ADMISSION GUIDELINES FOR APPROVING PRACTICAL LEGAL TRAINING REQUIREMENTS
ADMISSION GUIDELINES NUMBER 2 (2019)

ISSUED BY THE CHIEF JUSTICE UNDER
RULE 9AA(1)(b) OF THE SUPREME COURT (ADMISSION) RULES 2004

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1. Rule 9AA(1)(b) of the *Supreme Court (Admission) Rules 2004* provides that the Chief Justice may issue guidelines for approving practical legal training requirements that set out skills, values and practice areas, and performance criteria for elements for the skills, values and practice areas –
   (i) for courses for rule 7; and
   (ii) against which approved practical legal training requirements are decided.

2. I issue the Law Admissions Consultative Committee's *Practical Legal Training Competency Standard for Entry-Level Lawyers*, attached, as the guidelines for approving practical legal training requirements pursuant to rule 9AA(1)(b) of the *Supreme Court (Admission) Rules 2004*.

3. I withdraw any earlier guidelines issued for approving practical legal training requirements pursuant to rule 9AA(1)(b) of the *Supreme Court (Admission) Rules 2004*.

Catherine Holmes
Chief Justice
27 November 2019

Notified by the Minister

Law Admissions Consultative Committee

Practical Legal Training

Competency Standards

For Entry-Level Lawyers

Commencement Date: 1 January 2015
(Revised: October 2017)

Contents

1.	BACKGROUND	1
2.	INTERPRETATION	2
2.1	Definitions	2
2.2	Interpretation of Item 5	2
3.	REQUIREMENTS FOR APPLICANTS FOR ADMISSION	3
3.1	Required Competencies	3
3.2	When PLT may be commenced	3
4.	REQUIREMENTS FOR EACH FORM OF PLT	4
4.1	Programmed training and workplace experience	4
4.2	Timing and duration of workplace experience	4
4.3	Common requirements	5
4.4	Level of training	5
4.5	Qualification of instructors and supervisors	6
4.6	Assessment of applicants	6
4.7	Resilience and well-being	6
5.	COMPETENCY STANDARDS	6
5.1	Administrative Law Practice	6
5.2	Banking and Finance	7
5.3	Civil Litigation Practice	8
5.4	Commercial and Corporate Practice	10
5.5	Consumer Law Practice	11
5.6	Criminal Law Practice	13
5.7	Employment and Industrial Relations Practice	14
5.8	Ethics and Professional Responsibility	15
5.9	Family Law Practice	17
5.10	Lawyer's Skills	18
5.11	Planning and Environmental Law Practice	21
5.12	Problem Solving	22
5.13	Property Law Practice	23
5.14	Trust and Office Accounting	25
5.15	Wills and Estates Practice	26
5.16	Work Management and Business Skills	27

LAW ADMISSIONS CONSULTATIVE COMMITTEE[1]

PRACTICAL LEGAL TRAINING

COMPETENCY STANDARDS FOR ENTRY-LEVEL LAWYERS

1. BACKGROUND

In 2002, Admitting Authorities finally endorsed proposed national *PLT Competency Standards for Entry-level Lawyers*, which were recommended to them by LACC.

The *Standards* had been jointly developed by the Australasian Practical Legal Education Council (APLEC) and LACC and sought to describe the observable performance in several key areas relating to legal practice, required of entry-level lawyers at the point of admission to the legal profession.[2]

Subsequent changes in both the training of lawyers and legal practice led LACC in 2010 to seek the assistance of APLEC and other stakeholders to undertake a review of the PLT Competency Standards. APLEC undertook a review, which was completed in 2013 following extensive consultation. This document is based on suggestions made by APLEC, as a result of that review.

One of the most significant changes in the intervening years is that, in several jurisdictions, many intending legal practitioners now obtain their PLT qualifications through PLT courses, conducted by PLT providers, rather than through serving a period as an articled clerk, to which service the *Standards* did not apply. In other jurisdictions, instead of articles, intending legal practitioners can chose either to undertake a PLT course or to engage in Supervised Workplace Training in a legal office. In one jurisdiction, intending practitioners still undertake articles but also are required to undertake a program of assessment conducted by a PLT provider, to assess whether they have attained each of the prescribed competencies. Whichever form of PLT is now followed, all intending practitioners are required to demonstrate that they have attained prescribed competence in the Skills, Practice Areas and Values summarised in item 3 set out in detail in item 4 below.

Another significant change is that, since 2000, all jurisdictions have developed or applied means of accrediting and monitoring PLT courses and the performance of PLT providers. So-called *Uniform Standards for PLT Courses and Providers*, initially developed by the Victorian Council of Legal Education have been successfully deployed and revised in the light of that experience. APLEC has asked that they should be applied in all jurisdictions and LACC has commended successive versions to Admitting Authorities.

In those jurisdictions which allow SWT, means of approving and monitoring the performance of SWT providers are also being developed.

Such procedures enhance the possibility that entry-level lawyers will all have attained the various competencies prescribed by, or pursuant to, this document.

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1 LACC's Charter is approved by the Council of Chief Justices which also appoints its Chairman. LACC is not, however, a committee of the Council, nor does it act on the Council's behalf

2 The recommended Standards were drafted in the light of the *National Competency Standards Policy and Guidelines*, National Training Board, Canberra ,1991 and Heywood, Gonczi and Hager, *A Guide to the Development of Competency Standards for Professions*, Department of Employment, Education and Training, Canberra, 1992.

2. INTERPRETATION

2.1 Definitions

In this document:

Admitting Authority means the body responsible in a jurisdiction for approving the content of either or both of PLT courses and SWT.

applicant means applicant for admission to the legal profession.

PLT means Practical Legal Training.

PLT course means a PLT course approved by an Admitting Authority, conducted by a PLT provider.

PLT provider means a body authorised by an Admitting Authority to provide a PLT course in that jurisdiction.

programmed training means structured and supervised training activities, research and tasks, each with comprehensive assessment.

SWT means supervised workplace training and includes articles of clerkship.

SWT provider means a body providing SWT in a jurisdiction.

workplace experience means supervised employment in a legal office, or supervised paid or unpaid placement in a law or law-related work environment.

2.2 Interpretation of Item 5

The following principles apply when interpreting item 5.

(a) An **Element** describes a relevant competence that an applicant is required to demonstrate in relation to the relevant prescribed Skill, Practice Area or Value.

(b) A **Performance criterion** sets out an activity by reference to which an applicant's achievement of an appropriate level of competence in the corresponding Element may be demonstrated. An applicant may, however, demonstrate the requisite achievement in relation to an Element:

(i) by attaining some, but not all, of the relevant Performance criteria nominated in item 5 for that Element; and

(ii) by attaining equivalent Performance criteria in the course of undertaking another Practice Area set out in item 5.

(c) Where a Performance criterion refers to an action which can only be performed by a person who has both been admitted to the legal profession and holds a practising certificate, the requisite competency may be demonstrated by satisfactorily completing a simulated exercise offered, and assessed in accordance with item 4.6(a), by a PLT provider or SWT provider.

(d) Where a Performance criterion provides for a competency to be demonstrated by observing something:

(i) the entry-level lawyer must document in writing and critically evaluate what has been observed; and

(ii) the resulting record must be assessed by the relevant PLT provider or SWT provider in accordance with item 4.6(a),

before the relevant Performance criterion can be satisfied.

(e) The expression of particular Elements, Performance criteria or Explanatory Notes in relation to a Skill, Practice Area or Value is not intended either:

(i) to limit the way in which that Skill, Practice Area or Value is taught; or

(ii) to prevent either wider or more detailed training in that Skill, Practice Area or Value.

3. REQUIREMENTS FOR APPLICANTS FOR ADMISSION

3.1 Required Competencies

(a) Every applicant is required to satisfy the Admitting Authority that the applicant has achieved the prescribed competence in the Skills, Compulsory and Optional Practice Areas and Values set out in item 5 and summarised as follows:

Skills

Lawyer's Skills
Problem Solving
Work Management and Business Skills
Trust and Office Accounting

Compulsory Practice Areas

Civil Litigation Practice
Commercial and Corporate Practice
Property Law Practice

Optional Practice Areas

Subject to paragraph (b), any two of:

Administrative Law Practice
Banking and Finance
Criminal Law Practice
Consumer Law Practice
Employment and Industrial Relations Practice
Family Law Practice
Planning and Environmental Law Practice
Wills and Estate Practice.

Values

Ethics and Professional Responsibility

(b) Paragraph (a) applies to every applicant who has undertaken PLT in Australia, whether by completing a PLT course, undertaking SWT, or any combination thereof approved by the relevant Admitting Authority.

3.2 When PLT may be commenced

(a) An applicant may commence PLT:

(i) in the case of SWT, only after the applicant has completed an academic qualification in law, leading to admission to the legal profession;

(ii) in the case of a PLT course that is not integrated with the applicant's academic qualification in law, only after the applicant has completed an academic qualification in law leading to admission to the legal profession, unless the applicant has no more than two academic subjects to complete:

(A) neither of which is one of the Academic Requirements for admission; and

(B) for which the applicant must be enrolled while undertaking the PLT course,

and the applicant has received the prior permission of the Admitting Authority to commence the PLT course.

(b) Despite paragraph (a), an applicant may undertake an integrated program of academic study and PLT that:

(i) requires the equivalent of three years' full-time academic study of law, apart from the time required to undertake the PLT components of the program; and

(ii) has been recognised by the relevant Admitting Authority for the purposes of preparing students for admission to the legal profession.

4. REQUIREMENTS FOR EACH FORM OF PLT

4.1 Programmed training and workplace experience

PLT must comprise both programmed training and workplace experience as follows:

(a) subject to paragraph (d), in the case of a graduate diploma:

(i) programmed training appropriate to such a diploma[3]; and

(ii) the equivalent of at least 15 days' workplace experience;

(b) subject to paragraph (d), in the case of a training course other than a graduate diploma, the equivalent of at least 900 hours' duration, comprising:

(i) at least 450 hours of programmed training; and

(ii) at least 15 days' workplace experience;

(c) in the case of SWT the equivalent of at least 12 months' full-time work which includes a minimum of at least 90 hours' programmed training.

(d) For the purposes of paragraphs (a) and (b), one day comprises seven working hours.

4.2 Timing and duration of workplace experience

(a) 15 days of workplace experience, as specified in clauses 4.1(a)(ii) and 4.1(b)(ii), is the **minimum requirement**.

(b) A PLT provider may require a student, as part of a PLT course, to undertake more than the minimum requirement of workplace experience (**additional requirement**).

(c) A student must undertake the minimum requirement –

(i) within Australia; and

(ii) concurrently with or after completing the programmed training of the PLT course.

(d) On or after 1 July 2018, a student may only obtain credit for the minimum requirement if the student undertakes not less than –

(i) 2 full days of workplace experience per week; or

(ii) 4 x 4 hour sessions of workplace experience per week.

(e) A student may undertake any additional requirement –

(i) within Australia; or

(ii) with the permission of the PLT provider, outside Australia.

(f) A PLT provider may grant credit towards any additional requirement of workplace experience for any workplace experience acquired by a student up to 2 calendar years before the student commences programmed training for a PLT course, if the workplace experience was acquired –

(i) while the student was enrolled in an academic law course accredited for professional admission purposes by an Australian Admitting Authority ; and

(A) as part of a clinical education program, internship or externship program of that law course; or

(B) in a legal office or during supervised placement in a law or law-related workplace; or

(ii) after the student has competed an academic law course, but before the student commences programmed training for a PLT course.

(g) A PLT provider may grant credit towards either or both of the minimum requirement and any additional requirement of workplace experience for any workplace experience acquired by a student up to 2 calendar years after the student has completed the programmed training component of a PLT course.

4.3 **Common requirements**

The requirements in items 4.4 to 4.7 apply to both PLT courses and SWT.

4.4 **Level of training**

PLT must be provided at a level equivalent to post-graduate training and build on the academic knowledge, skills and values about the law, the legal system and legal practice which a graduate of a first tertiary qualification in law should have acquired in the course of that qualification.

4.5 **Qualification of instructors and supervisors**

A person instructing or supervising an applicant while acquiring competence in any Skill, Practice Area or Value must:

(a) either have substantial current or recent experience in practising law; or

(b) have comparable relevant qualifications or experience; and

(c) comply with any other relevant legislative or regulatory requirements in the relevant jurisdiction.

4.6 **Assessment of applicants**

(a) Each form of PLT must employ comprehensive methods, appropriate to post-graduate training, of:

(i) assessing an applicant's competence; and

(ii) certifying whether or not an applicant has demonstrated the requisite level of competence,

in each relevant Skill, Practice Area and Value.

(b) Wherever practicable, an applicant's competence in any Practice Area should be assessed in a way that allows the applicant, at the same time, to further develop and to demonstrate competence in, relevant Skills and Values.

4.7 **Resilience and well-being**

All PLT providers and SWT providers should:

(a) make applicants aware of the importance of personal resilience in dealing with the demands of legal practice;

(b) provide applicants with appropriate access to resources that will help them develop such resilience;

(c) provide applicants with information about how and where to seek help in identifying mental health difficulties and in dealing with their effects;

(d) make applicants aware of the benefits of developing and maintaining personal well-being in their professional and personal lives; and

(e) provide applicants with information about how and where to find resources to help them develop and maintain such well-being.

5. **COMPETENCY STANDARDS**

Item 2.2 sets out particular principles of interpretation that apply to items 5.1 - 5.16.

5.1 **Administrative Law Practice**

Descriptor: An entry-level lawyer who practises in administrative law should be able to:

(a) obtain information for clients under freedom of information legislation and otherwise;

(b) seek review of administrative decisions; and

(c) represent parties before courts and administrative tribunals.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	• identified whether "freedom of information" or "right to information" legislation applies to the situation. • identified the specific legislation under which the information may be obtained. • taken the steps required under that legislation. • identified and taken any other practical steps required to obtain the information.
2. Obtaining review of administrative decisions	• concluded correctly that the decision may be reviewed. • identified and advised the client, or participated in or observed discussions with the client, about alternative means of obtaining a review. • completed all preparation required by law, good practice and the circumstances of the matter. • represented the client effectively at, or participated in or observed, any mediation, hearing or other review forum, where this is appropriate and permitted. • identified all alternative means of obtaining redress and discussed them with the client.
3. Representing a client	• completed all preparation required by law, good practice and the circumstances of the matter. • represented the client effectively at, or participated in or observed, any mediation, hearing or other proceeding, where this is appropriate or permitted.

Explanatory notes

This competency standard applies to both State and Federal administrative law and practice and to proceedings before both State and Federal courts and tribunals.

In the Performance criteria for Elements 2 and 3, "preparation" includes drafting written submissions.

5.2 Banking and Finance

Descriptor: An entry-level lawyer who practises in Banking and Finance should be able to demonstrate competence in advising clients on some of the common ways to finance commercial transactions and they should be able to demonstrate competence in drafting simple loan agreements and associated security documents, and in taking the actions required to perfect those securities.

Element	Performance criteria
	The lawyer has competently:
1. Preliminary investigation	• identified one or more ways of financing a borrower's proposal and identified the securities available to a

		financier in the situation • undertaken any necessary preliminary searches and inquiries to investigate issues of ownership, title and the capacity of any party to enter into the proposed financial arrangement • identified any consents to, or notifications of, the proposed financial arrangement required by existing financial or contractual arrangements • identified any requirements imposed on the financier by law in respect of the proposed financial arrangement.
2.	Planning	• planned the steps to be taken to effect the proposed arrangement including identifying and recording any critical dates, identifying any necessary searches and inquiries and identifying the required documentation
3.	Documentation	• drafted the relevant loan and security documents • informed the borrower of their obligations in relation to the arrangement including any personal obligations under any guarantees • complied with any legislative requirements relating to the proposed arrangement
4.	Due Diligence	• undertaken any further searches and inquiries required and advised the client what experts need to be engaged for due diligence (accountants etc.)
5.	Finalisation	• had the transaction documentation executed, and (if necessary) stamped and registered according to law and good practice.

Explanatory Note

An entry-level lawyer may not demonstrate competence in this elective practice area by submitting the same or similar work, to work that the entry-level lawyer submits to demonstrate competence in the Commercial and Corporate Practice area.

5.3 Civil Litigation Practice

Descriptor: An entry-level lawyer should be able to conduct civil litigation in first instance matters in at least one State or Territory court of general jurisdiction, in a timely and cost-effective manner.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of a case and identifying dispute resolution alternatives	• assessed the strengths and weaknesses of both the claimant's and opponent's cases. • identified the facts and evidence required to support the claimant's case. • advised the client of relevant rights and remedies in a way that a reasonable client could understand. • identified means of resolving the case, having regard to the client's circumstances. • where possible, confirmed in writing any instructions given by the client in response to initial advice.

		• identified and complied with the relevant limitation period.
2.	Advising on costs of litigation	• identified any litigation funding options and a means of reducing or recovering costs. • identified alternative types of costs orders and how they may be affected by formal and informal offers of compromise and the manner of conducting the litigation. • advised the client of relevant cost considerations in a way that a reasonable client could understand.
3.	Initiating and responding to claims	• identified an appropriate claim or defence. • identified a court of appropriate jurisdiction. • identified the elements of the claim or defence, according to law. • followed procedures for bringing the claim or making the defence in accordance with the court's rules and in a timely manner. • drafted all necessary documents in accordance with those procedures.
4.	Taking and responding to interlocutory and default proceedings	• identified any need for interlocutory steps, according to the court's rules. • followed procedures for taking those steps in accordance with the court's rules and in a timely manner. • drafted all necessary documents in accordance with those procedures and rules.
5.	Gathering and presenting evidence	• identified issues likely to arise at the hearing. • identified evidence needed to prove the client's case or disprove the opponent's case, according to the rules of evidence. • identified various means of gathering evidence, and used at least one of them to gather evidence. • presented, or observed the presentation of, that evidence according to law and the court's rules.
6.	Negotiating settlements	• conducted, participated in or observed, settlement negotiations. • identified any revenue and statutory refund implications. • properly documented any settlement reached.
7.	Taking action to enforce orders and settlement agreements	• identified available means of enforcing the order or settlement according to law and the court's rules. • followed procedures relevant to the chosen means of enforcement in a timely manner.

Explanatory notes

This competency standard applies to first instance civil litigation in local lower and higher courts of an Australian State or Territory, having general jurisdiction, and in the Federal Court.

In the Performance criteria for Element 1, "means of resolving a case" includes:

- negotiation;

- mediation;
- arbitration;
- litigation;
- expert appraisal.

In the Performance criteria for Element 5, "means of gathering evidence" includes:

- statements from witness;
- notices to admit;
- discovery;
- subpoena;
- expert reports;
- certified official records, banker's books and similar documents.

In the Performance criteria for Element 5, reference to presenting evidence includes presenting evidence:

- orally on oath;
- by affidavit;
- by video or telephone link.

In the Performance criteria for Element 7, "means of enforcement" includes:

- execution process including attachment of debts;
- taxation or assessment of costs;
- oral examination.

5.4 Commercial and Corporate Practice

Descriptor: An entry-level lawyer should be able to:

(a) conduct standard commercial transactions such as the sale and purchase of a small business;

(b) understand the relevant risks associated with such a transaction for both parties;

(c) set up simple business structures using entities such as companies, trusts and partnerships;

(d) provide basic advice on finance and securities and on the obligations of companies and their officers; and

(e) appreciate the type of advice needed to assess the revenue implications of standard commercial transactions.

Element	Performance criteria
	The lawyer has competently:
1. Conducting commercial transactions	• identified the nature of the transaction. • undertaken sufficient searches and inquiries to investigate any relevant issues of title to real or personal property. • drafted documents, had them executed, and (if necessary) certified, stamped and registered, according to law and good practice. • obtained or given any necessary consents to, or notifications of, the transaction required by law.
2. Setting up commercial	• selected a structure that will achieve the client's

	structures	objectives. • drafted all documents required to set up the structure (including establishing any discrete entities that will form part of the structure). • had the documents executed and (if necessary) certified, stamped and registered, according to law and good practice. • informed the client of any continuing obligations in relation to the structure, and, where the structure involves a corporation, of the continuing obligations of the company and its officers.
3.	Dealing with loans and securities	• identified one or more types of financial arrangements and securities available to the borrower and lender. • informed the borrower and lender of their immediate, continuing, and potential liabilities under any proposed financing and security arrangements. • drafted loan or security documents which reflect the agreement between lender and borrower. • had the loan or security documents executed and (if necessary) stamped and registered, according to law and good practice.
4.	Advising on revenue law and practice	• identified in a general way the possible revenue implications of the client's proposed commercial venture or arrangement. • referred the client to experts for more comprehensive or detailed advice, where appropriate.

Explanatory notes

In Element 2, " structure" includes:

- basic trusts;
- private companies;
- partnerships;
- joint ventures;
- franchise arrangements.

In Element 3, "securities" includes:

- personal property security agreements;
- chattel leases;
- loans agreements;
- guarantees, including guarantees from spouses.

In the Performance criteria for Element 4, "revenue implications" includes:

- stamp duties;
- income tax;
- capital gains tax;
- GST;
- fringe benefits tax;
- land and property taxes.

5.5 Consumer Law Practice

Descriptor: An entry-level lawyer who practises in consumer law should be able to:

(a) advise clients on the procedures and remedies available in relation to consumer protection complaints and disputes; and

(b) represent the client in any related negotiations or proceedings.

Element	Performance criteria
	The lawyer has competently:
1. Obtaining information	• identified the consumer protection complaint or dispute as one to which consumer protection legislation applies. • identified the relevant legislation and any applicable case law. • identified any possible common law remedies.
2. Drafting documents	• drafted any documents required, in accordance with the client's instructions and the relevant legislation.
3. Initiating and responding to claims	• identified the appropriate forum for initiating or responding to a claim. • initiated a claim or taken action to oppose a claim in accordance with the rules and procedures of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
4. Representing the client	• identified all possible means of resolving the consumer protection complaint or dispute to the satisfaction of the client; and discussed them with the client, or participated in or observed, such discussions. • completed all necessary preparation in accordance with the law, good practice and the circumstances of the matter. • represented the client effectively at, or participated in or observed, any negotiation, mediation, hearing or other proceedings.
5. Taking action to implement outcomes	• documented any order or settlement properly and explained it to the client in a way which a reasonable client could understand. • identified any procedures necessary to enforce the order or settlement and implemented them in a timely manner.

Explanatory notes

This competency standard applies to the practice of consumer law under both State and Federal consumer protection legislation and codes.

In the Performance criteria for Element 1, "consumer protection dispute" includes a dispute relating to:

- competition and consumer legislation;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;

- guarantees;
- residential tenancies.

In the Performance criteria for Element 1 "consumer protection legislation" includes State and Federal legislation and codes concerning:

- competition and consumer law;
- misleading and deceptive conduct;
- motor car traders;
- domestic building contracts;
- consumer credit;
- residential tenancies.

In the Performance criteria for Element 3, "court or tribunal" includes:

- Federal courts;
- State courts;
- statutory tribunals;
- industry complaint panels;
- industry ombudsmen.

5.6 Criminal Law Practice

Descriptor: An entry-level lawyer who practises in criminal law should be able to advise clients before arrest, seek bail, make pleas, participate in minor contested hearings and assist in preparing cases for trial.

Element	Performance criteria
	The lawyer has competently:
1. Providing advice	• identified the client's legal rights and legal powers of the police or other prosecutors or investigators in relation to a criminal matter. • informed the client of those rights and powers in a way that a reasonable client could understand. • identified the legal elements of any offence with which the client is charged. • where possible, confirmed in writing any instructions given by the client in response to initial advice. • implemented the client's instructions, when it is appropriate in the circumstances to do so.
2. Applying for bail	• identified the client's options and communicated them to the client in a way a reasonable client could understand. • helped the client to make an informed decision about which option to select. • made, or been involved in the process of making, or observed, an application for bail or taken other action effectively in the circumstances. • fully advised the client of any bail conditions.
3. Making pleas	• identified the client's options and communicated them to the client in a way a reasonable client could understand. • identified and gathered all material useful to the plea, according to law and good practice. • presented, or been involved in the process of

		presenting, or observed the presentation of, the plea in an effective and persuasive manner, having regard to the circumstances of the case. • advised the client fully of the outcome in a way a reasonable client could understand.
4.	Representing a client in minor matters	• completed all preparation required by law, good practice and the circumstances of the case. • represented, or been involved in representing the client, or observed the client being represented, effectively at a contested hearing.
5.	Assisting to prepare cases for trial	• identified and gathered the evidence needed to support the client's case. • identified and briefed, or been involved in briefing, appropriate experts (including counsel) having regard to good practice and the requirements of the case.

Explanatory notes

In the Performance criteria for Element 1, "criminal matter" includes:

- traffic offences;
- domestic violence and apprehended violence orders;
- drink driving;
- drug offences.

5.7 Employment and Industrial Relations Practice

Descriptor: An entry-level lawyer who practises in the area of employment and industrial relations should be able to:

(a) advise clients on the relevant law and procedures;

(b) represent clients in negotiations; and

(c) initiate and respond to applications in relevant State and Federal courts and tribunals.

Element		Performance criteria
		The lawyer has competently:
1.	Assessing the merits of the dispute and identify the dispute resolution alternatives	• identified the relevant facts. • assessed the strengths and weaknesses of the dispute according to the relevant law. • identified all means of resolving the dispute, having regard to the client's circumstances.
2.	Advising client on procedures	• advised the client of means of avoiding a dispute, where appropriate. • advised the client of available steps to strengthen the client's position.
3.	Commencing negotiations	• explored opportunities for a negotiated settlement, subject to the client's instructions. • represented, or been involved in representing, the client, or observed the client being represented,

		effectively at any negotiations.
4.	Initiating and responding to proceedings	• identified the appropriate jurisdiction. • initiated or opposed, or been involved in initiating or opposing, a claim or observed the initiation or opposition of a claim, in accordance with the rules of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
5.	Representing the client	• completed all preparation required by law, good practice and the circumstances. • represented, or been involved in representing the client, or observed the client being represented, effectively at any mediation, hearing or other forum.
6.	Taking action to implement outcomes	• properly documented any order or settlement and explained it to the client in a way which the client can understand. • identified and implemented, or been involved in identifying and implementing, any procedures required to enforce the order or settlement.

Explanatory notes

This competency standard applies to the practice of employment and industrial relations law at both State and Federal levels.

In the Performance criteria for Elements 1 and 2, "dispute" includes:

- award negotiations;
- an industrial dispute relating to an individual employee or to a workplace or industry;
- an equal employment opportunity or anti-discrimination claim;
- a claim for unfair dismissal.

In the Performance criteria for Element 1, "means of resolving the dispute" includes:

- negotiation;
- mediation;
- conciliation;
- arbitration;
- litigation.

In the Performance criteria for Element 2, "means of avoiding a dispute" and "steps to strengthen the client's position" include:

- altering internal employment practices and procedures;
- revising employment contracts;
- entering or revising enterprise bargaining agreements;
- altering individual employment contracts;
- taking disciplinary proceedings;
- allowing industrial representation.

5.8 Ethics and Professional Responsibility

Descriptor: An entry-level lawyer should act ethically and demonstrate professional responsibility and professional courtesy in all dealings with clients, the courts, the community and other lawyers.

Element	Performance criteria

		The lawyer has competently:
1.	Acting ethically	• identified any relevant ethical dimension of a particular situation. • taken action which complies with professional ethical standards in that situation.
2.	Knowing when to raise ethical problems with others	• identified circumstances in which matters relating to the ethical conduct of legal practice should be brought to the attention of others. • identified with whom different matters of this type should be raised (for example, employers, professional associations, legal services boards, police). • learned about relevant protocols, institutional procedures and difficulties, associated with raising such matters with others.
3.	Discharging the legal duties and obligations of legal practitioners	• identified any duty or obligation imposed on the lawyer by law in a particular situation. • discharged that duty or obligation according to law and good practice.
4.	Complying with professional conduct rules	• identified any applicable rules of professional conduct. • taken action which complies with those rules.
5.	Complying with fiduciary duties	• recognised and complied with any fiduciary duty, according to law and good practice.
6.	Avoiding conflicts of interest	• identified any potential or actual conflict, as soon as is reasonable in the circumstances. • taken effective action to avoid a potential conflict or, where a conflict has already arisen, dealt with it in accordance with law and good practice, or been involved in the process of doing one or more of those things. • taken, or been involved in the process of taking, appropriate action, where applicable, to prevent such a conflict arising in the future.
7.	Acting courteously	• demonstrated professional courtesy in all dealings with others.
8.	Complying with rules relating to the charging of fees	• identified any rules applying to charging professional fees. • complied with those rules, where they are relevant. • maintained file notes and records in accordance with law and good practice.
9.	Being aware of the importance of pro bono contributions	• recognised the importance of pro bono contributions to legal practice. • identified various means whereby lawyers may provide pro bono contributions. • where necessary, used resources provided by professional or community organisations to facilitate pro bono contributions.

- identified when a client with insufficient resources may be entitled to legal aid, or assistance from professional or community organisations.

Explanatory notes

The purpose of this standard is to assist entry-level lawyers to adopt ethical habits in legal practice to ensure that they effectively and appropriately discharge their obligations to the Court, to the legal profession and to clients by:

- acting ethically;
- observing general and statutory law relating to the duties and obligations of legal practitioners;
- observing written and unwritten rules of professional conduct; or
- observing written and unwritten rules of professional courtesy.

In the Performance criteria for Element 3, "duty or obligation" includes the duties and obligations:

- of confidentiality;
- to maintain competence;
- to act honestly;
- not to mislead the court;
- not to pervert the course of justice or the due administration of justice.

In Element 6, "conflicts of interest" include conflicts between:

- joint venture partners;
- directors and shareholders of a company;
- trustees and beneficiaries in a family trust;
- parties to any transaction where the interests of the parties may differ.

5.9 Family Law Practice

Descriptor: An entry-level lawyer who practises in family law should be able to:

(a) advise and take action in relation to parenting matters, property settlements, spouse maintenance and child support problems;

(b) identify appropriate dispute-resolution processes for such matters, in the light of the client's circumstances and concerns; and

(c) advise clients on pre-action procedures.

Element	Performance criteria
	The lawyer has competently:
1. Advising on matters relating to children and property	• elicited information necessary to identify the client's options. • informed the client of all relevant available options, in a way that a reasonable client could understand. • identified any pre-action procedures that apply to the matter. • taken any steps necessary to enable the client to obtain access to those procedures.

2.	Representing a client in matters relating to children and property	• prepared, or been involved in preparing, or observed the preparation of, either an application for interim, final or consent orders relating to a matter concerning children or property, or a response to such an application. • pursued, or been involved in the pursuit of, the case in accordance with good practice for the chosen dispute resolution process. • identified and explained, or been involved in identifying and explaining, to the client the revenue implications of any proposed settlement. • documented and acted upon, or been involved in documenting and acting upon, any results of the chosen dispute resolution process, in accordance with law and good practice.

Explanatory notes

This competency standard applies to children and property matters arising from the breakdown of marriages or other domestic relationships, rather than the dissolution of marriage. It includes:

- responsibility for parenting, including residence of and contact with, children;
- property settlements;
- spouse maintenance;
- child support;
- domestic violence orders;
- injunctions and sole-use orders;
- de facto proceedings.

5.10 Lawyer's Skills

Descriptor: An entry-level lawyer should be able to demonstrate oral communication, legal interviewing, advocacy, negotiation, dispute resolution, letter-writing and drafting skills.

Element	Performance criteria
	The lawyer has competently:
1. Communicating effectively	• identified the purpose of a proposed communication, the most effective way of making it, and the content of the proposed communication. • presented thoughts, advice, and submissions in a logical, clear, succinct and persuasive manner, having regard to the circumstances and the person or forum to whom they are made.

2.	Cross-cultural awareness	• identified and appropriately dealt with verbal and non-verbal aspects of cross-cultural communication. • taken any follow-up action in accordance with good practice. • demonstrated awareness of difficulties of communication attributable to cultural differences; their possible effect on a client's dealings with lawyers, the police, courts, government and legal agencies; and the desirability of cross-cultural communications training for all lawyers.
3.	Interviewing clients	• prepared for the interview properly, having regard to relevant information available before the interview and all known, relevant circumstances. • conducted, participated in conducting or observed, the interview, using communication techniques appropriate to both the client and the context. • ensured that the client and 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. • ensured that the lawyer and client left the interview with a common understanding of the lawyer's instructions (if any) and any future action that the lawyer or client is respectively to take. • made a record of the interview that satisfies the requirements of law and good practice. • taken, or participated in taking, any follow-up action in a timely manner.
4.	Writing letters	• identified the need for, and purpose of, the letter. • written the letter in plain English that conveys its purpose clearly and could be understood by the person to whom it is sent, acting reasonably.
5.	Drafting other documents	• identified the need for, and purpose of, the document. • devised an effective form and structure for the document having regard to the parties, the circumstances, good practice, plain English principles and the relevant law. • drafted the document effectively having regard to the parties, the circumstances, good practice, plain English principles, and the relevant law. • considered whether the document should be settled by counsel. • taken 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).

6.	Negotiating settlements and agreements	• prepared, or participated in the preparation of, the client's case properly having regard to the circumstances and good practice. • identified the strategy and tactics to be used in negotiations and discussed them with and obtained approval from the client, or been involved in or observed that process. • carried out, been involved in or observed, the negotiations effectively having regard to the strategy and tactics adopted, the circumstances of the case and good practice. • documented any resolution as required by law or good practice and explained it, or been involved in the process of explaining it, to the client in a way a reasonable client could understand.
7.	Facilitating early resolution of disputes	• identified the advantages and disadvantages of available dispute resolution options and explained them to, or been involved in explaining them to, the client. • performed in the lawyer's role, or been involved in or observed that performance, in the dispute resolution process effectively, having regard to the circumstances. • documented any resolution as required by law or good practice and explained it, or been involved in explaining it, to the client in a way a reasonable client could understand.
8.	Representing a client in a legal forum	• observed the etiquette and procedures of the forum. • organised and presented in an effective, strategic way: – factual material; – analysis of relevant legal issues; and – relevant decided cases. • presented and tested evidence in accordance with the law and good practice. • made submissions effectively and coherently in accordance with law and good practice.

Explanatory notes

Assessment of competence for this standard should require the entry-level lawyer to synthesise or combine the above skills and apply them in one or more specific legal contexts.

In the Performance criteria for Element 2, "difficulties of communication attributable to cultural differences" includes difficulties of communication encountered by Indigenous people.

In the Performance criteria for Element 7, "dispute resolution options" includes:

- negotiation;
- mediation;
- arbitration;
- litigation;
- expert appraisal.

In Element 8, "Representing" refers to appearing, being involved in appearing, or observing another appearing, on behalf of a client in a court, tribunal or other legal forum on a matter, including:

- an aspect of preliminary or pre-trial civil or criminal proceedings;
- an aspect of first instance trial advocacy in a simple matter;
- leading evidence-in-chief, cross-examination and re-examination; and
- making submissions.

5.11 Planning and Environmental Law Practice

Descriptor: An entry-level lawyer who practises in planning and environmental law should be able to:

(a) advise, and generally assist, clients on the relevant law and planning process;

(b) apply for approvals and consents under relevant planning legislation;

(c) object to applications; and

(d) initiate or defend planning or environmental actions.

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of the matter and advising the client	• obtained full instructions from the client. • analysed the facts in accordance with the relevant law. • obtained and clarified any relevant technical information. • advised, or been involved in advising, the client of any rights and obligations of the client and potential penalties if obligations are not observed. • identified, or been involved in identifying, all options and developed a plan of action in accordance with the client's instructions. • alerted, or been involved in alerting, the client to the need to identify the commercial, political and public relations implications of any proposed action.
2. Preparing planning applications or objections	• identified and analysed relevant provisions of the appropriate planning scheme. • identified any appropriate grounds of objection. • prepared either an application for development or other planning approval, or an objection to such an application. • identified any need to obtain plans or other information.

3.	Initiating or responding to environmental claims	• identified the appropriate forum for initiating or responding to a claim. • initiated or opposed, or been involved in initiating or opposing, a claim in accordance with the rules of the relevant court or tribunal, in a timely manner. • obtained all necessary evidence and drafted all necessary documents in accordance with those rules.
4.	Representing the client in resolving a planning matter or environmental claim	• identified appropriate means of resolving the matter to the satisfaction of the client and discussed them, or been involved in discussing them, with the client. • completed all preparation required by law and good practice. • represented, or been involved in representing, or observed the representation of, the client effectively in any negotiation, mediation, hearing or other proceedings.
5.	Implementing outcomes	• properly documented any order or settlement and explained, or been involved in explaining it to the client in a way which a reasonable client could understand. • identified and carried out any procedures to enforce the order or settlement in a timely manner.

Explanatory notes

This competency standard applies to the practice of planning and environmental law under both common law and State and Federal legislation.

In Element 4, "planning matter or environmental claim" includes:

- an application for, or an application for exemption from the need for, a permit, licence, approval or other authority;
- an objection, appeal or application for review of a decision, relating to such an application;
- a prosecution for breach of relevant planning or environmental legislation;
- a civil action relating to either or both a planning and environmental matter.

5.12 Problem Solving

Descriptor: An entry-level lawyer should be able to:

(a) investigate and analyse facts and law;

(b) provide legal advice; and

(c) solve legal problems.

Element	Performance criteria
	The lawyer has competently:
1. Analysing facts and identifying issues	• identified and collected all relevant facts as far as is practicable. • analysed the facts to identify any existing or potential legal issues. • distinguished relevant facts from other facts, if the matter so requires.

2.	Analysing law	• identified any questions of law raised by the matter. • researched those questions of law properly, having regard to the circumstances. • identified and interpreted any relevant statutory provisions and applied them appropriately to the facts.
3.	Providing legal advice	• applied the law to the facts of the matter in an appropriate and defensible way. • given, or been involved in giving, the client advice in a way which a reasonable client could understand. • identified any developments that might affect the accuracy of previous advice and told, or been involved in telling, the client about the effect of those developments.
4.	Generating solutions and strategies	• identified the problem and the client's goals as fully as is practicable. • investigated the facts and legal issues as fully as is practicable. • developed creative options and strategies to meet the client's objectives. • identified the advantages and disadvantages of pursuing each option or strategy. • assisted, or been involved in assisting, the client to choose between those options in a way consistent with good practice. • developed a plan to implement the client's preferred option. • acted, or been involved in acting, to resolve the problem in accordance with the client's instructions and the lawyer's plan of action. • remained open to new information and ideas and updated advice to the client where necessary.

Explanatory notes

In Element 2, "Analysing law" includes:

(a) researching legal issues by using:

- law libraries;
- on-line searches;
- electronic data bases;
- legal citators and digests; and

(b) applying principles of precedent and statutory interpretation.

5.13 **Property Law Practice**

Descriptor: An entry-level lawyer should be able to:

(a) convey, lease and mortgage real property; and

(b) provide general advice on standard matters arising under local government, planning, environmental or other legislation relating to land use in the relevant State or Territory.

Element	Performance criteria
	The lawyer has competently:
1. Transferring title	• identified the nature of the interest being dealt with, pursuant to the pre-eminent title system in the relevant jurisdiction. • prepared, commented on and advised, or been involved in advising, on an appropriate contract of sale or other type of agreement for transferring the relevant interest in land; and had it executed according to law and good practice. • undertaken sufficient searches and inquiries to investigate title, any issues about land use and responsibility for outgoings. • drafted an appropriate instrument of transfer or conveyance and had it executed and (if necessary) stamped and registered, according to law. • obtained or given any consents to, or notifications of, the transfer or conveyance, according to law. • arranged for the instrument to be executed and (if necessary) stamped and registered, as required by law.
2. Creating leases	• made and obtained all searches and consents required by law and good practice. • drafted, commented on and advised, or been involved in advising, on a lease in a form allowed by law, reflecting the agreement between lessor and lessee and protecting their respective interests. • arranged for the lease to be executed and (if necessary) stamped and registered, according to law.
3. Creating and releasing mortgages	• made and obtained all searches and consents required by law and good practice. • drafted, commented on and advised, or been involved in advising, on an effective instrument to create or release the security, reflecting the agreement between the grantor and grantee and protecting their respective interests.
4. Advising on land use	• identified any planning scheme or other statutory provisions regulating the relevant use. • Advised, or been involved in advising, 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	• identified the revenue implications of any transaction and advised, or been involved in advising, the client accordingly.

Explanatory notes

In Element 1, "Transferring title" refers to title pursuant to the pre-eminent title system in the relevant jurisdiction.

In the Performance criteria for Element 1, "contract of sale" includes a contract of sale subject to special conditions.

In Element 2, "Creating leases" refers to residential tenancies or leases and standard commercial leases.

In Element 3, "mortgages" includes any other relevant security over land.

In Element 4, "Advising on land use" includes advising on issues relating to:

- town planning schemes;
- local government by-laws;
- environment and heritage legislation;
- revenue and tax legislation.

5.14 Trust and Office Accounting

Descriptor: An entry-level lawyer should 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: *See Explanatory notes below.*

Element	Performance criteria
	The lawyer has competently:
1. Understand relevant fiduciary and other duties	• identified and applied: general law fiduciary and other duties; codified duties; duties to supervise and report in relation to trust monies; and duties and obligations of maintaining a trust account.
2. Receiving money	• dealt with money received from or on behalf of a client, as required by law and good practice. • where the law and good practice requires money to be deposited in a trust account or general account, recorded the deposit as required by law and good practice. • issued any receipt required by law and good practice.
3. Making outlays	• made any outlay from the correct account, according to law and good practice. • recorded the outlay as required by law and good practice.
4. Rendering costs	• demonstrated an ability to comply with regulations relating to disclosure of costs and a client's rights relating to costs. • calculated the costs in accordance with law, good practice and any agreement between the lawyer and client. • added to the bill all outlays made by the firm for which the client is responsible. • accounted to the client for any money received from the client on account of costs and outlays, as required by law and good practice. • drafted the bill and delivered it in accordance with law and

good practice.

Explanatory notes

This competency standard applies to trust and general accounting and to rendering bills of costs. It requires a general knowledge of solicitors' trust account law and practice and costs regulation in the relevant jurisdiction and an understanding of the general principles of maintaining trust and office records.

5.15 Wills and Estates Practice

Descriptor: An entry-level lawyer who practises in wills and estates should be able to draft wills, administer deceased estates and take action to solve problems about wills and estates.

Element	Performance criteria
	The lawyer has competently:
1. Drafting wills	• advised the client of issues, options, and potential problems that might arise in respect of the client's testamentary intentions. • obtained instructions reflecting the client's informed and independent wishes, which can be effectively implemented. • drafted a will reflecting the client's instructions. • identified any issues of testamentary capacity and resolved them in accordance with law and good practice. • ensured that the client executed the will in accordance with law. • given any necessary follow up advice to the client.
2. Administering deceased estates	• obtained a grant of probate or letters of administration where required. • identified the debts and assets of the estate. • gathered in the estate or transferred or transmitted assets directly to beneficiaries, as appropriate, having regard to the law, good practice, and the circumstances. • discharged 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.
3. Taking action to resolve wills and estates problems	• identified the nature of the problem properly, having regard to the law of the jurisdiction. • identified he client's options for dealing with the problem, having regard to the law of the particular jurisdiction and the client's circumstances. • explained the options to the client in a way a reasonable client could understand. • taken action to resolve the problem in accordance with the client's instructions.

Explanatory notes

In the Performance criteria for Element 1, "follow-up advice" includes advice on:

- the effects of marriage on a will;
- the effects of divorce on a will;
- storage options for a will;
- revocation of a will;
- modification of a will;
- associated documents such as enduring powers of attorney.

In Element 3, "wills and estates problems" include problems of:

- testamentary capacity;
- construction;
- validity of the will;
- validity of gifts;
- assets outside the jurisdiction;
- revenue issues;
- family provision;
- mutual wills;
- trusts;
- informal wills;
- testamentary directions.

5.16 Work Management and Business Skills

Descriptor: An entry-level lawyer should be able to 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.

Element	Performance criteria
	The lawyer has competently:
1. Managing personal time	• used a diary or another system to record time limits or deadlines and to assist in planning work. • identified conflicting priorities as they arise and managed the conflict effectively. • used available time effectively, to the benefit of the lawyer's clients and employer.
2. Managing risk	• conducted 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. • recognised the limits of the lawyer's expertise and experience and referred the client or matter to other lawyers, counsel or other professionals, as the circumstances require.
3. Managing files	• used 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. • rendered 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 recorded all communications and

		attendances, with details of dates and times.
4.	Keeping client informed	• communicated with the client during the course of the matter as frequently as circumstances and good practice require. • confirmed oral communications in writing when requested by the client or required by good practice. • dealt with the client's requests for information promptly. • informed the client fully of all important developments in the matter, in a way which a reasonable client could understand.
5.	Working cooperatively	• worked with support staff, colleagues, consultants and counsel in a professional and cost effective manner.
6.	Self-management	• Demonstrated an ability to manage work and personal issues consistent with principles of resilience and well-being.

Explanatory notes

The purpose of this standard is to assist entry-level lawyers to adopt good work habits in legal practice to ensure that:

- clients do not suffer loss or damage from a lawyer missing deadlines or neglecting matters;
- clients are kept informed regularly and fully of the progress of their matters; and
- clients' matters are dealt with in a cost-effective manner.