



Queensland
Law Society

Commercial Litigation

2025 Accredited Specialisation
Assessment Guidelines

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<https://www.qls.com.au/Education/Specialist-Accreditation>



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Assessment Guidelines Overview

Solicitors who become Accredited Specialists are recognised as having enhanced knowledge and professional practice skills, as well as substantial involvement in established legal specialty areas. Through the assessment tasks, the Queensland Law Society (QLS) requires candidates to demonstrate a standard of professional knowledge, proficiency in application, and communication that reflects that of a specialist in that area of accreditation, to ensure that recognition as an Accredited Specialist is meaningful, credible and reliable.

These Assessment Guidelines are to assist with your self-directed preparation for the three assessment tasks that are part of the program. They should be viewed in conjunction with the QLS Specialist Accreditation Scheme Handbook which contains the policies and procedures relevant to all areas of accreditation.

Performance outcomes

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

Solicitors wishing to be accredited should demonstrate a high standard of:

- knowledge of the law and procedure which underpins the performance of tasks in this area of practice; and
- oral and written advocacy which is expected of practitioners wishing to hold themselves out as specialists in the area.

“High standard” means the standard expected of a specialist legal practitioner with enhanced skills, superior knowledge, significant experience and a high proficiency in Commercial Litigation, as reflected in the [professional practice skills](#) set out in these Assessment Guidelines.

Assessment program

The assessments are all delivered in a digital environment. This provides equitable access for all candidates irrespective of location and is also aligned with the nature of legal practice in today’s digital world. There is a base level of computer literacy required to complete the assessment, and it is incumbent upon candidates to have access to suitable technology and infrastructure to perform in the most optimal way.

Three assessments make up the Specialist Accreditation program in Commercial Litigation.

Take home assessment

The take home assessment is usually the first item of assessment attempted in the program. It is in the form of a mock file where professional artefacts (e.g. a letter of advice, court document or contracts etc.) are drafted in response. Candidates are given a period of three weeks from the release date to complete the Take Home assessment, which is then submitted online to the QLS Learning Management System (Canvas).

Written examination

The written exam consists of short answer and extended written questions. It is accessed by candidates via the QLS Learning Management System (Canvas).

Oral assessment

The oral assessment varies in each area of accreditation (client interview, mock hearing or application, professional discussion/viva). In 2025 the oral assessment in Commercial Litigation will be a professional discussion / peer interview format conducted online via Microsoft Teams.

Candidates who complete all three assessments to the standard of an accredited specialist are eligible for accreditation as a specialist in Commercial Litigation. Schedules 3-5 include further details in relation to each of the three assessments. Specific core knowledge areas and professional practice skills are listed under [Schedules 1](#) and [2](#).

Candidates may, in any or all the assessment tasks, be assessed on any or all of the core areas of knowledge and professional practice skills.

All assessments undergo a rigorous marking process. Any assessment deemed to not have achieved the standard of an accredited specialist will go through an independent second round of marking before a recommendation is made to grant or deny Accredited Specialisation.

Candidates will be examined on the law as it stands at the date of assessment unless the assessment instructions specify otherwise.

Key milestones and program timeline

Candidates are advised that the Specialist Accreditation program requires a considerable commitment. From when you get accepted into the program, we encourage you to plan and use these guidelines to prepare.

ITEM	DATE
Specialist Accreditation Information Evening (ONLINE)	20 February 2025
Applications Open	24 February 2025
Applications Close	19 March 2025
Candidate Acceptance Notification	17 April 2025
Assessment Briefing Evening (ONLINE)	19-20 May
Assessment Dates	
- Take Home Assignment	20 June to 14 July 2025
- Written Exam	16 August 2025
- Simulated Client Interview	17 August 2025
Results Released	Mid-November 2025
Specialist Accreditation Christmas Breakfast	11 December 2025

Note: The above dates are correct at the time of publishing. Should any changes need to occur, they will be communicated directly to candidates as early as possible.

Outline of accreditation requirements

Specialists need to possess knowledge of a wide range of topics. In practice of course, the client base and practice experience of the applicant will result in that applicant having a greater degree of familiarity with some of these topics than others.

Nevertheless, every applicant needs to be aware that once accredited as a specialist in this area, the practitioner will be in effect holding themselves out to potential clients as having a knowledge of all of the topics that fall within the specialty.

Over a period of years those topics with which the applicant will be most familiar within the speciality may fluctuate as the client base changes.

As part of this program, candidates will undertake practical exercises in:

- conducting necessary research on relevant law and court procedure
- providing advice on causes of action available in commercial litigation
- drafting legal process to institute and/or defend claims
- drafting documents necessary for interlocutory proceedings;
- acting as an advocate; and
- comprehending the ethical rules applicable to the conduct of legal practitioners in the course of commercial litigation.

SCHEDULE 1: CORE KNOWLEDGE AREAS

The list below is not exhaustive but is set as a guide to candidates as to the type of matters that may be raised in the commercial litigation specialist accreditation assessment program. Any matter relevant to practice in commercial litigation may be assessed. Topics are grouped under headings as a matter of convenience only.

Contract

Formation, agency/authority, terms, performance, breach, remedies, damages.

Torts

Negligence, duty of care, breach, damages, strict liability and breach of statutory duty, miscellaneous, nuisance, product liability, misrepresentation, intentional interference with chattels.

Equity

Equitable doctrines, fraud, trusts, fiduciary relationships, estoppel, tracing, subrogation and marshalling, equitable remedies, injunctions, equitable compensation, receivers, specific performance, defences.

Property

Sale contracts, leasing disputes, caveats, joint venture disputes.

Banking and Securities

Mortgages and financing, recoveries and defences including unconscionability, guarantees, PPSR.

Insolvency

VA, receiverships, liquidation, bankruptcy, antecedent transactions, statutory demands and bankruptcy notices.

Partnerships

Formation / existence, liabilities, remedies, dissolution.

Corporations Law

Member's rights, director's duties.

Australian Consumer Law

Misleading and deceptive conduct, unconscionability, statutory warranties, competition law (overview only).

Practice and procedure

UCPR and relevant Practice directions/Federal Court Rules and Practice, Notes / Federal Circuit Court Rules/QCAT Rules, class actions, costs, revenue implications of claims and settlements, alternative dispute resolution, ethics in litigation.

SCHEDULE 2: PROFESSIONAL PRACTICE SKILLS

The professional practice skills required to be demonstrated during the commercial litigation specialist accreditation assessment program include the following:

Ascertaining and obtaining facts and instructions

- listening effectively to the client's description of the problem
 - asking appropriate probing questions to identify each of the issues whether factual or legal
 - obtaining the client's confirmation of the solicitor's comprehension of the problem
 - ascertaining the client's stated objectives and assisting the client to formulate actual and achievable objectives
 - considering the resources the client is able and willing to allocate and discussing the method of costing any proposed action
 - knowing what public information is available
 - selectively instituting searches having regard to relevance and cost effectiveness
 - including searches of the records of the ASIC the Australian Stock Exchange Department of Natural Resources and court records
 - promptly obtaining all relevant documents and critically reading and analysing them
 - pursuing other identified sources for documents
 - investigating taxation implications
 - objectively interviewing thoroughly all potential witnesses by listening critically and effectively and asking probing questions including by reference to relevant documents
 - assisting each witness to produce a structured and coherent statement
 - preparing statements which seek to include all relevant information in admissible form
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Developing options to achieve clients stated objectives

- considering and assessing the viability of litigation
- whether there is a prima facie cause of action or a defence
- the prospects of success whether there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim or the defence has reasonable prospects of success
- the appropriate forum
- the time that will be taken prior to a determination
- the commitment of the client
- the capacity to pay costs
- whether any limitation periods have expired
- considering and assessing the viability of non-litigious action including all methods of dispute resolution such as early mediation or direct negotiation
- explaining clearly all possible options to the client
- ensuring the client understands the rights obligations and risks for each option and the reasons why some options may not be viable
- explaining the process required by each option
- when making recommendations taking into account the client's objectives, priorities, resources and tax implications
- obtaining instructions as to whether the client accepts the recommendations
- confirming the instructions in writing to the client
- conducting a mediation having regard to the clients' objectives
- managing the client before the mediation as to process and expectations
- documenting any settlement reached at the mediation

Implementing the plan – drafting pleadings, affidavits and statements

- analysing the facts and their relevance
- preparing pleadings in accordance with the rules of court
- ensuring the pleadings reflect the client's instructions
- ensuring the pleadings identify all relevant parties
- ensuring that the pleadings disclose proper causes of action including heads of damage, proper particulars of damage, defences or cross claims and claims for interest and costs
- considering whether the pleadings should be settled by counsel
- when receiving the opponent's pleadings considering the need to seek further particulars of any issues or requesting copies of documents referred to therein

Drafting affidavits and statements

- considering the evidence of the witnesses in light of its relevance to the case and its appropriateness
 - ensuring affidavits and statements are drafted in accordance with the rules of the court
 - ensuring affidavits and statements are drafted in admissible form
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Managing interlocutory stages of litigation - tactics

- considering what process will best advance the case (such as direction applications, injunctions, Anton Pillar orders, offers of compromise stays of proceedings security for costs Calderbank letters commercial list applications)
 - litigation funding – is it required?
 - is there an insurer involved?
 - security for costs applications
 - pre-pleading disclosure in the Federal Court
 - being able to respond quickly when required
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Consider an appropriate case management approach

- identifying whether it is appropriate to seek to have the matter managed on the Commercial List or the Supervised Case List and the necessary steps to be taken to achieve listing
 - identifying the orders and directions to be sought when a matter is listed
 - identifying the timing and conduct of reviews and the orders or directions to be sought on reviews
 - identifying the consequences of the case-flow management practice direction
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Managing disclosure of documents

- advising the client on obligations imposed by the discovery process
 - considering all the documents provided by the client in terms of their relevance to the cause of action
 - considering questions of privilege
 - submitting the documents of the other parties to the client for instructions
 - considering the relevance of all discovered documents to the likely outcome of the dispute
 - identifying when to use electronic disclosure
 - identifying when to limit the scope of disclosure by Order
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Using subpoenas and notices to produce

- considering the information obtained by appropriate subpoenas and notices to produce
 - drafting precisely the appropriate documents
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Using notices to admit

- considering the need for notices to admit
 - drafting the appropriate documents
 - upon receipt taking instructions considering and preparing appropriate and timely responses
 - when answering considering the relevance of any admissions to the likely outcome of the dispute
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Obtaining expert reports

- considering rules of Court and relevant practice directions
 - considering what issues need to be proved by expert evidence
 - choosing and fully briefing an appropriately qualified expert
 - considering whether a joint expert should be used and how
 - considering the experts report submitting it to the client and advising on its effect
 - on receipt of the opponent's expert report submitting the report to the client and the client's expert for comments
 - considering its impact on the outcome and deciding whether to serve a report in reply
 - consider value of a conference between experts to resolve issues in contention
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Acting as an advocate

- preparing letters of advice to clients and corresponding court documents
 - being well prepared and organised when appearing as an advocate
 - effectively arguing the client's case based on court documents
 - employing a knowledge of procedural evidentiary and substantive law to present the application or the case
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Acting as instructing solicitor

- selecting appropriate counsel for the matter having regard to the nature and complexity of the matter
 - preparing a brief to counsel including incisive observations on procedural evidentiary and substantive issues
 - actively participating in the preparation of the case including attending conferences and making decisions concerning the presentation or conduct of the case
 - providing good administration support including managing witnesses' documents and the client
 - acting as an effective liaison between counsel, the client and witnesses
 - critically examining counsel's opinion in light of solicitor's own qualifications experience and expertise
 - considering the appropriateness of taking evidence from witnesses by video or telephone link
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Preparing for an Appeal

- conducting an appeal cognizant of time limits and procedures
- briefing appropriate Counsel
- identifying the appealable issues
- preparing appeals books
- security for Costs
- *Appeals Costs Fund Act 1973* (Qld)

Finalising the Matter

- ensuring all court documents, terms of settlement and forms of judgment or orders are properly prepared and filed with the Court
- seeking court approval where necessary
- notifying the client in writing of all obligations arising from the conclusion of the matters including money to be paid or acts to be performed or refrained from
- considering an appeal a stay or a cost application where appropriate
- seeking to agree quantum of monies payable under outstanding costs orders with opposing solicitor based on knowledge of taxation and assessment costing principles or failing that attend to having costs statements assessed having regard to the rules as to costs

SCHEDULE 3: TAKE HOME ASSESSMENT

Mock file and professional artefact

Release date: Friday 20 June 2025

Due Date: Monday 14 July 20205 at 4pm

Submission: submitted online to the QLS Learning Management System (Canvas)

Candidates will be required to complete a take home assignment, which is subject to strict time and length limits and will assess the candidate's ability to handle matters in practice. Further details are provided when the assessment is released.

Assessment criteria

Candidates will be assessed on their:

- knowledge of relevant law and procedures
- identification and skilful application of legal principles
- awareness of practical considerations
- judgement and decision-making skills
- preparation of documents
- ability to identify and address any ethical issues from the given fact situation.

Assessment conditions

Candidates may use the resources of their offices in completing this exercise. However, consultation with any other person in completing the exercise is not permitted and the material submitted must be entirely your own work.

Candidates will face automatic disqualification from the accreditation program if any assessment material is referred to counsel or any other person for opinion or assistance.

The assessment must be submitted as an MS Word or PDF document through the online student portal by no later than 4pm on the due date advised. Late submissions will not be accepted. Candidates should refer to the appropriate section of the *Specialist Accreditation Scheme Candidate Handbook* if they experience a problem completing the assessment by the due date.

No reference or marks which may identify the candidate, or their firm, should appear anywhere in the candidate's work.

To meet the standard of an accredited specialist, candidates must achieve a minimum of 60% in this assessment.

SCHEDULE 4: WRITTEN EXAMINATION

Written Examination

Date: Saturday 16 August 2025

Duration: Three (3) hours and 30 minutes inclusive of reading, planning and writing time

Via: QLS Learning Management System (Canvas)

The written examination will cover a wide range of commercial litigation matters that may be encountered in practice. The exam is divided into two sections – Part A is short answer. Part B consists of extended written response questions.

Assessment criteria

Candidates will be expected to demonstrate a high standard of knowledge of commercial litigation issues and associated practices and procedures as outlined in [Schedules 1](#) and [2](#) of this document, and will be assessed on their:

- ability to identify relevant issues from a given fact situation
- knowledge of relevant law (including significant recent decisions) and skill in applying that knowledge in practice
- knowledge of the procedural rules
- ability to provide practical, clear and comprehensive advice
- awareness of practical considerations in commercial litigation
- ability to identify and address any ethical issues

Assessment conditions

Further guidance will be provided in advance of the examination, as to the written and/or electronic reference material which candidates may access during the examination.

Completing the examination

The Written Exam will be delivered online via Canvas. The Specialist Accreditation Team will provide further instructions about the exam ahead of the assessment.

- answers must be typed out using the allocated text box on Canvas
- candidates must have strong and reliable internet connection
- candidates will be solely responsible for any malfunctions, errors or technical problems of any kind associated with the electronic devices they use for the assessment
- candidates will not be provided any additional time to complete an online assessment due to any malfunctions, errors or technical problems of any kind in relation to the electronic advice they use to complete the assessments, or due to their own poor internet connection or usage outages, without approval from the Advisory Committee on a case-by-case basis
- Queensland Law Society will take no responsibility for any issues experienced on electronic devices during the written examination. Malfunctioning of electronic devices during the written examination will not constitute grounds for a special consideration application.

To meet the standard of an accredited specialist, candidates must achieve a minimum of 60% in this assessment.

SCHEDULE 5: ORAL ASSESSMENT

Peer Interview

Date: Sunday 17 August 2025

Time: Scheduled by appointment closer to the date

Venue: via Microsoft Teams – candidates must have a device with a working camera and access to WiFi

The oral assessment will be an exercise whereby candidates are required to think on their feet and demonstrate their communication skills and underlying legal knowledge in a live setting.

Assessment criteria

Candidates will be assessed on their:

- identification of relevant issues
- assessment of facts and legal options
- ability to answer points raised throughout the peer interview
- judgement and decision-making skills
- knowledge of applicable legal principals and skill in applying that knowledge
- ability to identify and address any ethical issues

A sound knowledge of the relevant rules, procedures, practice notes and protocols will also be required.

Assessment conditions

Candidates must have a device with a working camera and access to WiFi.

Further guidance will be provided in advance of the oral assessment, as to the written and/or electronic reference material which candidates may access during the assessment.

Further details regarding scheduling of the oral submissions will be provided closer to the date.

To meet the standard of an accredited specialist, candidates must achieve a minimum of 60% in this assessment.