

PROFESSIONAL LEGAL STUDIES COURSE AND ASSESSMENT STANDARDS REGULATIONS 2002

ANALYSIS

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1 Aims of the Professional Legal Studies Course

1.1 Pursuant to section 38(1)(a) Law Practitioners Act 1982, practical legal training should cover those matters about which, in addition to a law degree, it is necessary, in the public interest, for lawyers to have sufficient familiarity before being admitted to the profession and commencing to practise as barristers and solicitors.

1.2 The course is intended:

- (a) to bridge the gap between the academic study of law and its practise;
- (b) to prepare the student for supervised practise, or for practise as a barrister sole;
- (c) to provide the student with skills which, when developed through practise, will equip the student to reach the level of professional competence required to represent a client without supervision;
- (d) to develop a sense of the professional role and responsibilities required of a lawyer as a practitioner and an officer of the court;
- (e) to prepare students for legal practise in a culturally diverse society and the need to be sensitive to cultural and gender issues;
- (f) to provide a foundation for the life-long learning of the practice of law and to encourage students to take responsibility for their ongoing professional development.

2 Course Content

2.1 The course content is currently prescribed by Regulation 3(2)(b) Professional Examinations in Law Regulations 1987 (as amended) as follows:

Professional conduct and the following skills:

- (1) Interviewing
- (2) Advising
- (3) Fact investigation and analysis
- (4) Writing
- (5) Drafting
- (6) Negotiation
- (7) Mediation
- (8) Advocacy
- (9) Problem-solving
- (10) Practical legal research and analysis
- (11) Office and personal management

2.2 The above skills are to be taught in the context of specific legal transactions that are commonly required to be completed by newly-admitted lawyers. Such transactions may include criminal and civil proceedings in the District Court, matrimonial proceedings involving custody, access or property division, buying and selling residential or farm property, the purchase and sale of a business or drafting a will.

3 **Delivery Standards**

3.1 Duration of course

13 weeks in the case of a full-time course based on a five-day working week. In the case of methods of delivery other than by full-time course, the duration of the course should be a minimum 455 hours (including course delivery time and assessment time) (based on the equivalent of a full-time 13 week-course).

3.2 Methods of delivery

The course may (subject to these Standards and to accreditation) be delivered by providers in any of the following ways:

- (a) Full-time on-site
- (b) Part-time on-site
- (c) As a 'block' course (intensive residential course) on-site or at some other physical location;
- (d) Subject to 3.3 below, by flexible delivery (which includes on-line delivery, correspondence or other distance learning)
- (e) a combination of (b) and/or (c) and/or (d).

3.3 Suitability for flexible delivery

It is recognised that some instruction is not suitable for full delivery by distance or on-line learning. Providers will be required to include an appropriate balance in instruction, practise and assessment, between face-to-face, or audio-visual methods, and distance learning, in the areas of Interviewing, Advising, Negotiation, Mediation and Advocacy, when demonstrating how they propose to deliver, or are delivering, the Course Outcomes Specifications.

3.4 Weighting

The hours below are guidelines for the appropriate division of course delivery time (assessment time is separately dealt with in 5.2 below).

Providers and applicant providers are expected to follow these guidelines in their course design.

Providers may (subject to the minimum hours guidelines) deliver the course outcome specifications under different or combined course titles (for example Negotiation and Mediation, Problem-Solving and Writing).

Interviewing and Advising	Minimum time-23 hours
Fact investigation/ Analysis	Minimum time-28 hours
Writing	Minimum time-33 hours
Drafting	Minimum time-33 hours

Negotiation	Minimum time-20 hours
Mediation	Minimum time-5 hours
Advocacy	Minimum time-55 hours
Problem-solving	Minimum time-28 hours
Practical legal Research/analysis	Minimum time-10 hours
Office/personal management	Minimum time-15 hours
Professional Conduct	Minimum time- 20 hours

4 **Course Outcome Specifications**

4.1 Interviewing

The Skill: To conduct a legal interview so as to identify clients' problems, gather relevant information and assist clients to reach decisions.

After completing the Interviewing seminar the student will demonstrate the ability to:

- Structure an interview to:
- Determine the relevant facts.
- Identify the legal issues.
- Take instructions.
- Establish and develop rapport with a client.

4.2 Advising

The Skill: To conduct a legal interview, advise and report, so as to assist clients to reach decisions.

After completing the Advising seminar the student will demonstrate the ability to:

- Give clear advice in order to assist clients to reach decisions
- Establish a professional relationship with the client.
- Deal with any ethical problems that may arise.

4.3 Fact investigation and analysis

The Skill: To analyse a mixed mass of fact and law to structure a court case.

After completing the Fact investigation and analysis seminar the student will demonstrate the ability to:

- Analyse the elements of a cause of action or defence in civil proceedings, and the elements of a criminal offence and defence to it.
- Determine what evidence might be called to prove those elements.
- Organise evidence and supporting argument.
- Determine the strengths and weaknesses of a case.

4.4 Writing

The Skill: To write in clear and precise language.

After completing the Writing seminar the student will demonstrate the ability to:
Identify requirements for the content, format and organisation of a letter.
Distinguish between accurate and imprecise drafting.
Recognise, identify and use appropriate legal language.
Draft basic legal letters and opinions.

4.5 Drafting

The Skill: To draft in clear and precise language.

After completing the Drafting seminar the student will demonstrate the ability to:

Identify requirements for the content, format and organisation of a document.
Distinguish between accurate and imprecise drafting.
Recognise, identify and use appropriate legal language.
Draft basic legal documents.

4.6 Negotiation

The Skill: To resolve legal disputes by agreement between the parties.

After completing the Negotiation seminar the student will demonstrate the ability to:

Understand and use the techniques of problem solving in negotiation.
Prepare for a negotiation.
Recognise negotiation tactics and strategies and respond to them.

4.7 Mediation

The Skill: To resolve legal disputes by using a third party as facilitator.

After completing the Mediation seminar the student will demonstrate the ability to:

Identify the various forms of dispute resolution.
Apply appropriate forms of dispute resolution to legal problems.
(to be expanded as a result of Mediation development).

4.8 Advocacy

The Skill: To present a case orally in court.

After completing the Advocacy seminar the student will demonstrate the ability to:

Behave professionally and comply with the standards of conduct required in court.
Present oral submissions.
Identify and use appropriate methods to introduce evidence.
Deal correctly with exhibits.
Follow procedures for making objections.
Use different questioning techniques in direct examination, cross-examination and re-examination.

4.9 Problem-solving

The Skill: To analyse and evaluate client options in order to determine the legal rights and obligations of the parties and for the resolution of problems.

After completing the Problem Solving seminar the student will demonstrate the ability to:

- Identify the effects of documents on the relationships of the parties.
- Identify the inter-relationships of clauses and documents and assess their priorities.
- Ascertain the legal and practical consequences of documents.
- Identify criteria for option evaluation and methodologies for decision making.

4.10 Practical legal research and analysis

The Skill: To undertake thorough investigation of factual and legal issues.

After completing the Practical legal research and analysis seminar the student will demonstrate the ability to:

- Use primary and secondary texts.
- Locate cases and statutes.
- Use treatises, periodicals, digests and standard practitioner texts.
- Be familiar with computerized research tools.

4.11 Office and personal management

The Skill: To operate systems which promote efficient office, personal and ethical practices.

After completing the Office and personal management seminar the student will demonstrate the ability to:

- Introduce a new matter or client into an office system and follow subsequent procedures.
- Understand the importance of effective time recording.
- Identify file management problems and solutions.
- Understand various billing and costing practices.
- Interpret and apply the commonly used trust account rules.
- Interpret and report on clients' trust ledger entries.

4.12 Professional Conduct

After completing the Professional Conduct seminar the student will demonstrate the ability to:

- Identify the major responsibilities and privileges associated with being a lawyer in New Zealand.
- Identify action which may compromise a lawyer's independence.
- Identify common responsibility issues arising in legal practice, in dealing with clients, other lawyers, judges and third parties.
- Identify the resources available to a new practitioner who is requiring assistance in resolving common professional responsibility issues.
- Explain professional responsibility issues in terms of the rules of professional conduct and identify and develop ways to solve issues in this area.

5. Assessment, Attendance and Completion Requirements

NOTE: THE PROFESSIONAL LEGAL STUDIES COURSE REGULATIONS 1995 (AS AMENDED) CURRENTLY APPLY TO GOVERN DETAILS OF COURSE ATTENDANCE, ASSESSMENT METHOD AND CRITERIA, GRADING AND APPEALS

5.1 General

Subject, to the guidelines below, the assessment regulations of each provider shall be consistent with the requirements set out in this section. At present, the Professional Legal Studies Course Regulations 1995 (as amended) govern attendance requirements, grading and assessment, deferment of assessment, supplementary assessments and resits, appeal, review and other procedural matters relating to student grades, assessment and completion.

Students shall be assessed in accordance with the Council's regulations and the provider's course regulations in force at the time of the student's registration on the provider's course, and must consent in writing to any changes to the regulations which are made after the date of their registration.

5.2 Amount of Assessment and Weightings

It is envisaged that in addition to student learning time set out in the guideline weightings in 3.4, a minimum of 45 hours total assessment time will be provided.

The percentages below are a guide to the relative weightings of student time spent on assessments in each element of the course, as a percentage of total assessment time.

Providers and applicant providers will be expected to comply with this guideline in designing and maintaining their PLSC.

Interviewing and Advising	10%
Fact investigation and analysis	10%
Writing	10%
Drafting	10%
Negotiation	10%
Mediation	2.5%
Advocacy	22.5%
Problem-solving	10%
Practical legal research and analysis	5%
Office and personal management	5%
Professional Conduct	5%

All inquiries concerning these Regulations should be made to Rosemary Gordon, Chief Executive of the Council of Legal Education.

The commencement date for these Regulations is 18 November 2002.