

PRACTICE MANAGEMENT COURSE GUIDELINES FOR NEW SOUTH WALES

In New South Wales an Australian legal practitioner must attend a prescribed 'practice management course' that has been approved (and accredited) by the Law Society of New South Wales before being allowed to practise as a principal of a law practice. This is a discretionary condition imposed by the Law Society of NSW Council. The requirement to attend a Practice Management Course (PMC) was first introduced in NSW on 1 July 1992.

Section 53(1) of the *Legal Profession Uniform Law (NSW) 2014* (the Uniform Law) allows the designated local regulatory authority to impose discretionary conditions on a practising certificate of a kind permitted by the Uniform Law or as specified or described in the *Legal Profession Uniform General Rules 2015* (the Uniform Rules). Section 53(2) provides that discretionary conditions may be imposed on an Australian practising certificate at its grant or renewal or during its currency.

Rule 16 of the Uniform Rules sets out the discretionary conditions that may be imposed, including at paragraph (b)(ii) a condition that the holder undertake and complete specific legal education or training.

These Guidelines were approved by the Law Society of NSW Council on 19 November 2015.

DEFINITIONS

"accrediting body" means a body appointed to accredit and thereafter monitor the content and delivery of a PMC.

"community legal service" means an organisation (whether incorporated or not) that-

(a) holds itself out as-

- (i) a community legal service; or
- (ii) a community legal centre; or
- (iii) an Aboriginal and Torres Strait Islander Legal Service;

whether or not it is a member of a State or Territory association of community legal centres, and whether or not it is accredited or certified by the National Association of Community Legal Centres; and

(b) is established and operated on a not-for-profit basis; and

(c) provides legal or legal-related services that-

- (i) are directed generally to people who are disadvantaged (including but not limited to being financially disadvantaged) in accessing the legal system or in protecting their legal rights; or
- (ii) are conducted in the public interest;

"incorporated legal practice" means a corporation that satisfies the following criteria-

(a) it is-

- (i) a company within the meaning of the Corporations Act; or
- (ii) a corporation, or a corporation of a kind, approved by the Council under section 114

Legal Profession Uniform Law (NSW) 2014 or specified in the Uniform Rules for the purposes of this definition;

(b) it has given notice under section 104 Legal Profession Uniform Law (NSW) 2014 that it intends to engage in legal practice in Australia and that notice is still operative;

(c) the legal services it provides or proposes to provide are not limited to either or both of the following services-

(i) in-house legal services for the corporation or a related entity;

(ii) services that are not legally required to be provided by an Australian legal practitioner and that are provided by an officer or employee who is not an Australian legal practitioner;

(d) it is not excluded by the Uniform Rules from being an incorporated legal practice- but does not include a community legal service;

"law firm" means a partnership consisting only of-

(a) Australian legal practitioners; or

(b) one or more Australian legal practitioners and one or more Australian-registered foreign lawyers;

"law practice" means-

(a) a sole practitioner; or

(b) a law firm; or

(c) a community legal service; or

(d) an incorporated legal practice; or

(e) an unincorporated legal practice;

"principal" of a law practice is an Australian legal practitioner who-

(a) in the case of a sole practitioner-is the sole practitioner; or

(b) in the case of a law firm-is a partner in the firm; or

(c) in the case of a community legal service-is a supervising legal practitioner of the service referred to in section 117 Legal Profession Uniform Law (NSW) 2014; or

(d) in the case of an incorporated legal practice or an unincorporated legal practice-

(i) holds an Australian practising certificate authorising the holder to engage in legal practice as a principal of a law practice; and

(ii) is-

(A) if the law practice is a company within the meaning of the Corporations Act-a validly appointed director of the company; or

(B) if the law practice is a partnership-a partner in the partnership; or

(C) if the law practice is neither-in a relationship with the law practice that is of a kind approved by the Council under section 40 or specified in the Uniform Rules for the purposes of this definition;

"sole practitioner" means an Australian legal practitioner who engages in legal practice on his or her own account;

"supervising legal practitioner" , in relation to a community legal service, means an Australian legal practitioner who is designated under section 117 Legal Profession Uniform Law (NSW) 2014 as a supervising legal practitioner for the service;

"unincorporated legal practice" means an unincorporated body or group that satisfies the following criteria-

(a) it is-

(i) a partnership; or

- (ii) an unincorporated body or group, or an unincorporated body or group of a kind, approved by the Council under section 114 Legal Profession Uniform Law (NSW) 2014 or specified in the Uniform Rules for the purposes of this definition;
- (b) it has given notice under section 104 Legal Profession Uniform Law (NSW) 2014 that it intends to engage in legal practice in Australia and that notice is still operative;
- (c) the legal services it provides or proposes to provide are not limited to either or both of the following services-
 - (i) in-house legal services for the unincorporated body or group;
 - (ii) services that are not legally required to be provided by an Australian legal practitioner and that are provided by an officer or employee who is not an Australian legal practitioner;
- (d) it is not excluded by the Uniform Rules from being an unincorporated legal practice- but does not include-
- (e) a law firm; or
- (f) a community legal service; or
- (g) an incorporated legal practice;

INTRODUCTION

These guidelines provide a minimum standard that all practice management courses must address to ensure that legal practitioners who undertake the course are equipped with the necessary skills to enable them to effectively, competently and ethically manage a legal practice.

PRACTICE MANAGEMENT COURSE OBJECTIVES

The purpose of the Practice Management Course is to:

1. Equip principals of a law practice with the management skills and information necessary to conduct a law practice.
2. Protect consumers by ensuring that principals have the capacity to meet their needs in an efficient and competent manner.
3. Enable principals with the necessary skills to maintain high ethical and professional standards.

CORE SUBJECTS

In order for a principal to effectively and competently deliver legal services in a law practice a principal must be proficient in practice management.

The following subjects are mandatory subjects that must be offered by PMC providers in order to ensure such proficiency:

- a) General principles of management;
- b) Financial management;
- c) Practice management systems;
- d) Managing technology & innovation;
- e) Professional standards & ethics; and,
- f) Business development & marketing.

General Principles of Management

This core subject will enable principals to understand the general principles of management to ensure the sustainability and success of their law practice.

This subject should address the following issues concerning general principles of management:

- Leadership qualities – developing the goals and strategies to guide the organisation to achieve a stated purpose
- Staff supervision – building relationships of trust to empower staff to achieve organisational objectives and ensuring that staff act professionally and ethically at all times.
- Delegation – ensuring that appropriate tasks are performed by suitable staff.
- Interpersonal/communication skills – maintaining effective written and verbal communication skills to ensure operational clarity and good client relations.
- Stress management – identifying and reducing causes of stress.
- Positive office culture – promoting a supportive and ethical culture to achieve a positive environment.

Financial Management

This core subject will enable principals to plan, organise, direct and control the financial activities of their law practice to meet objectives and maximise profit.

This subject should address the following issues concerning financial management:

- Basic accounting principles - understanding budgeting, cash flow, profitability and how to interpret financial statements.
- Billing – awareness of the availability of different billing methods and ethical billing practices.
- Trust money and trust records – knowledge and understanding of the regulatory framework governing trust money and records.
- Taxation strategies – understanding taxation requirements and how to meet them.
- Debtor control – developing processes to ensure the prompt payment of bills.
- Practice valuation – understanding how to determine the value of your/other practice(s).
- Borrowing ratios – determining appropriate borrowings.

Practice Management Systems

This core subject will enable principals to develop and implement a comprehensive framework to manage policies, procedures and processes and promote continual improvement for a successful practice.

This subject should address the following issues concerning practice management systems:

- Time management – developing systems to ensure effective time management.
- Quality control – ensuring that all work product is of the highest quality.
- File/Case management – implementing a robust file management and review system.
- Industrial relations and WH&S – understanding the requirements of employment legislation and best practice.
- Staff selection and training – attracting, securing and maintaining ethical and competent staff.
- Partnership agreements and partner relations – attracting, securing and maintaining positive partner relationships.

Managing Technology & Innovation

This core subject will enable principals to consider and understand the adoption of technology and innovation to ensure the effective delivery of legal services.

This subject should address the following issues concerning managing technology and innovation:

- New technologies – understanding new and innovative technology available and determining what is most appropriate and cost-effective for your practice.
- Risk management – developing a risk management framework to manage technology effectively.
- Education and training – ensuring that staff using technology competently and ethically.

Professional Standards & Ethics

This core subject will enable principals to understand the professional, legal and ethical obligations of the law practice.

This subject should address the following issues concerning professional standards:

- Regulatory requirements – understanding the regulatory requirements set out in legislation, regulations and rules for establishing and operating a law practice.
- Professional conduct – understanding common areas of complaint and how to avoid them.
- Ethics – developing systems and programs that promote ethical behaviour.
- Professional negligence – understanding negligence and the role of the professional indemnity insurer.
- Risk management – developing systems and practices to reduce risk exposure.
- Fidelity fund – understanding the role of the Fidelity Fund and its implications for a law practice.

Business Development & Marketing

This core subject will enable principals to develop and implement an effective marketing plan and develop the business of the law practice.

This subject should address the following issues concerning marketing:

- Practice development – growing your practice by using appropriate marketing strategies.
- Client relations – ensuring positive client relations to maintain existing clients and attract new clients.
- Regulatory compliance – understanding and complying with the advertising rules.

COURSE MATERIALS

Each participant in a PMC must be provided with appropriate and relevant course materials. The course objectives, content and assessment must be developed and presented for accreditation.

Course materials must reflect current law and current practice.

Any significant amendment to the course materials once approved must be submitted for reaccreditation.

ATTENDANCE & COURSE DURATION

The PMC should not be covered in less than 25 hours.

Failure to complete all modules/sessions of the PMC will jeopardise participants receiving a Certificate of Attendance. The PMC provider must notify the Law Society of New South Wales' Registry department of participants who fail to attend one or more sessions.

Application to principals

Every principal of a law practice including a principal of a Community Legal Centre, must complete a course in relation to trust money and if applicable trust records, when undertaking a PMC.

An Australian legal practitioner who intends to become a principal of a sole practice or in a small partnership must complete no less than four (4) hours in tuition of trust money and trust records during the PMC.

An Australian legal practitioner who intends to become a principal of a large partnership must complete no less than one and a quarter hours (1 ¼) in tuition of trust money during the PMC.

An Australian legal practitioner entering a corporate or government organisation or a community legal centre as a supervising practitioner must complete no less than one and a quarter hours (1 ¼) in tuition of trust money during the PMC.

MODE OF DELIVERY

The PMC may be delivered face-to-face or by suitable digital learning technology. The mode of delivery must be determined by the PMC provider prior to seeking accreditation.

Any significant amendment to the mode of delivery once approved must be submitted for re-approval to the accrediting body.

PRESENTERS

A PMC provider must engage appropriately qualified people to design and teach the course.

To ensure continuity, a PMC provider must ensure that presenters of the course are appointed for no less than 12 months.

The presenters of the Trust Money & Trust Records, Professional Negligence, Professional Conduct, Ethics and Fidelity Fund sessions must be approved by the accrediting body.

ASSESSMENT

A course must have formal means of determining whether, and certifying that, a participant has acquired and demonstrated an appropriate understanding of, and competence in, each of the core subjects. The course materials for each core subject must clearly state the level of understanding and competence required to satisfactorily complete that subject.

The mode of assessment for the core subjects within the PMC is flexible and must be determined by the PMC provider prior to seeking accreditation.

Any significant amendment to the assessment framework once approved must be submitted for

re-approval.

ENROLMENT

It is a requirement that all Australian legal practitioners undertake the PMC before being allowed to practise as a principal in NSW. An exemption from this requirement will only be considered in the case of illness or hardship.

ACCREDITATION

PMC's can only be offered by accredited providers.

The accrediting body will accredit a provider if the PMC complies with these Guidelines.

MONITORING

Providers of the PMC will be subject to periodic monitoring as stipulated by the accrediting body.