



Australian Government

Department of Education, Employment and Workplace Relations

BSBWRK504A Advocate and present cases for members

Revision Number: 1

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Modification History

Not applicable.

Unit Descriptor

Unit descriptor	This unit describes the performance outcomes, skills and knowledge required to effectively appear before a tribunal and advocate a key case on behalf of the member/s. No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.
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Application of the Unit

Application of the unit	This unit applies to individuals with a sound theoretical knowledge base in unionism and industrial relations who provide leadership to members and staff in the union workplace. They carry high levels of responsibility and are authorised by the union to appear before a tribunal.
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Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
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Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Utilise and promote the legal basis which underpins employment rights and conditions	1.1. Apply knowledge of employment rights and conditions in a range of jurisdictions 1.2. Ensure legislative and industrial instruments are understood and applied where appropriate 1.3. Identify non-compliance with legislative, regulatory or industrial instruments and respond appropriately
2. Use dispute resolution processes for grievances and disputes	2.1. Use dispute resolution processes to achieve outcomes 2.2. Use dispute resolution powers and procedures strategically 2.3. Use dispute resolution processes to respond effectively to employer or respondent applications 2.4. Use appropriate tactics to secure the best outcome for the case 2.5. Make realistic assessments of case proceedings and alternative options
3. Advocate case before tribunal	3.1. Seek to have powers of the tribunal applied according to rules and procedures 3.2. Apply order of submissions, including giving opening and final addresses and establishing purpose and key facts 3.3. Provide written case outlines and submissions 3.4. Employ appropriate techniques for addressing a court or tribunal strategically 3.5. Seek adjournments, where appropriate, in a timely manner 3.6. Ensure appropriate documentation is tendered in accordance with required rules and procedures 3.7. Ensure relevant decisions and precedents are referred to and distinguished appropriately 3.8. Ensure issues raised by respondents or tribunal members are addressed, neutralised or rebutted in an articulate way

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- high level communication skills to advocate and speak persuasively in formal situations
- presentation skills to outline key facts
- listening skills and negotiation skills suited to the tribunal environment
- analytical skills to assess the merits of various arguments.

Required knowledge

- relevant regional, national, and international legislation and regulations relating to industrial relations, occupational health and safety, vocational education and training, equal opportunity and discrimination
- relevant employment agreements and awards, and terms and conditions of employment
- union policies and procedures
- relevant court and tribunal etiquette, rules and procedures
- rules of evidence.

Evidence Guide

EVIDENCE GUIDE

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Evidence of the following is essential:

- demonstrated ability to prepare for and advocate an effective case before a tribunal
- demonstration of a range of dispute resolution approaches that would apply to union member grievances and disputes
- knowledge of relevant court and tribunal etiquette, rules and procedures.

Context of and specific resources for assessment

Assessment must ensure:

- an actual or simulated tribunal environment
- access to relevant documents.

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following examples are appropriate for this unit:

- direct questioning combined with review of portfolios of evidence and third party workplace reports of on-the-job performance by the candidate
- review of documented assessments of case proceedings and alternative options
- demonstration of techniques
- observation of demonstrated techniques in advocating a case before a tribunal
- oral or written questioning to assess knowledge of legislation and industrial relations
- review of written case outlines and submissions.

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:

- other workplace relations units.

Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Dispute resolution powers and procedures may include:

- arbitration
- conciliation
- mediation

Appropriate tactics may involve:

- seeking adjournments to reconsider own position in light of respondent arguments/new evidence
- using discovery processes to elicit further information from respondent/employer
- using witnesses, including hostile witnesses, to draw out relevant evidence

Appropriate techniques for addressing a court or tribunal include:

- delivery, for example, voice, tone, rate of speech and inflection
- different styles of questioning
- examining witnesses
- focusing attention by involving the tribunal
- gestures and movements
- listening
- mannerisms
- oral submissions
- rebutting submissions or evidence
- use of appropriate protocol in addressing tribunal members and other representatives
- use of humour or other tactics
- use of notes
- verbal arguments

Unit Sector(s)

Unit sector	
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Competency field

Competency field	Workforce Development - Workplace Relations
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Co-requisite units

Co-requisite units		