

Specialist Accreditation



2019 Guide

to Application and Assessment

This document is for practitioners who are applying for Specialist Accreditation in 2019 and for those wanting to know more.



THE LAW SOCIETY
OF NEW SOUTH WALES

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2019 Application Form

Key Dates in 2019

29 March

Applications for Specialist Accrediation close

May–June

Take Home Assessments

July

Formal Written Examinations and Live Assessments

October

Results released to candidates

Disclaimer: The key dates listed are a guide only. Please refer to the specific area of law 2019 Assessment Requirements for release and due dates.

About Specialist Accreditation

Specialist Accreditation is a structured assessment process which requires the practitioner to draw on their existing knowledge and skills to demonstrate their competency and expertise in their chosen area of law.

In an increasingly complex and competitive market the expertise and professionalism which forms the cornerstone of Specialist Accreditation remains an easily identifiable choice for consumers of legal services and serves as a recognisable means of differentiation.

Established in 1992, Specialist Accreditation aims to:

- Provide the profession and public with a reliable means of identifying a practitioner with proven expertise in their chosen area of law;
- Contribute to and encourage continued development and improvement of standards, quality and delivery of legal services;
- Promote the advancement of legal knowledge and skills; and
- Provide practitioners with the opportunity to demonstrate expertise in their chosen area of law and to have this recognised.

Specialist Accreditation exists across 14 areas of law; generally on a biennial basis:

- Business Law
- Business and Personal Tax
- Children's Law

- Commercial Litigation
- Criminal Law
- Dispute Resolution
- Employment & Industrial Relations
- Family Law
- Immigration Law
- Personal Injury Law
- Planning & Environment Law
- Property Law
- Public Law
- Wills and Estates Law

In 2019 eligible practitioners may apply for Specialist Accreditation in the following areas of law:

- Business Law
- Commercial Litigation
- Criminal Law
- Family Law
- Property Law
- Wills & Estates

Submitting an application

How can I apply?

Practitioners interested in becoming an Accredited Specialist must submit a completed 2019 Specialist Accreditation Application, together with supporting documentation and payment of the application fee by **29 March 2019**.

What are the eligibility criteria?

Practitioners applying for Specialist Accreditation in 2019 must satisfy the following criteria:

1. Hold a current solicitor's practising certificate;
2. Current solicitor member of the Law Society of NSW or full solicitor member of an equivalent body in an Australian state or territory;
3. Engaged in the practice of law¹ on a full time basis for at least 5 years²;
4. In each of the three years immediately preceding this application, have been engaged in the area of practice/law in which accreditation is sought; and
5. In the three years preceding this application, have practised in the area for not less than 25% of full time practice.

In relation to any period during which the practitioner has worked part-time in the 3 years preceding this application, the practitioner has undertaken work in this area not less than the equivalent of 25% of full time practice (for example: not less than 2.5 days per fortnight working exclusively in the area).

Note: The definition of a solicitor can be found in s.6 of the *Legal Profession Uniform Law* (NSW).

¹ "Practice of law" does not include pre-admission experience.

"Practice of law" applies to experience in Australian jurisdictions.

² "Years" run from the date of commencement of practice to 30 June in the year of application. This is not calculated from the date of admission.

What if I do not meet these criteria?

If a practitioner does not meet the eligibility criteria it is possible to seek an exemption by completing the relevant section of the 2019 application form:

- Section 2: Application for Exemption from eligibility criteria 3-5; or
- Section 3: Application for Exemption from eligibility criteria 3-5 due to parental leave, performing carers responsibilities or adoption/foster leave.

Practitioners must also provide supporting documentation, as directed in the 2019 Specialist Accreditation Application form.

Upon review of the application a practitioner may be accepted as a candidate at the discretion of the Specialist Accreditation Board (exemptions are only applicable to criteria 3-5).

Do I need a referee at the time I apply?

Yes. You require three referees (in addition to your letter of support from your most recent supervisor). All applications must have the contact details of at least three Australian Legal Practitioners who will be willing to act as a referee for the candidate. A maximum of one referee may be a co-worker or partner at the same employer. Referees may not be close personal friends or members of the Board or relevant Advisory Committee. Only one barrister may be used as a referee. Referees are not in support of your application but may be contacted should there be discrepancy in your assessment results.

Submitting an application

Questions that may be asked of your referees include:

- Length of acquaintance with candidate;
- Experience of the candidate as a solicitor, citing specific examples;
- Whether the referee considers the candidate to be 'specially competent' in the chosen area of specialisation, and on what basis that judgment is made;
- Whether the referee believes that the candidate has the required knowledge of the law, skills and procedures which underpin the performance of tasks in this area of practice, and on what basis that assessment is made;
- Assessment of the candidate's ability to interact with clients, understand the key issues, and their capacity to plan and communicate their ideas; and
- Any other comments.

Are there any exemptions from assessments that I can apply for?

The Specialist Accreditation Board allows applicants who have completed recent and significant study in the same area of practice/law in which accreditation is sought to apply for Advanced Standing.

Granting of Advanced Standing results in a waiver of the requirement to successfully complete the formal written examination component of assessment **only**.

The criteria for Advanced Standing are:

- The candidate has successfully undertaken postgraduate study within the 3 years prior to the application for accreditation due date; and
- The study was in the same area of practice/law in which accreditation is sought.

To apply for Advanced Standing complete Section 4 of the 2019 Specialist Accreditation form ensuring that all required documentation is provided.

- All applications are assessed by Specialist Accreditation and the Head Assessor of the relevant Advisory Committee, taking into account the following:
- Relevance and/or extent of the postgraduate study;
- Advance nature of the study;
- The credentials of the institution and/or the course undertaken;
- Other relevant factors.

When making a determination the extent to which further study completed has assessed the skills and knowledge equivalent to that being assessed in the Specialist Accreditation assessments is considered. Once a determination has been made confirmation of the outcome will be sent to the applicant.

Note: Advanced Standing is not available for individual subjects, Graduate Diploma or Graduate Certificate. Advanced Standing will not be given for assessments completed in previous years of Specialist Accreditation.

Submitting an application

What is the application fee?

A fee of \$1,062.00 (including GST) applies. This assists in covering the cost of developing and designing assessments, conducting exams, marking and the processing of results.

This fee is payable to the Law Society of NSW and may be paid by cheque or credit card.

What happens after my application is received?

- Once Specialist Accreditation has received your application you will receive a receipt by email;
- Your application will be checked to ensure that you have provided all relevant information;
- The Professional Standards Department at the Law Society of NSW will advise if the applicant has been the subject of any adverse action*; and
- The Board considers any applications where individuals have been the subject of adverse action, or where the eligibility criteria have not been met.

*For the purposes of an application for accreditation adverse action means:

- A finding by a Court or Tribunal of unsatisfactory professional conduct or professional misconduct; or
- A decision by a Regulatory or Law Enforcement Agency/Authority to refer the member or applicant to a Court or Tribunal;
- A finding against the member or applicant by a Regulatory Authority resulting in the imposition of a caution, reprimand or fine; and/or
- Any other finding, allegation or matter involving the member or applicant which, in the view of the Board, would likely bring Specialist Accreditation into disrepute.

Applicants will receive confirmation of acceptance as a candidate in early May 2019, approximately one week before commencement of Take Home Assessments.

Applicants should not assume that they have been accepted as a candidate. The onus is on the applicant to ensure that their application has been received and that they have been sent confirmation of candidature. If an applicant has not received confirmation of candidature by 10 May they should contact Specialist Accreditation.

Am I able to withdraw my application?

Yes, you are able to withdraw your application. The availability and quantum of refund if you do so will be affected by the administrative work that has been completed when processing your application to that point as set out in the table below:

Date	Refund %
Before application due date	100%
Before first assessment release date	50%
After first assessment release date	0%

Those having to withdraw must notify Specialist Accreditation in writing, by the specified date(s) in order to receive the applicable refund.

Confirmation of withdrawal will be provided by Specialist Accreditation together with any relevant refund.

Assessment Overview

What is the expected performance standard?

The standard of an Accredited Specialist is that of a “specially competent practitioner” in the core skills and practical capabilities in the selected area of the law, as assessed against the spectrum of capability of all practitioners in that area of the law. This standard is to be distinguished from the idea that Specialist Accreditation requires the highest technical legal knowledge across all aspects of the selected area of law.

For further information on the performance standard can be found in the 2019 Assessment Requirements specific to each area of law lawsociety.com.au/specialists

Methods of assessment

The methods of assessment vary across each area of law but generally include:

Take home assessments, such as:

- Mock File
- Take Home Examination/Take Home Written Advice
- Resume of Work

Live assessments, such as:

- Peer Interview
- Simulated Interview
- Mock Hearing
- Briefing

Formal Written Examinations

The general character of some assessment components are described below:

Take Home Assessment

Mock File

The Mock File requires candidates to undertake tasks relevant to practice, such as written advice to clients and document drafting.

Candidates are required to return the work within a specified period of time. In some areas of accreditation candidates are given a choice of elective sub-specialities for the Mock File.

Take Home Examination/Written Advice

The Take Home Examination/Written Advice requires candidates to answer questions which focus on the application of legal knowledge. Candidates are required to return the work within a specified period of time. In some areas of accreditation candidates are given a choice of elective sub-specialities for the Take Home Examination/Written Advice.

Assessment Overview

Live Assessment

Peer Interview

A Peer Interview is conducted by a panel of assessors with expertise in the relevant area of law.

Questions regarding legal practice and/or the candidate's assessment work submitted are asked (if appropriate).

The interview is recorded for assessment purposes.

Simulated Interview

A Simulated Interview requires candidate's to conduct an interview with an individual acting in the role of the client. The interview is time limited and recorded for assessment purposes. This exercise is intended to assess the skills and knowledge as indicated in the performance criteria and relevant Assessment Requirements.

Mock Hearing

A Mock Hearing requires candidate's to display their advocacy skills, making a presentation to a mock court according to a scenario which is usually distributed in advance. The hearing is time limited and recorded for assessment purposes.

Briefing

A Briefing is carried out by one or more assessors with expertise in the relevant area of law.

Candidates are required to study a file which they will then present to the panel, indicating their opinion of the case, setting out the main issues and their strategies for dealing with them.

Formal Written Examination

Written Examination (open book)

A Written Examination is generally 3 hours in length with additional reading time. Generally candidate's may be permitted to bring any books, notes or other texts into the examination as specified. The examination generally requires answers to several questions focusing on the application of legal knowledge.

Written Examination (closed book)

A Written Examination is generally 3 hours in length with additional reading time. Candidate's are not permitted to bring any resources into the examination. The examination generally requires answers to several questions focusing on the application of legal knowledge.

Note: Candidates should refer to the specific Assessment Requirements for further details, including assessment criteria. All assessment work submitted must be the result of the candidates own efforts and without the assistance of any other person.

When and where are assessments held?

In order to work within the range of commitments that candidates will have, face to face assessments (such as, examinations and interviews/mock hearings) are held on a weekend.

Candidates should refer to the 2019 Assessment Requirements for their area of law for specific information regarding each assessment. All candidates will be notified of the location of each assessment prior to the assessment date.

Assessment Overview

What if I experience a problem performing my assessment?

The following procedures apply to those candidates who experience a problem performing their assessment(s) and who wish to request special consideration as a result.

- 1. Request for an extension of time for assessment completion**
 - a** A request for special consideration in the form of an extension of time to complete an assessment must be made in writing to Specialist Accreditation. The request **must** be submitted **before** the due date of the assessment.
 - b** The request must include sufficient detail and must be supported by relevant and recent documentation such as a medical certificate, accident report, statutory declaration etc.
 - c** The request must demonstrate that the candidate is unable to meet the due date as a result of unplanned and unforeseeable circumstances. Work pressures or holidays will not be accepted as reasons. It is assumed that all candidates will be able to meet the dates specified.
 - d** The request will be considered by Specialist Accreditation and the Head Assessor/Chair of the relevant Advisory Committee.
- 2. Missing face to face assessments such as examination and/or interviews/mock hearing**
 - a** If a candidate fails to attend a face to face assessment through 'misadventure' (e.g. an accident or illness) they must submit a written notification to Specialist Accreditation within 48 hours of the assessment date. Failure to appear and failure to notify within the specified time frame will result in an automatic failure of that assessment component.
 - b** The request will be considered by Specialist Accreditation and the Head Assessor/Chair of the relevant Advisory Committee.
- c** The candidate may be maintained in the assessment process (with supplementary assessment undertaken as determined) if it is determined that this is appropriate and fair in the circumstances having regard to the nature of the misadventure and its impact.
- 3. Experiencing a problem on the day of the face to face assessment(s)**
 - a** Candidates who attend a face to face assessment but experience a problem which significantly affects their performance on the day (such as illness or other extenuating circumstances) must bring the matter to the attention of the assessment staff on the day.
 - b** Candidates are encouraged to complete as much of the assessment as they are able.
 - c** The candidate must submit a request for special consideration to Specialist Accreditation within 48 hours of the assessment date.
 - d** The written request must include sufficient detail and documentation which supports the request for special consideration.
 - e** The request will be considered by Specialist Accreditation and the Head Assessor/Chair of the relevant Advisory Committee.
 - f** If accepted, the candidate may be maintained in the assessment process (with supplementary assessment undertaken as determined).
- 4. Request for reasonable adjustment for disability or impairment**
 - a** A request for reasonable adjustment for a candidate with a disability or impairment (e.g. hearing, mobility, visual, chronic illness or other) must be made in writing to Specialist Accreditation as directed on page 2 of the application form.

Assessment Overview

- b** The request must be in sufficient detail, including relevant and recent (within 2 years) medical documentation. The request should include how the disability or impairment impacts upon the undertaking of required assessments and what reasonable adjustments are requested (e.g. use of a laptop for typing in a formal examination, extra time allocation for completion of a live assessment, use of special software, access to an assessment venue etc).
- c** The request will be considered by Specialist Accreditation and the Head Assessor/Chair of the relevant Advisory Committee.

What resources are available?

2019 Assessment Requirements

The 2019 Assessment Requirements is a key document relevant to each area of law in which accreditation is offered. This document details the performance criteria, core knowledge and skills which a candidate must demonstrate to the level of a 'specially competent practitioner' in order to gain Specialist Accreditation.

The Assessment Requirements also contain details relating to each method of assessment including:

- Descriptions;
- Individual assessment criteria;
- Key dates.

Q and A Session

Practitioners who have applied or are considering applying for accreditation in 2019 are strongly encouraged to attend the Q and A sessions which will be held in February.

Each Q and A Session will focus on the specific areas of law offered as part of the 2019 program, discussing core knowledge and skills to be assessed, methods of assessment and administrative procedures.

The session will also provide applicants with the opportunity for interaction with members of the Advisory Committee and Specialist Accreditation.

Further details and registration will be made available closer to the date.

Online Candidate Portal

The online candidate portal is used by all candidates taking part in the current program. Candidates will download (when released) and submit their Take Home Assessment conveniently and securely, online. The portal also contains useful resources and tools to provide candidates with additional support throughout the program.

All candidates will be provided with unique login details and access upon confirmation of candidature.

Candidate Preparation Groups

All candidates undertaking accreditation in 2019 are provided with the opportunity to participate in an informal Candidate Preparation Group. Candidate Preparation Groups can be a good way for candidates to combine their preparation efforts and share knowledge and materials while benefiting from peer discussion and support.

Specialist Accreditation provides interested applicants with information to help with forming and facilitating their group. Applicants are able to register their interest on page 3 of the Specialist Accreditation Application form.

2019 Assessment Sample Kit

The Assessment Sample Kit contains samples of assessment questions and answers submitted in previous years, as a showcase of the standard of work expected from candidates.

Assessment Sample Kits* will be made available to candidates via the Online Candidate Portal after notification of acceptance into the 2019 program.

Note: Assessment content may vary from year to year, however the expected standard remains constant.

*Assessment Sample Kits may not be available for all areas of law offered.

Result Notification Process

What are the marks awarded?

Only one of two marks will be awarded - pass or fail. Candidates must pass every form of assessment to be eligible for accreditation. In relation to assessments the decision of the Board is final.

What happens following my final assessment?

Candidates will receive notification of their results in October.

Candidates will be provided with comments for each assessment, regardless of whether they have passed or failed.

What are my options if I do not pass an assessment?

Candidates have two options available to them if they do not pass an assessment.

Option 1 - Reassessment:

Candidates who fail only one form of assessment are able to apply for reassessment. Reassessment is not available if there has been a failure in more than one form of assessment. The candidate should consider whether the assessor's comments adequately reflect their performance before submitting an application for reassessment.

The reassessment is carried out by an assessor who has not previously assessed the candidate. The reassessor reviews the original assessment and states whether he or she agrees with it. Referees may be contacted as part of this process.

A non-refundable fee of \$150.00 (including GST) applies to an application for reassessment.

Candidates will be notified as to the results once the reassessment process is completed in December.

Option 2 - Appeals:

This is a process review option allowing candidates the opportunity to submit an appeal application once they have been notified of their results.

A candidate may submit an appeal application where they believe their performance has been affected by an alleged procedural error in the way the assessment process is alleged to have occurred.

Appeals will consider whether procedure was applied differently and adversely in the case of the candidate.

The test for procedural error is where one or more of the following applies:

- The candidate was not given the opportunity to seek special consideration for problems affecting candidacy;
- The candidate was given wrong, incomplete or conflicting information in writing;
- The candidate demonstrates that there was bias in the assessment process that disadvantaged them; and
- The established procedure for assessments was not followed.

If it is established that there was a matter of procedural error, those determining the appeal may not re-open or change the original assessment but may:

- Order a fresh assessment; or
- Refer the assessment to the Board for further consideration.

Assessment Guide

Applications for reassessment and/or appeal must be submitted using the required form, setting out the grounds upon which the application is made. The onus is on the candidate to ensure that their application has been received by the specified due date.

What are my options if I do not successfully gain accreditation following a reassessment or appeal?

Unsuccessful candidates will need to reapply the next time their area of practice is offered. There are no credits provided to candidates who have successfully completed a form of assessment previously. All candidates must undertake all assessments afresh.

What happens once I have successfully completed my assessments?

Candidates who successfully complete their assessments are eligible to receive accreditation once the required form is completed and payment is processed by Specialist Accreditation. All newly Accredited Specialists will receive notification of this along with the relevant suite of material and logos.

Specialist Accreditation holds an annual event congratulating newly accredited specialists on their achievement.

What happens to the assessment material submitted by candidates?

All documents submitted during the course of the assessments become the property of the Law Society of NSW and will be held in confidence.

The assessment material of successful candidates will be held by Specialist Accreditation for six months after the final results are released. These materials may be used in a de-identified form to compile the Assessment Sample Kits the next time the area of law is offered. As a matter of courtesy the specialist will be notified should their assessment material be utilised for this purpose. Candidates should keep a copy of any material submitted.

What happens to my documentation and assessment materials if I fail?

Documentation (i.e. application forms, other records) and assessments of failed candidates are retained by Specialist Accreditation for a period of one year. Candidates should keep a copy of any material submitted.

Can I count the assessment process that I have undertaken toward Continuing Professional Development (CPD)?

Regardless of the result a candidate who has completed the assessment process has fulfilled their CPD requirements for that year.

Note: There may be a requirement to fulfill mandatory rule 6.1. of the *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015*.