

CPD Guidelines

A continuing professional development
scheme for the Australian Capital Territory's
legal practitioners

cpd guidelines

Introduction

Continuing professional development (CPD) is a mandatory requirement for all ACT legal practitioners (practitioners), imposed as a condition on all practising certificates issued by the Law Society of the ACT (Law Society).

The purpose of CPD is to ensure the ongoing competence of practitioners, including ensuring that practitioners' knowledge and skills remain current.

The Guidelines seek to assist practitioners understand their CPD obligations. Ultimately, practitioners must make their own assessment of their CPD needs and how best to fulfil them.

CPD Guidelines

1. Unless granted an exemption by the Law Society or a pro rata reduction applies under Guideline 13, a practitioner must complete a minimum of ten units of CPD each CPD year.
2. The CPD year is 1 April to 31 March.
3. To qualify as CPD, an activity must:
 - a) be of significant intellectual or practical content and deal primarily with matters related to the practice of law;
 - b) be conducted by persons who are qualified by practical or academic experience in the subject covered; and
 - c) seek to extend a practitioner's knowledge and skills in areas that are relevant to the practitioner's practice needs.
4. Up to three units completed during the months January to March may be counted in the following CPD year if the practitioner has completed more than ten units in the current CPD year.
5. CPD may consist of the following activities:

Activity	Values	Limits
a) Attending or participating in a seminar, workshop, lecture, conference, tutorial, discussion group, audio/video/online presentation or other educational activity	1 hour = 1 CPD unit	Unlimited
b) Preparing and/or presenting a CPD seminar or other form of educational activity	1 hour = 1 CPD unit	Maximum 5 units per year
c) Writing or editing (structural) a legal article in a legal or non-legal publication	1000 words = 1 CPD unit	Maximum 5 units per year
d) Participating as a member of a committee where the work involved is of substantial significance to the practice of law, and assists the practitioner's professional development	2 hours = 1 CPD unit	Maximum 3 units per year

Note: If you are in any doubt about whether an activity qualifies as CPD please feel free to contact the Law Society.

6. The minimum fraction of a CPD unit that can be claimed is one half.
7. The Law Society does not accredit courses or providers but reserves the right to refuse to recognise, as complying CPD, inappropriate courses or courses offered by inappropriate providers.
8. At least one unit must be completed in each of the following four core areas each CPD year.

Core Area 1 — Legal ethics and professional responsibility

- Conflicts of interest and undue influence
- How to identify an ethical issue
- Communicating direct with third parties
- Duty of competence
- Duty of confidentiality, including when it can/should be breached
- Difference between duty of confidentiality and legal professional privilege
- Undertakings
- Duties to the court
- Duty not to abuse the court process or the administration of justice

Core Area 2 — Practice management and business skills

- Staff welfare (including OH&S, staff wellbeing and the law relating to discrimination, harassment and bullying)
- Staff management (including employment law; developing an appropriate level and balance of employee skills and expertise within the firm/department; identifying and drawing upon resources within and outside the firm/department)
- Effective use of technology
- File management
- Caseload management
- Risk management
- Costs rules
- Trust accounting
- Financial management (including understanding and interpreting financial statements and cash flow management)
- Business and strategic planning
- Mentoring/advising other practitioners in order to improve the operations of the firm/department

Core Area 3 — Professional skills

- Communication and interpersonal skills
- Giving advice — identifying the options; how to break bad news
- Client interviewing
- Taking a witness statement
- Plain English drafting and letter-writing
- Use of precedents
- Negotiation and mediation skills
- Career and personal development
- Advocacy
- Legal research skills

Core Area 4 — Substantive law and procedural law

- Substantive law
- Legal procedure
- Developments in the law
- Legislative reform

Note: The example topics listed above are by way of illustration only and are not intended to be exhaustive.

9. Which core area a CPD activity falls within is for the practitioner to determine, according to the context and content of the activity.

10. Exemptions in whole or in part may be granted on application to the Law Society on the following grounds:

- the practitioner has been admitted to practice for a period exceeding 40 years and
 - holds a restricted practising certificate; or
 - is a Notary Public who acts solely as a Notary;
- illness or disability;
- the location of the practitioner's legal practice;
- the absence of the practitioner from legal practice due, for example, to parenting leave, unemployment or sabbatical;
- hardship or other special circumstances.

11. Exemptions granted under Guideline 10(b), (c) or (d) above will generally be granted on a pro-rata basis but, unless exceptional circumstances exist, the practitioner will be required to complete a minimum of five CPD units.

12. The Law Society may impose any condition it considers appropriate on an exemption.

13.a) Subject to 13.b, practitioners who are issued a practising certificate after the commencement of the CPD year will have their CPD obligation proportionally reduced as follows:

Month issued	CPD required	Month issued	CPD required
July	7	January	1
August	6	February	0
September	5	March	0
October	4	April	10
November	3	May	9
December	2	June	8

13.b) A practitioner who holds an ACT practising certificate for two separate periods within a CPD year must complete a pro-rated number of CPD units that reflects the total amount of time they held an ACT practising certificate in that CPD year.

13. Practitioners must maintain their own CPD records. Records may take any form but must establish to the satisfaction of the Law Society that the CPD was undertaken.

14. Practitioners must attest that they have complied with the Guidelines when required to by the Law Society.

To that end, a declaration is to be included in the practising certificate renewal application.

15. The Law Society may conduct random audits of practitioners' CPD records in order to monitor compliance with the Guidelines.

16. A reasonable opportunity to remedy noncompliance will be provided to practitioners.

Frequently asked questions

How do I know if I can claim an activity as CPD, and how many units it is worth?

The CPD scheme requires practitioners to make an assessment of an activity. If you determine that an activity extends your knowledge and skills in areas that are relevant to your practice needs, and meets the other criteria in Guideline 3, you can claim the activity as CPD. You may decide to complete your CPD obligations by participating in CPD activities conducted by your legal practice or employer or by an external provider. The Law Society does not accredit courses.

Generally, one hour of activity constitutes one CPD unit — refer Guideline 5.

Are there any compulsory units?

Yes. You must complete at least one CPD unit in each of the following core areas:

- Core area 1 — Legal ethics and professional responsibility;
- Core area 2 — Practice management and business skills;
- Core area 3 — Professional skills; and
- Core area 4 — Substantive law and procedural law.

Guideline 8 provides a non-exhaustive list of topics that fall within each core area. While CPD providers may suggest which core area a CPD activity falls within, it is up to practitioners to identify which core area applies from their perspective. Practitioners are welcome to contact the Society for guidance but the categorisation of CPD is ultimately a matter for your good judgment and discretion, provided the categorisation is reasonable.

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I got my ACT Practising Certificate part way through the CPD year. Do I still have to complete ten units of CPD?

No, if your practising certificate was issued part way through the CPD year, your CPD obligations will be pro-rated. If, prior to the issue of this ACT Practising Certificate, you have never held an ACT practising certificate or you previously held an ACT practising certificate but surrendered it before the commencement of the current CPD year, your CPD obligations will be calculated in accordance with the table in Guideline 13. You do not need to lodge an application for exemption.

If, however, you held an ACT practising certificate in the current CPD year, surrendered it, then renewed it within the same CPD year, your CPD obligations will be pro-rated based on the total amount of time you held an ACT practising certificate in the current CPD year. You will need to lodge an application for exemption.

If I don't have to complete ten units, are there still compulsory units?

If you are required to complete four or more units, you must complete at least one unit from each of the four core areas.

If you are required to complete between one and 3.5 units (e.g. because your practising certificate was issued between November and March — refer Guideline 13), you must complete one unit in Core Area 1 — Legal ethics and professional responsibility.

I am undertaking postgraduate studies in law. Can I claim the course as CPD?

Yes. You can claim participation in postgraduate studies in law, including lectures, tutorials and written work, as CPD. The accrual rate is one hour = one unit of CPD. Remember that you must complete at least one unit in each core area.

Can I claim private study as CPD?

Study or research that is not part of an educational course or program does not constitute CPD. For example, private study of the Legal Profession Act or private research into recent cases is not CPD. They are merely aspects of legal practice and engaging in legal practice does not constitute CPD activity.

Can I use the Migration Agents Registration Authority (MARA) course as CPD?

The MARA course is not sufficient to satisfy the ACT Law Society CPD requirements. MARA currently recognises 4 of our legal units, and similarly we recognise 4 MARA units. Therefore, Registered Migration Agents, who hold a current legal practising certificate issued in the ACT after 1 April 2011, are able to claim four elective CPD points towards their registration, for undertaking Legal CPD courses.

The MARA does not require legal ethics as one of its compulsory undertakings. In accordance with the guidelines you must accrue at least one unit in legal ethics in order to satisfy the CPD requirements.

Can I claim the Law Society's Practice Management Course or its Risk Management Course as CPD?

Yes, the Law Society's practice management and risk management courses can be claimed as CPD.

I am a lecturer/tutor at a university/TAFE/higher education institute. Can I claim my lecturing or tutoring as CPD?

Yes. Lecturing and tutoring can be claimed as CPD at the rate of one hour = one unit, to a maximum of five units per CPD year. Remember that you must complete at least one unit in each core area.

Is there a minimum duration for an activity to count as CPD?

The minimum period is 30 minutes. An activity must be of at least half an hour's duration to be claimed as CPD. Shorter blocks of activity cannot be aggregated and claimed as CPD. For example, occasional discussion of issues relating to legal ethics (five minutes here, ten minutes there) during the course of committee work cannot be aggregated and claimed as CPD in Core Area 1.

What is the smallest fraction of a CPD unit I can claim?

The smallest fraction of a CPD unit that can be claimed is one half (refer Guideline 6). If a workshop lasts 75 minutes, only one unit can be claimed. If an all-day conference comprises four sessions of 40 minutes each (two hours and forty minutes in total, excluding breaks), 2.5 units can be claimed. Activities must be rounded down to the nearest half unit.

Can I carry units forward?

Up to three units accrued between 1 January and 31 March may be carried forward to the next CPD year provided you have completed ten units (or 5 units if you hold a volunteer certificate) in the current CPD year.

For example, if you have already completed ten units and then attend a seminar between January and March worth four units, you can carry over three units to the next CPD year (refer Guideline 4).

If you received your practising certificate part way through the year, or you have a volunteer certificate you may be able to carry forward up to three points if you have met your required quota for the CPD period.

Am I eligible for an exemption from my CPD obligations?

There are strict criteria for eligibility for an exemption, as detailed in Guideline 10.

Practitioners who have been practising for more than 40 years and hold a restricted practising certificate are entitled to a full and permanent exemption.

Unless exceptional circumstances exist, exemptions granted on other grounds will be partial only (pro rata) and will require the practitioner to complete at least five CPD units, covering all four core areas.

As soon as you become aware you need an exemption, you should submit a written application to the Law Society, detailing the circumstances warranting consideration an exemption and setting out all relevant dates.

I have a practising certificate but I am currently not practising. Do I still need to complete 10 units?

If you decide to maintain your practising certificate while you are absent from practice — for example, on parental leave, sabbatical or working in a policy area — you may seek a pro rata exemption. Unless exceptional circumstances exist, even if you are granted a partial exemption you will be required to complete at least five CPD units (refer Guidelines 10 and 11).

I work part-time. Do I still need to complete ten units of CPD?

Yes. Practitioners who work part-time or casual, including doing locum work, are not entitled to any exemption from their CPD obligations on that ground alone.

I have a Volunteer Practising Certificate. Do I need to complete ten units of CPD?

No. Holders of a Volunteer Practising Certificate need complete only five units of CPD, with at least one unit in each of core areas 1, 3, and 4.

I am currently practising overseas. Do I still need to undertake CPD?

Yes, you still need to complete ten units of CPD covering all four core areas.

Relevant educational activities undertaken overseas may be counted as CPD. If you are practising in a geographical location that makes it difficult for you to fulfil your CPD obligations, you should seek an exemption under CPD Guideline 10(c).

What if I need more time to comply with my CPD obligations?

Practitioners with good reason (unforeseen leave, medical illness etc) can apply for an extension of time, usually 90 days, to comply with their CPD obligations. An application form can be found on the Law Society's website. The form should be submitted to the Law Society's Professional Development Officer prior to March 31 in the relevant CPD year. Copies of medical certificates or other documents may be required by the Society in order to grant the extension.

Do I need to keep a record of my CPD activities?

Yes, you must maintain a record of your CPD activities. Records may take any form including an Excel spreadsheet or the Law Society's template.

You may choose to use the Law Society's online CPD tracker. If you attend a Law Society CPD event, the units accrued for that event will appear automatically on your personal CPD Tracker, usually within two business days of the event. You can add other CPD activities to your Tracker to create a comprehensive online record of your CPD activities.

The Law Society will only want to see your record of your CPD activities if you are selected to take part in an audit. You will need to retain sufficient supporting evidence of your CPD activities (eg receipts, conference papers, certificates) to be able to verify your attendance and core area claims.

How does the Law Society know that I have complied with my CPD obligations?

CPD compliance is self-certified. When you complete your online practising certificate renewal you must be in a position to confirm that you have fulfilled your CPD obligations for the previous CPD year (refer Guideline 15).

The Law Society conducts random audits of practitioners in order to monitor compliance with the Guidelines. If you are selected for audit, you will be asked to submit your CPD record. You may also be asked to provide supporting documentation to establish to the satisfaction of the Law Society that the CPD was undertaken.

What happens if I don't fulfil my CPD obligations?

If the holder of a practising certificate cannot provide evidence of compliance with the CPD Guidelines when audited, regulatory action can occur. Non-compliance may ultimately result in the cancellation or suspension of a practising certificate or the imposition of further conditions, as determined by the Law Society Council.



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