

IN-HOUSE CORPORATE LAWYERS FAQs

The Corporate Lawyers Committee has provided answers to some common questions asked by in-house corporate lawyers.

1. As an in-house corporate lawyer, how do I comply with the CPD requirement of at least 1 unit every year in each of the following areas:

- ethics and professional responsibility;
- practice management and business skills;
- professional skills; and
- substantive law?

A handy guide to these requirements and how you can satisfy them is available [here](#).

Course topics that could satisfy the ethics and professional responsibility requirement include conflicts of interest, communicating directly with third parties and ethics within a technical legal context.

Course topics that could satisfy the practice management and business skills requirement include outsourcing of legal work, use of technology such as search engines, and accounting.

Topics covering professional skills could include public speaking and management courses.

This is a guide only. It is your responsibility to determine into which of the above areas any CPD undertaken by you falls.

2. Am I required to have a practising certificate as an in-house corporate lawyer?

Yes. The *Legal Profession Uniform Law* (Uniform Law) and *Legal Profession Uniform General Rules 2015* (the General Rules) commenced in NSW on 1 July 2015. Under the Uniform Law, in-house legal practitioners are required to hold a practising certificate.

The *Legal Profession Uniform Law Application Regulation 2015* (the Regulation) includes transitional arrangements for in-house corporate lawyers. You can view further information on the exemptions and how they operate [here](#). The Legal Services Council has also provided useful information for in-house corporate lawyers, which can be viewed [here](#).

3. Do I need to take out professional indemnity insurance?

No. Under the Uniform Law, a corporate legal practitioner who engages in legal practice only in the capacity of an in-house corporate lawyer for his or her employer or a 'related entity' in a corporate group does not need to take out professional indemnity insurance (see s.215(8) of the Uniform Law and rule 82 of the General Rules).

4. Do I need to contribute to the Fidelity Fund?

No. Under the Uniform Law, a corporate legal practitioner is not required to make an annual contribution to the Fidelity Fund if they hold a corporate practising certificate (see s.225(4) of the Uniform Law).

5. When do I need to hold an unrestricted practising certificate?

The term 'unrestricted' is no longer used to describe a type of practising certificate under the Uniform Law. The Uniform Law equivalent, as applied in NSW, is a practising certificate which is no longer subject to Condition 2 (the Supervised Legal Practice requirement). If you want to supervise legal practice by others, you must first ensure that your application to remove condition 2 has been approved. If you are the sole corporate legal practitioner for a company, you do not need to hold a Principal's Practising Certificate but you do need to hold a Corporate Practising Certificate (CPC) that has the condition of Supervised Legal Practice (condition 2) removed from it (that is, a corporate legal practitioner's practising certificate that is not subject to supervision.)

6. Can I complete my period of supervised practice as an in-house corporate lawyer?

Yes. However, all the usual rules apply to you, including that your supervisor must be entitled to supervise you in accordance with the definition of supervised legal practice in s 6 of the Uniform Law.

7. Does client legal privilege apply to advice I provide?

The same rules apply to determine whether advice is privileged regardless of whether you are an in-house corporate lawyer or a lawyer working in a law firm.

However, an in-house corporate lawyer is more likely to act in a number of different capacities in their employer company, such as company secretary, director or business manager.

If you give advice in one of these other capacities, privilege will not apply. Some useful information on client legal privilege can be found on the [Law Council of Australia](#) website.

8. How can I do pro bono work?

There are many opportunities for in-house corporate lawyers to provide legal services on a pro bono basis. For the purposes of the Uniform Law providing legal services on a pro bono basis is where:

- (a) the practitioner, without fee, gain or reward or at a reduced fee, advises or represents a client in cases where-
 - (i) the client would not otherwise have access to legal services; or
 - (ii) the client's case raises a wider issue of public interest; or
- (b) the practitioner is involved in free community legal education or law reform; or
- (c) the practitioner is involved in the giving of free legal advice or representation to charitable and community organisations.

For instance, charitable organisations are often run just like companies and need the same types of advice as typical in-house corporate lawyer employers.

In addition to ensuring that you have a current practising certificate, one practical restriction on doing pro bono work is ensuring that you have appropriate insurance. If you volunteer with a 'community legal service', (as defined in s 6 of the Uniform Law) (CLS) you must ask the CLS and they will advise you if you are covered under their insurance. Please note, however, that the CLS insurance will only cover you for the work you do for that CLS.

The Law Society's Pro Bono Scheme connects firms and in-house corporate lawyers and legal teams willing to provide pro bono assistance with disadvantaged members of the community in need of legal services. For more information about how to get involved, visit the [Pro Bono Scheme page](#).

Alternatively, if you wish to establish your own pro bono project, the Australian Pro Bono Centre provides information for in-house corporate lawyers and legal teams looking to establish their own initiatives. Further information is available [here](#). The Centre offers free PI insurance to projects they approve and which are supervised by a lawyer with a principal practising certificate. Further information is available [here](#).

9. Where can I obtain advice if I am facing a difficult ethical issue?

The Law Society provides a free service to all solicitors who need advice on professional ethical issues. Further information with contact details can be found [here](#).

10. Is there any post-graduate training available specifically for in-house corporate lawyers?

Yes. The College of Law has developed the Master of Applied Law (In-house Practice) program, a post graduate course which is designed to provide practical training for the unique aspects of the role of the in-house corporate lawyer. Further details are available on the [College of Law website](#).

11. Can in-house corporate lawyers participate in committees of the Law Council of Australia?

Yes. In-house corporate lawyers are eligible to participate in committees of the Law Council of Australia.

The Law Council is made up of constituent bodies which are the State and Territory law societies, bar associations and Law Firms Australia. The Law Society of NSW is the largest constituent body. There are a number of Law Council committees and working groups, members of which are normally nominated by the constituent bodies.

The Law Council also has five specialist Sections (including Business Law and International Law) which in-house corporate lawyers can join. Those Sections have a number of committees which members of a Section can apply to join.

Further details are available on the [Law Council of Australia](#) website.