and (if necessary) stamped and registered, as required by law.
4: Advising on land use	<ul style="list-style-type: none"> • Identify any legislative scheme regulating the relevant use. • Advise the client generally about processes to be followed to obtain permission for, or to object to the use, as the case requires.
5: Advising on revenue implications	<ul style="list-style-type: none"> • Identify the revenue implications of any transaction and advise your client accordingly.
6: Drafting wills	<ul style="list-style-type: none"> • Advise the client of issues, options and potential problems that might arise in respect of the client's testamentary intentions. • Obtain instructions reflecting the client's informed and independent wishes, which can be effectively implemented. • Draft a will reflecting the client's instructions. • Identify any issues of testamentary capacity and resolved them in accordance with law and good practice. • Ensure that the client executed the will in accordance with law. • Give any necessary follow-up advice to the client.

7: Administering deceased estates	<ul style="list-style-type: none"> • Obtain a grant of probate or letters of administration where required. • Identify the debts and assets of the estate. • Gather in the estate or transferred or transmitted assets directly to beneficiaries, as appropriate, having regard to the law, good practice, and the circumstances. • Discharge the estate's debts, distributed specific gifts and the residue and ensured that the executors have been released of their obligations in a timely fashion.
8: Taking action to resolve wills & estate problems	<ul style="list-style-type: none"> • Identify the nature of the problem properly, having regard to the law of the jurisdiction. • Identify the client's options for dealing with the problem, having regard to the law of the particular jurisdiction and the client's circumstances. • Explain the options to the client in a way the client can easily understand. • Take action to resolve the problem in accordance with the client's instructions

GENERAL FORMAT

There will be a series of introductory lectures, and workshops to familiarise trainees with the drafting and execution of documents and other work undertaken by solicitors to successfully carry out the relevant tasks. Trainees will also conduct files, incorporating conveyancing practice, land use, the preparation and execution of a wills, and the administration of estates.

ASSESSMENT

Assessment of each Module is indicated in each Module Outline (see below).

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes and sample documents will be distributed in lecture and workshop sessions.

Specific Legislation

- *Land Titles Act 1980*
- *Conveyancing and Law of Property Act 1884*
- *Strata Titles Act 1998*
- *Property Agents and Land Transactions Act 2005*
- *Wills Act 2008*
- *Intestacy Act 2010*

- *Residential Tenancy Act 1997*
- *Land Use Planning and Approvals Act 1993*
- *Resource Management and Planning Appeal Tribunal Act 1993*

Recommended Reading

- P N Wikrama-Nayake, *Voumard, The Sale of Land*, Law Book Company, 1986.
- E I Sykes, *The Law of Securities*, The Law Book Company.
- W D Duncan & W M Dixon, *The Law of Real Property Mortgages*, Federation Press, 2007.
- W D Duncan & L Willmott, *Mortgages Law in Australia*, Federation Press, 1996.
- Butterworths, *Forms and Precedents*
- J R Martin, S Bridge & M Oldham, *Theobald on Wills*, Sweet & Maxwell, 2001.

6.1. MODULE 1 – REAL ESTATE CONVEYANCING

FORMAT

Trainees will conduct two conveyancing files. They will be paired off, acting for the vendor in one file and the purchaser in the other. As part of the conduct of the file, they will be required to write letters of advice, make searches and enquiries, draft relevant documents, arrange for and attend the settlement of the transaction, and attend to finalizing the transaction on behalf of the client. They will also maintain trust and office accounting records.

ASSIGNMENTS

1. On receipt of instructions to act, prepare a checklist of matters to be undertaken
2. Complete all necessary searches and enquiries
3. Write a pre-contract report letter to their client and obtain instructions to proceed
4. Negotiate any changes to the standard contract, and exchange contracts
5. Prepare for settlement and advise the client on settlement arrangements
6. Attend settlement
7. Attend to relevant post-settlement work.
8. Prepare final report letter and account to the client.
9. Hand in your completed file.

ASSESSMENT

Each stage of each transaction will be assessed for compliance with good conveyancing practice, drafting skills, professional relationships with the client and other parties, risk management, file management, and trust and office accounting, as appropriate.

Some elements of the transactions will be assessed on a formative basis, and some on a summative basis.

6.2. MODULE 2 – CREATING AND RELEASING SECURITIES OVER PROPERTY

FORMAT

In at least one of the transactions to be undertaken in “6.1. Module 1 – Real Estate Conveyancing” above, trainees will be required to arrange for the creation of a mortgage over the title to the property being transferred, and for the discharge of at least one existing mortgage.

ASSIGNMENTS

All letters written, documents drafted, and procedures undertaken in respect of mortgages will form part of the transactions referred to in “6.1. Module 1 – Real Estate Conveyancing” above.

ASSESSMENT

Assessment will be as recorded in “6.1. Module 1 – Real Estate Conveyancing” above.

6.3. MODULE 3 – RESIDENTIAL AND COMMERCIAL LEASING

FORMAT

In one of the transactions to be undertaken in “6.1. Module 1 – Real Estate Conveyancing” above, trainees will be required to act for either the prospective landlord or tenant in a residential lease to be entered into at the settlement of the sale / purchase.

ASSIGNMENTS

All searches, drafting and letters written in connection with it will be incorporated in one of the transactions referred to in “6.1. Module 1 – Real Estate Conveyancing”.

ASSESSMENT

Assessment will be as recorded in “6.1. Module 1 – Real Estate Conveyancing” above.

6.4. MODULE 4 – LAND USE

FORMAT

Trainees will be introduced to the law in Tasmania relating to the use of land, and the procedures to be undertaken by those who wish to develop land, and by those who wish to object to any proposed development of it. This will be undertaken by way of pre-course reading, an introductory lecture and workshops.

ASSIGNMENT

There will be two assignments in this module. The first will require trainees to prepare for, and appear at a directions hearing in the Resource Management and Planning Appeals Tribunal. The second will require trainees to prepare a brief for counsel.

ASSESSMENT

Assessment of the first assignment will be formative, and the second will be summative.

RESOURCES AND REFERENCES

For a complete understanding of this part of the course, prior reading (or at least a working knowledge) of the following legislation is recommended:

- Tasmanian Planning Commission Act 1997
- State Policies and Projects Act 1993
- Environmental Management and Pollution Control Act 1994
- Historic Cultural Heritage Act 1995
- Land Use Planning and Approvals Act 1993
- Resource Management and Planning Appeal Tribunal Act 1993
- Practice Directions – RMPAT - <http://www.rmpat.tas.gov.au/>

6.5. MODULE 5 – WILLS AND ESTATE ADMINISTRATION

FORMAT

There will be two short series of lectures and instruction. One to introduce –

- Wills

and the other to introduce

- Estate Administration

After the introductory lectures the remainder of the Module will be taught in the context of drafting exercises.

ASSIGNMENTS

In the Wills component of this Module, trainees will be required to draft and submit Wills they have prepared from instructions given by their clients.

In the estate administration component of the Program trainees will be required to understand how to make an application to the Supreme Court for a (simple) grant of Probate, address a problem arising from the administration of an estate and write a letter of advice to the executors of the estate.

ASSESSMENT

Assessment of the first Will drafted will be formative, and assessment of other Wills will be summative.

Assessment of the letter of advice to the executors will be summative.

7. LCA105 TRUST AND OFFICE ACCOUNTING

COORDINATOR

Mike Harris
Accountant
Email: Michael.Harris@utas.edu.au

CONTENT

This Unit is organised into two modules:

1. Trust Accounting
2. Office Accounting (for clients)

OBJECTIVES

At the conclusion of the Course, trainees should –

- Have a sound general knowledge of the significance of, and the principles governing, trust and general accounting in legal practice.
- Have sufficient knowledge, skills and values to maintain trust and general account records according to law and good practice, to the extent usually permitted and expected of an employed solicitor.

And be able to

- Receive money.
- Make outlays.
- Render costs.
- Maintain a trust account.

COMPETENCY STANDARDS

In this Unit trainees will be required to meet the following elements of the *Trust & Office Accounting* component of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Receiving money	<ul style="list-style-type: none">• Deal with money received from or on behalf of the client, as required by law and good practice.• Where the law and good practice requires money to be deposited in a trust account, controlled or general account, record the deposit as required by law and good practice.

	<ul style="list-style-type: none"> • Issue any receipt required by law and good practice.
2: Making outlays	<ul style="list-style-type: none"> • Make any outlay from the correct account, according to law and good practice. • Record the outlay as required by law and good practice.
3: Maintaining trust account	<ul style="list-style-type: none"> • Maintain any trust account in accordance with specific statutory requirements, including any requirements relating to common fund deposits and auditing.

GENERAL FORMAT

There will be a series of on-site lectures, one-to-one and (small) group tutorials and exercises (nine in all – seven of which are compulsory) to be given throughout the Course.

Further, trainees will be required to maintain office and trust account ledgers and records in files kept in practice units.

ASSESSMENTS

Assessment of each module is indicated in each Module Outline

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes, sample documents and exercises will be distributed in lecture sessions.

Specific Legislation

- *Legal Profession Act 2007 (Sections 230 - 281)*
- *Legal Profession Regulations (Rules 20 – 61)*

Recommended Reading

- F. Kirkwood, C. Ryan, J. Falt, T. Stanley, *Accounting, an Introductory Perspective*, Longman Cheshire.
- P. Stanley, *Accounting for Non Accountants*, The Business Library.
- G. P. Glennen, *Accounting Handbook for Solicitors*, The Law Book Company.
- P. Harrison, *Book-Keeping and Accounting for Solicitors*.

7.1. MODULE 1 – TRUST ACCOUNTING

FORMAT

There will be a series of on-site lectures, one-to-one and (small) group tutorials and exercises. These will be undertaken to ensure all trainees understand the concepts of trust accounting. The instructor fulfilling the role of the Law Society, will on an irregular basis visit all firms (i.e. all trainees) and conduct an audit of their trust accounting records.

ASSIGNMENTS

There will be a series of exercises in which trainees will be required to produce Trust Cash Books and Trust Journals for their firm's Trust entries and be required to produce a Trust Ledger for each client. Trainees will also be required to prepare reconciliations of their Trust Ledger.

ASSESSMENT

Assessment of exercises undertaken throughout the Course will be formative, however:

- Assessment of exercises given towards the latter part of the Course will be summative.
- Trainees will be required to be up to date with their records at all times in accordance with the requirements of the Trust Accounting Rules of Practice, and at times audits will be conducted. Assessment of audits will be summative.

7.2. MODULE 2 – OFFICE ACCOUNTING (FOR CLIENTS)

FORMAT

There will be a series of on-site lectures, one-to-one and (small) group tutorials and exercises. These will be undertaken to ensure all trainees understand the concepts of office accounting for their clients.

ASSIGNMENTS

There will be a series of exercises in which trainees will be required to produce office accounts for a Legal Practice.

In doing so, trainees will be required to list entries in the appropriate firm cash receipt and cash payment books; post entries to the appropriate ledger accounts; take out a trial balance; prepare a profit and loss account and prepare a balance sheet.

ASSESSMENT

Assessment of exercises undertaken throughout the Course will be formative, however:

- Assessment of exercises given towards the latter part of the Course will be summative.
- Trainees will be required to be up to date with their records at all times in accordance with the requirements of the Trust Accounting Rules of Practice, and at times an audit may be conducted. Assessment of audits will be summative.

8. LCA106 FAMILY LAW PRACTICE AND PROCEDURE

CO-ORDINATORS

Frances Di Giovanni
Practitioner
Wallace Wilkinson & Webster
Email: fdigiovanni@wwwlawyers.com.au

Philip Theobald
Barrister
Derwent & Tamar Chambers
Email: Philip.Theobald@utas.edu.au

Anna Grant
Practitioner
Butler McIntyre & Butler
Email: agrant@bmbtas.com

CONTENT

Family Law practice is a specialised area of practice. This unit aims only to provide a general overview of the principal issues involved in relation to proceedings under the Family Law Act. In the process however, it is anticipated that trainees will gain a basic understanding of the practice and procedure in the Family Court and the Federal Magistrates Court as well as an understanding of the role of State Courts in dealing with matters arising from the breakdown of relationships.

This unit is organised into four teaching modules:

1. The Family Law System
2. Children's Matters
3. Property Proceedings
4. Divorce and Other Relevant Matters

OBJECTIVES

The principle objective of this unit is to enable trainees to acquire the elements of knowledge, skill and values appropriate to the relevant competences in the *Competency Standards for Entry Level Lawyers*. At the conclusion of the course, trainees should be able to –

- advise a client generally in respect to parenting and financial matters;
- advise a client in respect to applying or opposing an application for divorce;
- prepare an Application or Response relating to parenting and financial matters;
- prepare an affidavit and other additional documents to be filed with Application or Response;
- prepare an Application for Divorce;

- prepare a client to participate in Primary Dispute Resolution (PDR) procedures;
- represent a client in PDR procedures and in court applications

COMPETENCY STANDARDS

In this Unit, trainees will be required to meet the following elements of the *Family Law Practice* component of the APLEC Competency Standards for Entry Level Lawyers:

Element	Performance Criteria
	Trainees will be required to competently:
1: Applying for a Dissolution of Marriage	<ul style="list-style-type: none"> • Take instructions and advise the client; • Prepare Court documents; • Present the application;
2: Acting in relation to ancillary matters	<ul style="list-style-type: none"> • Take instructions and advise the client on process and revenue implications; • Prepare case and the client for PDR process; • Represent client at PDR process; • Prepare a case and the client for Court; • Represent the client at Court

GENERAL FORMAT

This Unit does not set out to teach substantive Family Law although it is recognised that some teaching of basic principles is necessary. For the most part, the relevant law is contained in legislation, but there is some important case-law derived from the interpretation and application of the legislation. A useful aid to practicing family law is:

- *Practising Family Law: Altobelli and Serisier LexisNexis Skills Series 2 Butterworths*

Practising Family Law offers step-by-step guidance on the full range of essential skills, including the taking of instructions, drafting, case preparation and presentation, advocacy and negotiation. In each case these skills are presented within the context of family law. The authors also consider skills pertinent to the family law context such as interviewing emotional clients and clients of a non-English speaking background.

- Butterworth's or Law Book Company Nutshell Series

Trainees should be aware that family law is an area of regular legislative change. For example, on 1 March 2009, the Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008 commenced. This brought property disputes between non-married and same sex couples under the Family Law Act property regime. It is therefore important that only current texts are used. Both CCH and Lexus have excellent research sites for family law.

Throughout the duration of the Course, lectures and exercises will be given and workshops conducted by the course instructors covering all aspects of this unit.

RESOURCES AND REFERENCES

Trainees should obtain their own current copies of the relevant legislation. Course notes and sample documents will be distributed in lecture and workshop sessions.

The specific legislation required:

- *Family Law Act 1975*;
- *Family Law Rules 2004*;
- *Relationships Act 2003*;
- *Child Support (Assessment) Act 1989*;
- *Family Violence Act 2004*;
- *Children, Young Persons and Their Families Act 1997*;

Commonwealth legislation can be accessed via Austlii databases. The Family Court website also contains most of the relevant legislation and the Child Support Agency website has links to legislation relative to child support matters.

Other Useful Family Law Practice Resources

- Loose-leaf Practice Manuals:

Family Law Practitioners rely on one of the multi-volume loose-leaf Practice Services available, for relevant legislation, commentary and precedents. These are:

Butterworth's Australian Family Law;
CCH Australian Family Law and Practice;
CCH Federal Magistrates Court Practice;
LBC Federal Magistrates Court Guidebook;

CCH also produces the Australian Family Court Handbook and the Australian Family Law Child Support Handbook as handy references for Court use.

The Legal Practice Course subscribes to the CCH loose-leaf service which is available from the library.

- M. Livermore, *The Family Law Handbook* Redfern Legal Centre Publishing*
- Websites:

Family Court of Australia www.familycourt.gov.au
Information about court services, case management guidelines and practice notes, court forms (downloadable), links to judgments and legislation;

Federal Magistrates Court www.fmc.gov.au
Information about court services, case management guidelines and practice notes, court forms (downloadable), links to judgments and legislation;

Child Support Agency www.csa.gov.au
Information about the operation and administration of the child support scheme, community services directory, estimators, legislation and policy guide.

Family Relationships Online www.familyrelationships.gov.au
A resource established to assist lawyers to find resources and information to assist clients. Contains information on services that clients can be referred to and information that can be downloaded and provided to clients.

Family Separation www.familyseparation.humanservices.gov.au
An online service developed by the Attorney General's Department and the Child Support Agency. The information provided on this website is a guide to help families experiencing separation find their way around the family law system, better understand their rights and responsibilities and includes information on services available to help.

COURT VISIT AND CASE NOTES

The Family Court of Australia and the Federal Magistrates Court exercise jurisdiction under the Family Law Act are open courts. As a part of the assessment process for this unit (see "Assessment and Assignments" below) trainees will be required to attend one of the Courts and observe its proceedings for a period of three hours. Trainees may observe not only final hearings, but directions hearings, interim applications, dissolution lists, Registrar's lists, court room etiquette and procedures and the behavior of practitioners and litigants in the Court.

8.1. MODULE 1 - THE FAMILY LAW SYSTEM

There will be a series of seminars and workshops designed to introduce trainees to the different components making up the "family law system", including:

- clients;
- practitioners;
- courts and jurisdiction of the courts;
- community and government services;
- third parties.

8.2. MODULE 2 – CHILDREN'S MATTERS

A further series of seminars and workshops will be conducted in order to provide trainees with an overview of:

- principles of parenting;
- interim applications;
- child support;
- the state welfare jurisdiction;
- domestic violence and sexual assault.

8.3. MODULE 3 – FINANCIAL PROCEEDINGS

The two sessions relating to property proceedings are designed to provide trainees with an overview of property disputes between separated couples.

Trainees will be required to research one aspect of property matters and then present a short seminar on the topic in Week 19.

8.4. MODULE 4 – DIVORCE AND OTHER RELEVANT MATTERS

This module requires trainees to participate in seminars and workshops in respect of:

- divorce applications;
- spousal maintenance;
- contempt and enforcement of orders;
- binding financial agreements and applications for consent orders.

ASSESSMENT AND ASSIGNMENTS

During the course trainees will receive instructions to act on behalf of either the Applicant Husband/Father or the Respondent Wife/Mother in an interactive file exercise which will be worked upon throughout the duration of the course. The file follows the modules of the course as they are completed.

Trainees will be partnered with another trainee, representing the other party. Each trainee will be required to take carriage of a file from start to finish.

Trainees will be required to submit assignments on a regular basis and retain a file for final assessment.

In addition to the interactive file assignments, each trainee will be required to attend either the Family Court or Federal Magistrates Court on one occasion for a period of at least three hours to observe the operation of the Court. Each Trainee is required to submit a court report outlining their observations.

As a part of the interactive file, Trainees will be required to participate in a mock interim proceeding including:

1. preparing all necessary court documentation;
2. participating in an interim hearing to be conducted before a Judge of the Family Court and/or a Federal Magistrate.

Assessment on the written and practical work will be most cases summative.

LCA107 SKILLS, ETHICS AND PROFESSIONAL RESPONSIBILITY

COORDINATOR

Hugh Murray
Practitioner
Centre for Legal Studies
Email: hugh@hughmurray.com.au

CONTENT

This unit is organised into five modules:

1. Lawyers' Skills
2. Competency, Ethics and Professional Responsibility
3. Problem-solving Skills
4. Work Management and Business Skill
5. Workplace Experience

OBJECTIVES

By the conclusion of the Course, trainees should be able to –

1. Demonstrate oral communication skills, legal interviewing skills, advocacy skills, negotiation and dispute resolution skills, and letter writing and legal drafting skills.
2. Act ethically and demonstrate professional responsibility and professional Courtesy in all dealings with clients, the Courts, the community and other lawyers.
3. Investigate and analyse facts and law, provide legal advice and solve legal problems.
4. Manage workload, work habits and work practices in a way that ensures that clients' matters are dealt with in a timely and cost effective manner.

COMPETENCY STANDARDS

In this Unit trainees will be required to meet the following elements of the, *Lawyers Skills, Ethics and Professional Responsibility, Problem Solving, and Work Management and Business Skills* components of the APLEC Competency Standards for Entry Level Lawyers. To pass the Unit, trainees must meet these standards as they arise in the Practice Area Units.

Lawyers' Skills (Module 1)

Element	Performance Criteria
	Trainees will be required to competently:
1: Communicating effectively	<ul style="list-style-type: none">• Identify the purpose of a proposed communication, the most effective way of making it, an appropriate communication strategy, and the content of the proposed

	<p>communication.</p> <ul style="list-style-type: none"> • Present thoughts, advice, and submissions in a logical, clear, succinct and persuasive manner, having regard to the circumstances and the person or forum to whom the communication is made. • Identify and appropriately deal with verbal, non-verbal and cross-cultural aspects of the proposed communication. • Take any follow-up action in accordance with good practice.
2: Interviewing clients	<ul style="list-style-type: none"> • Prepare for the interview properly, having regard to relevant information available before the interview and the circumstances. • Conduct the interview using communication techniques appropriate to both your client and the context. • Ensure that the client and the lawyer have both obtained all the information which they wanted from the interview in a timely, effective and efficient way, having regard to the circumstances. • Ensure that the lawyer and the client left the interview with a common understanding of instructions (if any) and any future action that the lawyer or the client is to take. • Make a record of the interview that satisfies the requirements of law and good practice. • Take any follow-up action in a timely manner.
3: Writing letters	<ul style="list-style-type: none"> • Identify the need for, and purpose of, the letter. • Write the letter in simple, straightforward English which conveys its purpose clearly and can be easily understood by the person to whom it is sent.
4: Drafting other documents	<ul style="list-style-type: none"> • Identify the need for, and purpose, of, the document. • Devise an effective form and structure for the document having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English, and the relevant law. • Draft the document effectively having regard to the parties, the circumstances, good practice, principles of writing simple, straightforward English, and the relevant law.

	<ul style="list-style-type: none"> • Consider whether the document should be settled by counsel. • Take every action required to make the document effective and enforceable in a timely manner and according to law (such as execution by the parties, stamping, delivery and registration).
5: Negotiating settlements and agreements	<ul style="list-style-type: none"> • Prepare the client's case properly having regard to the circumstances and good practice. • Identify the strategy and tactics to be used in negotiations and discuss them with, and obtain approval from, the client. • Carry out the negotiations effectively having regard to the strategy and tactics adopted, the circumstances of the case and good practice. • Document the negotiation and any resolution as required by law or good practice and explain it to the client in a way the client can easily understand.
6: Facilitating early resolution of disputes	<ul style="list-style-type: none"> • Identify the advantages and disadvantages of available dispute resolution options and explained them to the client. • Perform in the lawyer's role in the dispute resolution process effectively, having regard to the circumstances. • Document any resolution as required by law or good practice and explained it to the client in a way the client can easily understand.
7: Representing a client in Court	<ul style="list-style-type: none"> • Observe the etiquette and procedures of the forum. • Organise and present in an effective, strategic way: <ul style="list-style-type: none"> ○ factual material; ○ analysis of relevant legal issues; ○ relevant decided cases. • Present and test evidence in accordance with the law and good practice. • Make submissions effectively and coherently in accordance with law and good practice.

Ethics and Professional Responsibility (Module 2)

Element	Performance Criteria
	Trainees will be required to competently:

1: Acting ethically	<ul style="list-style-type: none"> • Identify any relevant ethical dimension of a particular situation. • Take action which complies with professional ethical standards in that situation
2: Discharging the legal duties and obligations of legal practitioners	<ul style="list-style-type: none"> • Identify any duty or obligation imposed on the lawyer by law in a particular situation. • Discharge that duty or obligation according to law and good practice.
3: Complying with professional conduct rules	<ul style="list-style-type: none"> • Identify any applicable rules of professional conduct. • Take action which complies with those rules.
4: Complying with fiduciary duties	<ul style="list-style-type: none"> • Recognise and comply with any fiduciary duty, according to law and good practice.
5: Avoiding conflicts of interest	<ul style="list-style-type: none"> • Identify any potential or actual conflict, as soon as is reasonable in the circumstances. • Take effective action to avoid a potential conflict or, where a conflict has already arisen, deal with it in accordance with law and good practice. • Take appropriate action, where applicable, to prevent such a conflict arising in the future.
6: Acting Courteously	<ul style="list-style-type: none"> • Demonstrate professional Courtesy in all dealings with others.
7: Complying with rules relating to the charging of fees	<ul style="list-style-type: none"> • Identify any rules applying to charging professional fees. • Comply with those rules, where they are relevant. • Maintain records and accounts in accordance with law and good practice.
8: Reflecting on wider issues	<ul style="list-style-type: none"> • Reflect on your professional performance in particular situations. • Bring to the attention of an employer or professional association any matters that require consideration or clarification. • Recognise the importance of pro bono contributions to legal practice. • Demonstrate awareness that mismanagement of living and work practices can impair the lawyer's skills, productivity, health and family life.
9: Rendering costs	<ul style="list-style-type: none"> • Calculate the costs in accordance with law, good practice and any agreement between the lawyer and client. • Add to the bill all outlays made by the firm for which your client is responsible. • Account to the client for any money received

	<p>from the client on account of costs and outlays, as required by law and good practice.</p> <ul style="list-style-type: none"> • Draft the bill and deliver it in accordance with law and good practice.
--	---

Problem Solving (Module 3)

Element	Performance Criteria
	Trainees will be required to competently:
1: Analysing facts and identifying issues	<ul style="list-style-type: none"> • Identify and collect all relevant facts as far as is practicable. • Analyse the facts to identify any existing or potential legal and other issues. • Distinguish facts that might be used to prove a claim from other facts, if the matter so requires.
2: Analysing law	<ul style="list-style-type: none"> • Identify any questions of law raised by the matter. • Research those questions of law properly having regard to the circumstances. • Identify and interpret any relevant statutory provisions and apply them appropriately to the facts.
3: Providing legal advice	<ul style="list-style-type: none"> • Apply the law to the facts of the matter in an appropriate and defensible way. • Give your client advice in a way which the client can easily understand. • Keep up with any developments that might affect the accuracy of previous advice and tell the client about the effect of those developments.
4: Generating solutions and strategies	<ul style="list-style-type: none"> • Identify the problem and the client's goals as fully as is practicable. • Investigate the facts and legal and other issues as fully as is practicable. • Develop creative options and strategies to your client's objectives. • Identify the advantages and disadvantages of pursuing each option or strategy including costs and time factors. • Assist the client to choose between those options in a way consistent with good practice. • Develop a plan to implement the client's preferred option. • Act to resolve the problem in accordance with your client's instructions and the lawyer's plan of action. • Remain open to new information and ideas and

	updated advice to the client where necessary.
--	---

Work Management and Business Skills (Module 4)

Element	Performance Criteria
	Trainees will be required to competently:
1: Managing personal time	<ul style="list-style-type: none"> • Use a diary or other system to record time limits or deadlines and to assist in planning work. • Identify conflicting priorities as they arise and manage the conflict effectively. • Use available time effectively, to the benefit of the lawyer's clients and employer.
2: Managing risk	<ul style="list-style-type: none"> • Conduct each matter in a way that minimises any risk to the client, lawyer or firm arising from missed deadlines, negligence or failure to comply with the requirements of the law, a Court or other body. • Recognize the limits of the lawyer's expertise and experience and refer the client or matter to other lawyers, counsel or other professionals, as the circumstances require.
3: Managing files	<ul style="list-style-type: none"> • Use a file management system to ensure that work priorities are identified and managed; clients' documents are stored in an orderly and secure manner; and to alert the lawyer to any need to follow up a matter or give it other attention. • Render timely bills, in accordance with law and any agreement between the lawyer and client, which set out the basis for calculating the lawyer's fees. • Accurately record all communications and attendances, with details of dates and times.
4: Keeping client informed	<ul style="list-style-type: none"> • Communicate with your client during the Course of the matter as frequently as circumstances and good practice require. • Confirm oral communications in writing when requested by your client or required by good practice.
5: Working co-operatively	<ul style="list-style-type: none"> • Deal with the client's requests for information promptly. • Inform the client fully of all important developments in the matter, in a way which the

	<p>client can easily understand.</p> <ul style="list-style-type: none"> • Work with support staff, colleagues, consultants and counsel in a professional and cost-effective manner.
--	--

9.1. MODULE 1 – LAWYERS’ SKILLS

FORMAT

The competency standards for this Unit are taught within in one or more of the Practice Units by lectures, seminars, workshops and assignments. However, specific instruction in this Module will be given during the Program in –

- Interviewing clients
- Advocacy
- Writing letters
- Drafting other documents
- Negotiating settlements

ASSIGNMENTS

Assignments are as provided for in the Practice Units, however, there will be at least two written assignments relating to the drafting component of the module, and assignments will be given in the workshops conducted by the Leo Cussen Institute.

ASSESSMENT

Assessment of assignments given in the Practice Units will be as provided for in those Units.

Assessment of assignments specifically given within this Unit will be formative.

RESOURCES AND REFERENCES

Course notes and other relevant documents will be distributed in lecture and workshop sessions.

Recommended Reading

- John K de Groot & Kay F. Maxwell, *Legal Letter Writing*, Blackstone Press Pty Ltd.
- Michael Meehan & Graham Tulloch, *Grammar for Lawyers*, Butterworths.
- J. K. Aitken & P. Butt, *The Elements of Drafting*, Law Book Company.
- K. A. Lauchland & M. J Le Brun, *Legal Interviewing*, Butterworths, 1996.
- R. Fisher & B. Patton, *Getting to Yes*, Hutchinson Business.
- John Phillips, *Advocacy with Honour*, Law Book Company.
- Lee Stuesser, *An Advocacy Primer*, Carswell Thomson Publishing.

- J. B. Roberson, *Introduction to Advocacy*, New Zealand Law Society.
- R. Hyams, S. Campbell, A. Evans, *Practical Legal Skills*, Oxford Univ Press.

9.2. MODULE 2 – ETHICS AND PROFESSIONAL RESPONSIBILITY

FORMAT

The competency standards for this Unit are taught within in one or more of the Practice Units by lectures, seminars, workshops and assignments, however, specific instruction in this Module will be given during the Program in –

- Supreme Court costing
- Ethics in Advocacy

ASSIGNMENTS

Assignments are as provided for in the Practice Units.

ASSESSMENT

Trainees will be assessed on all transactional files (especially those which involve the payment of disbursements) using issues of ethics and professional responsibility including costing as criteria for assessment.

Assessment of assignments given in the Practice Units will be as provided for in those Units.

Assessment of “Performance Criteria 6 – Acting Courtesly” will be assessed on an on-going basis summatively throughout the duration of the Program.

RESOURCES AND REFERENCES

Trainees will need to obtain their own copies of relevant legislation. Course notes and sample documents will be distributed in lecture and workshop sessions.

Specific Legislation

- *Legal Profession Act 2007*
- *Legal Profession Regulations 2008*

Recommended Reading

- Dal Pont, G.E., *Lawyers’ Professional Responsibility*, Lawbook Co, NSW, 2006.
- Dal Pont, G.E., *Law of Costs*, LexisNexis, Butterworths, 2003.
- Lamb, A & Littrich, J., *Lawyers in Australia*, The Federation Press, NSW, 2007.

9.3. MODULE 3 – PROBLEM SOLVING SKILLS

FORMAT

The competency standards for this Unit are taught within in one or more of the Practice Units by lectures, seminars, workshops and assignments, however, specific instruction in this Module will be given during the Program in –

- Analysing facts and identifying issues
- Analysing law
- Generating solutions and strategies

ASSIGNMENTS

Assignments are as provided for in the Practice Units

ASSESSMENT

Assessment of assignments given in the Practice Units will be as provided for in those Units.

RESOURCES AND REFERENCES

Course notes and sample documents will be distributed in lecture and workshop sessions.

Recommended Reading

- Patrick Kayzer, *Legal Problem Solving*, Butterworths, 2003.
- I Nemes & G Cross, *Effective Legal Research*, Butterworths, Australia, 2001.
- E Campbell, E J Glasson, L P York & J M Sharpe, *Legal Research, Materials and Methods*, The Law Book Company.

9.4. MODULE 4 – WORK MANAGEMENT AND BUSINESS SKILLS

FORMAT

The competency standards for this Unit are taught within in one or more of the Practice Units by lectures, seminars, workshops and assignments, however, specific instruction in this Module will be given during the Program in –

- Managing risk
- Managing files

ASSIGNMENTS

Assignments are as provided for in the Practice Units and assignments given in the “Risk Management” workshops conducted during the Program.

ASSESSMENT

Assessment of assignments given in the Practice Units will be as provided for in those Units.

Assessment of work undertaken in the Risk Management workshops will be summative.

RESOURCES AND REFERENCES

Course notes and sample documents will be distributed in lecture and workshop sessions.

Recommended Reading

- G D Lewis & E J Kyrou, *Handy Hints on Legal Practice*.

9.5. MODULE 5 – WORKPLACE EXPERIENCE

FORMAT

Trainees will –

- spend two weeks in a private legal firm, government department, or other organisation employing legal practitioners, and
- attend the Magistrates’ Court for one day and, with the assistance, and guidance of designated Magistrates, observe proceedings.

OBJECTIVE

The objective of workplace experience is to -

- observe, and participate in the operation of a legal office, and
- gain an insight into the Magistrates’ Court practice and procedure – from the Magistrates’ perspective.

ASSIGNMENTS

Trainees will be required to undertake a number of tasks whilst on work experience, and they will include -

- observing client interviews
- filing documents at the Land Titles Office or a Court.

- drafting simple documents.
- talking with the accounts supervisors
- observing workplace management systems
- filing
- reflecting on ethical issues
- conducting research

On the conclusion of the work experience period trainees will be required to write, and submit a report addressing –

- their observations of the general workings of the law office they attended
- any ethical issues they encountered, and
- the value of learning in the work experience period vis-a-vis the value of that being experienced at the Program.

ASSESSMENT

- Employers will assess, and send a report on the performance of trainees
- Assessment of the trainees' reports will be formative.
