

Pridmore, Rosemary

From: Pridmore, Rosemary
Sent: Friday, 13 November 2009 12:53 PM
To: 'eo@bsisb.com.au'; 'lendrum@adam.com.au'
Cc: Martin, Jan
Subject: Validation of BSB07 Legal Services Draft Units and Qualifications

Dear Elizabeth

Thank you for forwarding documentation in relation to the validation of BSB07 Legal Services Draft Units and Qualifications.

We are most concerned that as a Society we have not been consulted about this previously, particularly in light of the stringent provisions of Section 23 of the *Legal Practitioners Act 1981* dealing with persons "holding out" as legal practitioners. We therefore very much appreciate your intervention.

Neither course addresses the definition of a legal practitioner or explains the perils of holding yourself out as a legal practitioner. That should be a core requirement.

In relation to "holding out" the Attorney-General, through the offices of the Crown Solicitor, is currently aggressively prosecuting a number of unqualified people "practising" and holding out as legal practitioners.

Turning to additional concerns -

Specifically in relation to the Revised Certificate IV in Legal Services Unit BSBLEG403B

(i) Application of the Unit

The words "*provision of legal services*" should be deleted as the person **cannot** "*provide legal services*"; the sentence therefore to read "*This Unit applies to individuals who apply a broad knowledge of legal administration tasks.*"

(ii) Required knowledge

The person **cannot** provide legal advice; therefore the words "*and own responsibilities and obligations to provide legal advice, complete or sign off on legal work and/or appear in court as described by relevant jurisdiction/s*" should be deleted.

The preferable wording is contained in the Revised Diploma of Legal Services Unit BSBLEG501A, namely "*scope of own role and responsibilities and obligations to refer to supervisor issues involving the provision of, completion or sign off on legal work or appear in court as described by relevant jurisdictions/s.*"

(iii) Performance Criteria

5:1 "Carry out legal process" - This is very vague and could potentially involve "practising".

Specifically in relation to the Revised Diploma of Legal Services in the Unit BSBLEG514A Assist with Civil Procedures

The performance criteria for each element generally describes an assisting role. The Units 10A, 11A, 12A, 13A and 15A should all be written along the roles to 14A, as assisting a legal practitioner.

Under the heading "Critical aspects for assessment & evidence required to demonstrate competency in this Unit" - dot point 2, which provides - "*providing explanations for alternative dispute resolution, the purpose of discovery, the discovery process and associated legal obligations in a manner suitable for clients.*" - this is the provision of legal advice and should be deleted.

13/11/2009

In the paragraph "Required skills", should the reference to 'family law' be to 'civil law'?

In the Performance Criteria the definition of designated individuals in the Range Statement does not include designated individuals as qualified legal practitioners. There is no mention anywhere of qualified legal practitioner!! In our view, a major omission.

In the Unit BSBLE6515A we strongly recommend the deletion of 2.1, 2.1 and 3.1 as they may constitute legal practice. If 3.1 is retained it should specify "*draft documentation according to instructions **provided by solicitor.***"

In the Unit BSBRES502A, we strongly recommend removal of the words "*in the provision of legal services*" from the Unit descriptor.

I trust these comments are useful and thank you again for consulting us.

Jan Martin
EXECUTIVE DIRECTOR

per

Rosemary Pridmore
EXECUTIVE ASSISTANT
to the President and the Executive Director

The Law Society of South Australia
GPO Box 2066 ADELAIDE SA 5001 (DX 333)
Tel: 08 8229 0240
Fax: 08 8410 6634
Email: rosemary.pridmore@lawsocietysa.asn.au