



Australian Government

Department of Education, Employment and Workplace Relations

BSACS301A Apply the principles of confidentiality and security within the legal environment

Release: 1

Modification History

Not Available

INTRODUCTION

This Unit covers the use of ethical behaviour when dealing with sensitive and confidential information in a legal environment. This unit is based on the generic principles stated in the State's Legal Practice Acts. It is essential that these principles are followed and that they inform all aspects of work in a legal office.

Note: Apart from persons without a current legal practice certificate employed in a legal capacity in a community legal centre it may be illegal for a person without a current legal practicing certificate to provide legal advice, to sign off on legal work and to receive trust account monies. It is illegal for persons to misrepresent their qualifications (ie. claiming to be a lawyer or acting as a lawyer when they are not qualified to do so).

This unit of competency underpins all units of competency in the Legal Services stream of the Administration Training Package.
This unit can be assessed alone or in combination with other units making up a job role.

Element of Competency

Performance Criteria

Follow confidentiality procedures

- Information is assessed with regard to what is and what is not disclosable
- Discretion and judgement are used in all communications
- Client-related matters are discussed only within the confines of the practice and with appropriate personnel

Follow security procedures

- File related information is stored and secured appropriately
- Discussions relating to client matters are held in a private location
- All documents/exhibits relating to a file are locked away securely after use according to a firm's policies and procedures
- All materials required by legislation to be stored for certain periods of time are clearly labelled and stored securely according to a firm's policies and procedures

RANGE STATEMENT

Codes of conduct may include:

- maintaining confidentiality
- duty of care
- ethical behaviours
- privacy
- non-discriminatory practice
- conflict of interest
- use of company property
- compliance with reasonable direction
- receiving and dispersing monies

Non-disclosable information may include

- names of clients, witnesses or staff
- addresses of clients, witnesses or staff
- telephone numbers of clients, witnesses or staff
- information relating to a client's legal matter
- firm's client database
- witness statements
- exhibits
- trust account information
- whereabouts of client/witnesses
- financial information
- details about the firm itself
- passwords or security procedures
- nature of client's legal matter
- fact that the client has consulted the firm

Conflict of interest may exist where:

- a legal practitioner or support person has a personal, financial or other interest in a case
- a legal practitioner or support person is a witness in a case
- a law firm, legal practitioner or support person some time in the past represented a client who is now on the other side in another case
- a legal practitioner and client are in business together
- a legal practitioner simultaneously represents two clients whose interests are adverse to one another
- the legal stance of one client is detrimental to the business activities of another client

Electronically stored information may be:

- on-line (e-mail or web)
- on computer hard-drive or floppy disk
- on voice mail
- on audio-cassette

EVIDENCE GUIDE

Critical aspects:

- evidence of knowledge of the relevant state's Code of Conduct and Legal Practice Act, The Judicial Act
- where the level of confidentiality required in a situation is unclear, clarification is sought from the appropriate person before any information is divulged
- the legal context of conflict of interest is understood
- a firm's security procedures are understood and followed
- electronic and paper-based confidential information are handled according to a firm's policies and procedures
- file-related matters stored electronically are secured when the operator is absent
- breaches of confidentiality, security and conduct (own and others) can be identified and standard resolutions to these breaches can be explained
- assistance and advice is provided to co-workers where appropriate
- evidence of knowledge of own scope of responsibility and roles and responsibilities of relevant others

Resource implications:

The assessor must have access to appropriate documentation and resources normally found in the work environment and required to allow the job or task to be properly performed. These may include:

- appropriate legislation and regulations relevant to codes of conduct
- workplace manuals and reference materials such as company policy, procedural manuals and checklists
- appropriate technology such as computers with relevant software

Consistency in performance:

This unit of competency will require evidence to be collected across a range of events, dealing with different issues and client matters, and over a period of time to ensure that situational variables are consistently achieved.

Context of assessment:

Evidence of competency can be met in different situations, including:

- on the job assessment
- off the job assessment
- placement in an enterprise
- participation in a New Apprenticeship (traineeship) arrangement
- use of a Practice Firm or simulated work environment
- Recognition of Prior Learning, Recognition of Current Competencies (in skill areas where there has been no significant change to work practice in recent times).

Evidence gathering methods may include:

- demonstration
- questioning
- workplace performance
- simulation
- role-play
- projects/assignments
- third party reports

Underpinning knowledge and skills

Knowledge

- policies and procedures relating to legislation eg. privacy legislation
- procedures relating to relevant state's Codes of Conduct and Legal Practice Act, The Judicial Act
- context of legal conflict of interest
- legal terminology
- roles and responsibilities of internal and relevant external individuals/authorities

Skills

- literacy: interprets and classifies information; applies judgement in terms of identifying potential conflict of interest
- communication: listens to clear sequenced instructions; uses strategies to confirm, repair or clarify understanding of terms and context
- professionalism: abides by the firm's honesty and integrity
- organisational: complies with statutory regulations concerning security of records and keeping clients up to date on file matter/s

KEY COMPETENCIES

UTILISATION OF THE KEY COMPETENCIES REQUIRED IN THE PERFORMANCE OF THIS UNIT

Communicating ideas and information	Collecting, analysing and organising information	Planning and organising activities	Working with others in a team	Using mathematical ideas and techniques	Solving problems	Using technology
1	2	1	2	0	2	1

Performance levels:

Level 1

- carries out established processes
- makes judgements of quality using given criteria

Level 2

- manages processes
- selects the criteria for the evaluation process

Level 3

- establishes principles and processes
- evaluates and reshapes processes
- establishes criteria for evaluation of processes