

ETHICS AND PROFESSIONAL RESPONSIBILITY

This information has been taken from Schedule 3 of the Legal Profession (Admission) Rules 2008. Each applicant for admission to the legal profession is required to provide evidence that the applicant has achieved the requisite competence in each element.

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. 1. Acting ethically

Performance criteria

The lawyer has competently:

- identified any relevant ethical dimension of a particular situation.
- taken action which complies with professional ethical standards in that situation.

Element. 2. Discharging the legal duties and obligations of legal practitioners

Performance criteria

The lawyer has competently:

- 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.

Element. 3. Complying with professional conduct rules

Performance criteria

The lawyer has competently:

- identified any applicable rules of professional conduct.
- taken action which complies with those rules.

Element. 4. Complying with fiduciary duties

Performance criteria

The lawyer has competently:

- recognised and complied with any fiduciary duty, according to law and good practice.

Element. 5. Avoiding conflicts of interest

Performance criteria

The lawyer has competently:

- 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.

- taken appropriate action, where applicable, to prevent such a conflict arising in the future.

Element. 6. Acting courteously

Performance criteria

The lawyer has competently:

- demonstrated professional courtesy in all dealings with others.

Element. 7. Complying with rules relating to the charging of fees

Performance criteria

The lawyer has competently:

- identified any rules applying to charging professional fees.
- complied with those rules, where they are relevant.
- maintained records and accounts in accordance with law and good practice.

Element. 8. Reflecting on wider issues

Performance criteria

The lawyer has competently:

- reflected on that lawyer's professional performance in particular situations.
- brought to the attention of an employer or professional association any matters that require consideration or clarification.
- recognised the importance of pro bono contributions to legal practice.
- demonstrated an awareness that mismanagement of living and work practices can impair the lawyer's skills, productivity, health and family life.

Explanatory Note

This competency standard applies to:

- ethics;
- statutes and general law relating to the duties and obligations of legal practitioners;
- written and unwritten rules of professional conduct;
- written and unwritten rules of professional courtesy.

The duties and obligations imposed by law on legal practitioners include duties:

- 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.

Conflicts of interest commonly arise between:

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