



Australian Government

Department of Education, Employment and Workplace Relations

BSACS401A Provide non-legal advice

Release: 1

Modification History

Not Available

INTRODUCTION

This Unit covers the supervised provision of non-legal advice in response to enquiries from non-clients or potential clients or other parties

Note: It may be illegal for a person without a current legal practice certificate to provide legal advice, sign off on legal work and to receive trust account monies. It is also illegal for persons to misrepresent their qualifications (ie. claiming to be a lawyer/conveyancer or acting as a lawyer/conveyancer when they are not qualified to do so). Contravening these conditions is illegal and compromises a firm's professional indemnity insurance. The tasks covered in this unit involve the provision of advice, accordingly a qualified legal practitioner must be supervising and instructing work covered in this unit of competency. This unit is positioned at AQF Level 4 due to the degree of responsibility required, the breadth and depth of knowledge that must be demonstrated and the level of discretion and judgement involved. Because of the sensitivity of this task people at lower levels would not undertake it – accordingly no supervision of others is involved.

This unit can be assessed alone or in combination with other units making up a job role.

Element of Competency	Performance Criteria
Receive enquiry	• Enquirer's needs are identified and clarified • Legal limits of own responsibility are clearly outlined to enquirer before any information is imparted • Enquiries outside the employee's area of responsibility and knowledge are identified and assistance is sought or enquiry is referred on to a legal practitioner where appropriate
Provide non-legal information	• Enquirer's details and problem/s are recorded • Non-legal information is relayed where available and appropriate • If information is not readily available, further research within legislative requirements and scope of own responsibility is pursued • Non-disclosable information is not communicated and where any doubt exists as to the information's status it is not disclosed
Consult legal practitioner to resolve legal enquiries	• Legal practitioner is contacted to discuss enquirer's needs • Enquirer's needs are communicated to legal practitioner and resolution/action is discussed • Suggested action/resolution is carried out

RANGE STATEMENT

Nature of call may include:	• legal inquiry • non-legal inquiry • complaint • seeking referral • seeking information • someone seeking disclosable information
Method of contact may include:	• in writing • in person • verbal • via third party • email
Interaction with enquirer may be affected by factors such as:	• emotional state • state of mental/physical health • non-English speaking • communication issues for eg. - hearing impaired - speech impediment
Appropriate questioning techniques may include:	• sensitivity to enquirer's emotional/physical state and cultural background • accommodating any communication difficulties • clarification of request or problem by summarizing and repeating back summaries to ensure that information gathered is reflective of the information that the enquirer wishes to communicate
Appropriate advice may include basic information about:	• community legal centre • Attorney General's department • Law society/institute • areas of law/practice firm handles • correct contact in firm • firm's charges/schedule of fees
Options available to enquirer may be limited by:	• financial situation • age • geographic location • physical/mental ability • nature of enquiry being outside scope of firm's expertise
Follow up action may	• not pursuing the matter • contacting Legal Aid on behalf of enquirer and/or designated

- include:
- person
 - referring enquirer to supervisor or appropriate authority within the firm
 - telephoning the enquirer after researching the appropriate information
 - referring the enquirer to the appropriate government department
 - referral to another law firm
 - referral to a community legal centre
- A firm's policies and procedures may include:
- information sources
 - information specific to the firm
 - providing disclaimers
 - telephone protocol
 - protocol for handling enquiries which may bring no financial return
 - security/confidentiality/privacy procedures
 - handling contingencies
 - interviewing process
 - verifying and authorising information
 - recording information
 - protocol for accommodating special client needs, eg. case manager, social worker, parole officer, translator, interpreter
 - emergency procedures
- Legislative requirements may relate to:
- relevant State/Territory/Commonwealth legislation
 - the client and a firm (eg. Consumer Credit Code, Privacy Act, secrecy laws, Codes of Practice)
 - the area of law
 - the provision of legal advice by a person who is not a qualified legal practitioner as defined by the Legal Practice Act, The Judiciary Act
- The area of law may include*:
- commercial law
 - corporate law
 - criminal law
 - family law
 - industrial relations/employment law
 - property law
 - tax law
 - litigation
 - wills and probate
- * These are nine common areas of law. The area of law is not restricted to this list; other areas of law may be applicable.

Suggested
action/resolution may
involve:

- informing caller of resolution
- promptly contacting enquirer where appropriate
- relaying information verbally and, if directed by legal practitioner, forwarding information to enquirer in writing
- documenting and filing communication according to a firm's procedures
- notifying relevant department of enquiry
- recording contact on database

EVIDENCE GUIDE

Critical aspects:	• evidence of knowledge of a firm's policies and procedures for handling enquiries are adhered • enquiries are received and handled courteously and efficiently • evidence of knowledge of own responsibility and that of others in the firm • problem/s within own scope of responsibility are resolved discretely and efficiently • matter and client's contact details are recorded accurately and clarifications are sought from enquirer if necessary • community organisations and government departments can be identified and their purposes and services can be outlined where appropriate • judgement is exercised appropriately as to when calls should be terminated or transferred to a more experienced person and calls are terminated/transferred tactfully • evidence of an ability to explain legal processes, procedures and terms in clear, simple language • evidence of knowledge of where and when it is legally necessary to obtain enquirer and supervisor approval to pursue an action • enquirer is contacted promptly and follow up information is communicated demonstrating an understanding of the mitigating effect of the a enquirer's situation • appropriate options are suggested to the enquirer according to a firm's policies and procedures • detailed file notes of enquiry and any resultant action are recorded • all activities, actions and outcomes are documented and time is recorded all work is conducted within accepted codes of conduct including those relating to: maintaining confidentiality, use of company property, duty of care, ethical behaviours, privacy, non- discriminatory practice, conflict of interests and compliance with reasonable direction
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 assisting clients • workplace manuals and reference materials such as company policy, procedural manuals, checklists • lists of government departments, community services, legal aid offices, community legal centres, community advocate groups, unions and referral firms
Consistency in performance:	This unit of competency will require evidence to be collected across a range of events, eg. dealing with different enquiries, 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
- use of a Practice Firm or simulated work environment
- flexible delivery methods used by training providers to cater for distance education students
- 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:

- observation of performance
- role-play
- simulation
- third party reports
- questioning
- discussion

Underpinning knowledge and skills**Knowledge**

- basic understanding of various forms of community assistance
- awareness of the effect of various emotional, physical and mental states and behaviours
- security, confidentiality and privacy
- application of a firm's policies and procedures required in the full range of tasks covered
- a firm's invoicing procedures
- basic understanding of legal services firm provides

Skills

- literacy: follows complex legal procedures; records and analyses nature of query
- research: elicits and sources correct information from external sources
- communication skills: participates effectively in spoken interactions by using strategies to confirm or clarify understanding; communicates ideas and arguments logically and discretely; elicits and gives factual information in response to query; consults with legal practitioners and clients;
- numeracy: record/file keeping
- problem solving: draws on experience and knowledge to ascertain

whether query lies within own legal jurisdiction; suggests possible solutions or refers query to more appropriate source

- telephone etiquette
- basic conflict resolution skills

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
2	2	2	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