

## Practice Guideline No. 4

# Law Society of Tasmania Continuing Professional Development Scheme

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### 1. Objective

- 1.1 The objective of this Guideline is to set out the rules for the operation of the Law Society of Tasmania's continuing professional development scheme for legal practitioners.

### 2. Definitions

- 2.1 **Society** means the Law Society of Tasmania
- 2.2 **Bar Council** means the Tasmanian Bar Inc
- 2.3 **CPD** means continuing professional development.
- 2.4 **CPD activity means:**
- (a) attendance at, or preparing or presenting material for, a seminar, interactive live-streamed webinar, workshop, lecture, conference, educational program or course or discussion group; or
  - (b) undertaking a course at a tertiary institution relevant to law or legal practice; or
  - (c) viewing or listening to, or preparing material for, a multi-media or web-based program or recorded material; or
  - (d) publishing, reporting a case, editing a law report, or substantively editing or refereeing, an article in a legal or non-legal publication; or
  - (e) regular attendance at meetings, and participation as a member, of a committee or other body undertaking work of substantial significance to the practise of the law and which is reasonably likely to assist the attendee's professional development.
  - (f) attendance at, or preparing or presenting material for, a seminar, workshop, lecture, conference, educational program or course or discussion group conducted within a legal practice.

- (g) Any other activity specifically approved by the Society in accordance with sub-rule 2.5(b) or 2.5(c). Such approval must be sought before the end of the CPD calendar year unless the Society determines otherwise.
- (h) For the avoidance of doubt and without purporting to be exhaustive, the following activities, in the absence of approval of the Society pursuant to the provisions rule 2.5 (b), do not of themselves constitute a CPD activity:
  - i. reading of case law, texts or articles;
  - ii. repeated teaching into the same course;
  - iii. mentoring early career lawyers or students;
  - iv. observance of Court proceedings; and
  - v. attendance at wellness sessions/retreats and undertaking physical education or activity.

**2.5** In respect of CPD activities:

- (a) a CPD activity need not fit into one of the categories in sub rule 3.2 or 3.4;
- (b) the Society may approve other activities from time to time; and
- (c) a legal practitioner may refer a question as to whether an activity is a CPD activity to the Society, whose decision shall be final. Where the activity relates to a person practising solely as a barrister the Society will seek the advice of the Bar Council.

**2.6** CPD point means:

- (a) in relation to a CPD activity referred to in sub rule 2.4(a), (b), (c), (f), or (g); one hour of the activity;
- (b) in relation to a CPD activity referred to in sub rule 2.4(d); 1000 words of the article; and
- (c) in relation to a CPD activity referred to in sub rule 2.4(e); two hours of the activity.

**2.7** CPD year means a year beginning on 1 May to the following 30 April.

### 3. Completion of Minimum CPD units

3.1 A legal practitioner must complete at least 10 CPD points of CPD activity in each CPD year.

3.2 In calculating the minimum 10 CPD points of CPD activity in respect of a CPD year, the total units must include at least one CPD point relating to each of the following categories:

- (a) practical legal ethics;
- (b) practice management or business skills;
- (c) professional skills;
- (d) substantive law; and
- (e) equality and wellbeing.

See also **Schedule 1** which is a list of examples of CDP training that relates to each of these mandatory categories. The example topics listed are by way of illustration only and are not intended to be exhaustive.

3.3 In calculating the minimum 10 CPD points of CPD activity in respect of a CPD year, the total points must not include more than:

- (a) four CPD points for preparing material for a seminar, interactive live-streamed webinar, workshop, lecture, conference, educational program or course or discussion group as referred to in sub rule 2.4(a); or
- (b) five CPD points for viewing or listening to, or preparing material for, a multi-media, television or web-based program or recorded material as referred to in sub rule 2.4(c); or
- (c) five CPD points of CPD activity referred to in sub rule 2.4(b) of the definition of CPD activity; or
- (d) three CPD points of CPD activity referred to in sub rule 2.4(d), (e) or (f) of the definition of CPD activity; or
- (e) six CPD points of CPD activity completed on any one day.

- 3.4** A person practising solely as a barrister:
- (a) is not required to complete the CPD activities referred to in sub rule 3.2(b);
  - (b) must complete the CPD point required by sub rule 3.2(c) in advocacy, alternative dispute resolution, research skills and other skills related to a barrister's work as set out in Part 8 of the *Rules of Practice*.
- 3.5** Subject to Rule 2, CPD activities may be completed in Tasmania, interstate or overseas.
- 3.6** Each CPD activity undertaken by a practitioner for the purposes of this Rule must be an activity:
- (a) of significant intellectual or practical content primarily related to the practise of law; and
  - (b) conducted by persons qualified by practical or academic experience in the subject covered; and
  - (c) relevant to the practitioner's immediate or long-term professional development needs.
- 3.7** Where a practitioner accrues CPD points in February, March or April of a CPD year, the practitioner may elect to assign all or any of them either to that CPD year or to the next CPD year.
- 3.8** A practitioner must maintain a written record of CPD points accrued by that practitioner in respect of each CPD year. This written record must include the following minimum information:
- (a) the CPD activity, and event name (if applicable);
  - (b) date of event;
  - (c) CPD points claimed;
  - (d) mandatory category to which it relates; and
  - (e) provider or entity.

**Advisory Note to Practitioners:** It is recommended that practitioners maintain supporting documentation to support their record. Supporting documentation includes receipts, enrolment records, certificates, transcripts, attendance lists, assessment reports, copies of presentation notes, employer reports and detailed diary notes. Supporting documentation should be retained for 24 months after the completion of each CPD year.

Practitioners are encouraged to record their CPD history in the CPD history tracker provided in their personal website account. The tracker can be manually updated and printed at any time. Alternatively, a copy Record of CPD Activities Form can be obtained from the Law Society or downloaded from its website.

- 3.9** In relation to a practitioner who holds a local practising certificate for less than a CPD year, the reference in this rule to 10 CPD points in respect of that year is proportionally reduced in accordance with the below table.

<b>Months engaged in legal practice (rounded up or down to the closest month)</b>	<b>CPD points required</b>	<b>Mandatory categories (sub rules 3.2(a) – (e))</b>
12 months	10	5
11 months	9	5
10 months	8	5
9 months	7	5
8 months	6	5
7 months	6	5
6 months	5	3
5 months	4	3
4 months	3	2
3 months	2	2
2 months or less	1	1

## **4. Exemptions**

- 4.1** The Society may exempt a practitioner from compliance with this Practice Guideline on written application by the practitioner on the ground of:

- (a) illness or disability;
- (b) the location of the practitioner's legal practice;
- (c) the absence of the practitioner from legal practice; or
- (d) hardship or other special circumstances.

- 4.2** The Society may, by written notice, require a practitioner to give information about the practitioner's compliance with their CPD obligations.
- 4.3** A practitioner must comply with a requirement under sub rule 4.2 within 14 days of receiving the notice.

## **5. Certification of Compliance and Audit of CPD Activity**

- 5.1** A practitioner who makes application for renewal of a practising certificate must certify that he or she has completed 10 CPD points in respect of the CPD year preceding the year to which the application relates.
- 5.2** The Society may by written notice, require a legal practitioner to provide information about the practitioner's compliance with the practitioner's CPD obligations. The information sought may include but is not limited to:
- (a)** details of the practitioner's CPD activities for the CPD year preceding the year to which the application to renew relates or such other period specified (but no longer than 24 months prior to the date of the written request); and
  - (b)** supporting evidence (e.g. receipts, enrolment records, certificates, attendance lists, statutory declarations, transcripts, or copies of presentation notes).

## **6. Rectification of Contravention**

- 6.1** If:
- (a)** a practitioner has not certified that he or she has completed 10 CPD points in respect of a year; or
  - (b)** the Society is not satisfied a practitioner has complied with these Rules;

the Society may give notice to the practitioner in writing requiring the practitioner to submit a plan to the Society within 21 days setting out the steps that a practitioner proposes to take to remedy the non-compliance.

- 6.2** If the holder of a local practising certificate to whom notice is given under this rule or rule 5.2 does not comply with the notice within thirty days after the giving of the notice, the Society may exercise any of the powers given to it pursuant to the *Legal Profession Act 2007* including the making of a complaint to the Legal Profession Board.

Approved by the Council of the Law Society of Tasmania on 15 May 2021

## Schedule 1

### Examples of CPD topics that relate to each of the following categories

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

#### Practical Legal Ethics

- Conflicts of interest and undue influence
- How to identify an ethical issue
- Communicating directly 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

#### Practice Management and Business Skills

- Staff welfare (including WH&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

#### 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

### **Substantive Law**

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

### **Equality and Wellbeing**

- Staff welfare (including WHS, staff wellbeing and the law relating to discrimination, harassment, and bullying)
- Awareness training
- Family safety and family violence
- Unconscious bias
- Bystander training
- Sexual harassment
- Bullying
- Mental health
- Working with people from culturally and linguistically diverse backgrounds
- Sex, gender and diversity and the law
- Indigenous issues