

This document has been extracted from the draft Chartered Legal Executive (Probate Practice) handbook and demonstrates the application of the competencies required for admission relating to:

- Legal Technology
- Emotional competence
- Professional conduct and ethics

## Competencies and Outcomes

### Competency 1: Application of law and practice

By the end of the period of Qualifying Employment you must be able to:

- 1.1 Undertake legal research
- 1.2 Critically analyse facts and law
- 1.3 Synthesise all relevant information
- 1.4 Find solutions where possible
- 1.5 Draft legal documents

Evidencing Competency 1.
<b>Outcomes</b>
<b>1.1 Undertake legal research</b> <ul style="list-style-type: none"><li>• Identify the need to update information and the need to undertake legal research.</li><li>• Identify the sources you need to undertake the research (including search engines if appropriate).</li><li>• Undertake relevant and up to date research and supply the research as part of your evidence.</li><li>• Apply the findings of your research to the matter you are dealing with.</li><li>• Record, present and provide evidence of your application of the research to the matter (show how legal technology was used if applicable) clearly and accurately.</li></ul>
<b>1.2 Critically analyse facts and law</b> <ul style="list-style-type: none"><li>• Identify relevant law and procedural rules, issues may be legal, evidential or factual.</li><li>• Describe how the law/legal procedure applies to the matter you are dealing with.</li><li>• Explain how the evidence you have supplied demonstrates your analysis of the facts and law/procedure to the matter and supply supporting evidence.</li></ul>
<b>1.3 Synthesise all relevant information</b> <ul style="list-style-type: none"><li>• Identify the relevant issues in a matter (issues may be legal, evidential or factual).</li><li>• Explain how you will deal with the issues.</li></ul>

- Identify and efficiently locate and collate all relevant documents.
- Explain the action you have taken to deal with the matter holistically demonstrates your application of the law/procedure to the matter and provide supporting evidence.

#### **1.4 Find solutions where possible**

- Explain the actions you have taken and why. Provide supporting evidence. *If you have used available technology such as government portals, please provide evidence and explain how this improved the process.*

#### **1.5 Draft legal documents**

- Apply the principles of good drafting to produce clear, unambiguous and accurate documents and agreements with appropriate language, structure and formatting which meet formal and legal requirements.
- Select precedents and templates and use, adapt and edit them appropriately.
- Correctly use numbering, schedules, recitals, definitions and boilerplate provisions in drafting documents and agreements.
- Draft documents, whether from scratch or by using precedents that forms a coherent whole, reflecting the client's objectives and where appropriate advances the transaction and manages client risk. *If software is used to create the document, identify the software and explain the benefits. If not used identify if software may be available to make the task easier/quicker/cheaper.*
  - Documents which must be evidenced are:
    - Probate papers to found or oppose the grant of probate (or amendments to those papers)
    - Wills and ancillary documents, including amendments (e.g. to wills, codicils, letters of wishes etc).
    - Administration of estates; documents to administer or amend (e.g. statutory notices, tax returns etc).

## Competency 2: Communication

By the end of the period of Qualifying Employment you must be able to:

- 2.1 Communicate orally and in writing clearly and effectively
- 2.2 Negotiate effectively
- 2.3 Advocacy/oral presentation
- 2.4 Develop, maintain and manage 3<sup>rd</sup> party relationships

### Evidencing Competency 2

#### Outcomes

##### 2.1 Communicate orally and in writing clearly and effectively

- Choose the most appropriate method by which to communicate with the parties/organisations involved in the matter (e.g. telephone, email etc.) observing appropriate etiquette. You could identify technology- based communication tools (e.g. those linked to a case management system).
- Explain why this method is the most effective communication in the matter.
- Provide supporting documentation of the communication.
- Use language tailored to the audience and the purposes of the communication, language should be clear, concise, accurate and unambiguous. Explain why the language used was appropriate.
- Apply oral communication and listening skills to build trust, ask questions and understand to provide explanation and advice as appropriate. This should include addressing all relevant factual, legal and evidential issues arising and seeking additional information as required. Provide supporting documentation as evidence of your communication.
- Produce unambiguous, clear and accurate written communications with appropriate language and structure. Provide supporting documentation which demonstrates application of law/procedure in the context of your communication.
- Demonstrate emotional competence to achieve effective communication. Identify issues of culture, disability and diversity and demonstrate respect for a range of attitudes and beliefs and apply this in your communications.
- You may be able to demonstrate that you have put the CILEx Code of Conduct into operation in this outcome including identifying, understanding and putting into practice all relevant legal and regulatory requirements (e.g. data protection).

##### 2.2 Negotiate effectively

- Identify when negotiation is necessary.
- Identify and address all relevant factual, legal or evidential issues arising in a case through effective questioning and listening techniques.
- Demonstrate effective planning and preparation, apply strategies which reflect an understanding of the client's objectives, expectations and risks and which seeks to manage those appropriately as far as possible.
- Identify and evaluate the interests, strengths, weaknesses and risks of other parties who have an interest in the matter to be negotiated.

- Choose and explain the most appropriate method of negotiation (e.g. letter, face to face etc.).
- Take the steps necessary to ensure agreement/compromise is reached which is clear and lawful and represent the interests of your client or service user through use of your legal and professional skills and provide supporting evidence.
- Behave ethically in negotiations and resists pressure to condone, ignore or act unethically. Explain your understanding of this element of the CILEx Code of Conduct.

### **2.3 Advocacy/Oral presentation**

- Identify additional information you need to represent the client/service user.
- Obtain this information through effective listening and questioning techniques.
- Represent the interests of your client or service user through use of your legal and professional skills and provide supporting evidence.
- Make oral presentations that are clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience.
- Explain your understanding of the principles of client care and how you put these into practice whilst representing your client.
- Explain any ethical, legal or regulatory requirements you had to consider and what action you took to resolve them.

### **2.5 Develop, maintain and manage 3<sup>rd</sup> party relationships**

- Work both independently and as part of a team, demonstrate understanding of the importance of establishing effective working relationships with other professionals involved in a legal matter and provide evidence. The evidence should establish two-way communication with other professionals.
- Deal with others involved in a matter appropriately, professionally and ethically and provide others involved in a matter with appropriate information, instructions and guidance. Provide evidence.
- Identify and where appropriate instruct and advocate or expert. You should provide evidence which demonstrates:
  - Commissioning reports, valuations and other information from experts such as agents and valuers.
  - Appreciating the nature and function of different types of experts and agents relevant to probate activities.
  - Identifying when it is appropriate to instruct an expert or agent including when a specialist legal opinion is required.
  - Being familiar with the available registers, databases and organisations through which an appropriate expert or agent may be identified and located.
  - Understanding any relevant statutory requirements to ensure that an expert or agent is instructed properly and is suitably qualified and experienced.
  - Identifying what information can legally be disclosed to others

- Identifying when it is appropriate to delegate work and any relevant law or procedure which may limit the right or power to delegate.
- Agreeing an appropriate fee for work to be carried out by an expert or agent.
- Drafting instructions to an expert or agent.
- Dealing with any expert or agent in a professional manner
- Provide supporting evidence of your representation of the client/service user.

### Competency 3: Client Relationships

***For applicants that work in-house the definition of client may include colleagues within your department and those in other departments within your employer's organisation. In the case of the CPS the definition of service user may include the Court, parties to the action and the Police.***

By the end of the period of Qualifying Employment you must be able to:

- 3.1 Take instructions
- 3.2 Evaluate options and risks to the client
- 3.3 Give advice
- 3.4 Manage expectations
- 3.5 Provide good customer service

#### Evidencing Competency 3

##### Outcomes

##### 3.1 Take instructions

- Conduct effective interviews with the client to achieve a full understanding of the client's wishes, objectives and concerns. Identify and obtain all relevant information necessary to achieve the client's wishes and concerns, using appropriate listening and questioning techniques and take accurate instructions from your client or service user. Provide evidence that you have identified and confirmed your client's position.
- Recognise where information is missing or held by 3<sup>rd</sup> parties and acquire the necessary consents to obtain it.
- Obtain all information necessary to understand the roles and interests of the parties involved in the matter to give advice, plan for the progress and completion of the matter.
- Identify how to act on your client's instructions and how you took all reasonable steps to take appropriate action. Provide evidence of the action taken to deal with the instructions received.
- **Identify actual or potential conflicts and act accordingly.**

##### 3.2 Evaluate options and risks to your client

- **Be alert to undue influence and duress.**

- Identify issues, including the client's personal circumstances which may impact on the achievement of the client's wishes and objectives.
- Consider any alternative courses of action that might be available to your client in dealing with the matter.
- Evaluate and communicate the options (including the costs, risks and benefits of each option) to the client and provide evidence.
- Identify emerging uses of technology in wills and probate to improve the process for a client and provide evidence (e.g. this could be using a spreadsheet to create workflow).

### **3.3 Give advice**

- Communicate clear, accurate and practical advice both orally and in writing relevant to the matter.
- Your advice should include what action you will take to represent your client and outline the available options and next steps. Provide evidence of the advice.
- As part of this outcome you may be able to evidence putting into practice the CILEx Code of Conduct including the principles of client care, complaint handling and dealing with ethical and regulatory requirements.

### **3.4 Manage expectations**

***It is not appropriate to include evidence of progressing a case quickly at the request of your client***

- Identify the needs, objectives and priorities of your client, including where the objectives of your client may be unrealistic.
- Demonstrate how you took all reasonable steps to take appropriate action (this may include your judgements and decisions in the matter).
- Provide evidence of the action taken to deal with the instructions received.
- You may be able to demonstrate putting into practice complaint handling requirements and/or your ability to resist pressure from your client to condone, ignore or act unethically.

### **3.5 Provide good customer service**

- Identify the steps that need to be taken to achieve the client's wishes or further their objectives as far as practicable and plan and implement their progress.
- Communicate with the client on progress towards achieving their objectives including any risks which have not previously been identified.
- You may be able to demonstrate using technology to provide flexible customer service (e.g. live chat) and explain how this improved customer service.
- You may be able to demonstrate that you have applied the CILEx Code of Conduct, e.g. keeping the client up to date, dealing with clients

concerns or complaints appropriately or putting principles of equality, diversity and inclusion into practice.

## Competency 4: Effective working practices

By the end of the period of Qualifying Employment you must be able to:

- 4.1 Progress matters
- 4.2 Plan your workload and manage files
- 4.3 Manage your caseload

### Evidencing Competency 4

#### Outcomes

***It is not appropriate to provide evidence of progressing matters quickly at the request of your client***

#### 4.1 Progress matters

- Recognise the need to act without undue delay in the preparation of documents including (but not restricted to) wills.
- Demonstrate dealing with your workload without causing or allowing any unnecessary delay to the progress of the legal matter.
- Identify and manage risks as far as practicable to the achievement of the client's objectives.
- Evidence should demonstrate the progression of a legal matter without delay and may provide an example of work progressed quickly to meet a deadline.
- You may be able to demonstrate the use of technology (case management or workflow tools) to identify problems and progress matters.
- You may be able to demonstrate your understanding of the CILEx Code of Conduct by explaining how you deal with your workload without causing or allowing unnecessary delay to the progress of a legal matter.

#### 2.2 Plan your workload and manage files

- Plan and prioritise workload and manage files/tasks concurrently and efficiently, making the best use of available resources and exercising effective judgement.
- Provide evidence which demonstrates planning your workload this may include maintaining an appropriate case strategy.
- Demonstrate exercising judgement and being realistic about how long it will take to achieve tasks to ensure you can provide the legal services you have agreed to provide.
- Be aware of procedural requirements and time limits including relevant directions, rules and regulations.
- Properly comply with all relevant accounting requirements relating to the handling of funds.

- Maintain files and records (including financial transactions) in accordance with office and regulatory procedures, seek support when necessary.
- Demonstrate maintaining files and business systems in accordance with established procedures where you work. This includes keeping files up to date and processing financial transactions, with due regard to information security.
- You may be able to demonstrate use of technology through the use of case management systems, online diaries, spreadsheets etc.

#### 4.3 Caseload management

- Actively manage files to meet client and beneficiary expectations wherever possible, including the timely provision of interim payments if required.
- Understand and utilise innovation where appropriate. You may be able to demonstrate the use of technology here if you are using a case management software, or you may research suitable software that could assist in case management. You could read the legal press and use other outlets to keep abreast of developments in legal technology and the ethics of its use and suggest implementation where you work.

### Competency 5: Business Awareness

By the end of the period of Qualifying Employment you must be able to:

- 5.1 Identify and evaluate options and risks to the business in which you work
- 5.2 Undertake business development
- 5.3 Network
- 5.4 identify marketing opportunities
- 5.5 Identify and use financial management tools

#### Evidencing Competency 5

##### Outcomes

##### 5.1 Identify and evaluate options and risks to the business in which you work

- Identify the business and legal environment in which you work.
- Identify and explain the aims and objectives of the practice/organisation in which you work.
- Explain how you keep the aims and objectives of the practice/organisation in mind through your working practices.
- Identify alternative courses of action which arise in your work which may have different impacts on your organisation.
- Explain how you have chosen one way of working over another in the context of the business environment.
- Provide practical evidence of choosing one method over another.

- You could provide information here as to how you have provided information to your employer on how technology could make a particular activity more profitable/efficient.

## **5.2 Undertake business development**

- Provide an example as to how you have been able to develop business for your organisation, or if you have not done this yet how you may be able to do this in the future.

## **5.3 Network**

- Explain how you are developing your business network through establishing external contacts, this could be through Linked In or the use of external experts for example

## **5.4 Identify marketing opportunities**

- Provide an example of a situation in which you may be able to market the services of your organisation.
- You could also explain how you could use the data within your organisation to develop marketing activities and the importance of GDPR in this context.

## **5.5 Understand and use financial management tools**

- Explain how you manage the financial transactions on clients' accounts.
- You could explain how technology tools assist with this process (or could assist with this process) to help your organisation.

## **Competency 6: Self Development**

By the end of the period of Qualifying Employment you must be able to:

- 6.1 Reflect and self-evaluate including understanding own limitations and the need for adaptability
- 6.2 Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients
- 6.3 Foster personal, physical and mental wellbeing and contribute where possible to a positive workplace environment
- 6.4 (Optional) Demonstrate leadership and management skills
- 6.5 Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements

## **Evidencing Competency 6**

### **Outcomes**

#### **6.1 Reflect and self-evaluate including understanding own limitations and the need for adaptability**

- Identify the key skills and abilities you demonstrate in your work (for example, having good attention to detail or working well under pressure).
- Reflect upon the way these key skills and abilities result in strengths and limitations relating to your work.
- Reflect upon the impact these strengths and limitations have on yourself and others.
- Identify one or more ways to reduce the impact of the limitations you have identified and create an action plan based on this.

#### **6.2 Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients**

- Identify one or more workplace situations where you experience emotional reactions to colleagues and/or clients.
- Reflect on how these emotional reactions can potentially impact on your performance and consider any patterns of behaviour in response to the emotional reactions that have emerged.
- Describe one or more situations where you have recognised particular emotions and vulnerabilities in relation to colleagues and/or clients and have modified your approach as a result.
- Explain and provide evidence of your understanding of equality, diversity and inclusion issues and how you put into practice the principles of equality (by promoting equality, diversity and inclusion, or avoiding discrimination) when considering the needs of vulnerable clients/ consumers.
- Explain and provide evidence of a situation where you have identified an ethical issue and taken appropriate action to deal with the issue.

#### **6.3 Foster personal, physical and mental wellbeing and contribute where possible to a positive workplace environment**

- Identify strategies you do or could use to foster your physical and mental wellbeing.
- Reflect on the impact of these strategies on your work and your overall personal wellbeing.
- Describe one or more ways you do, or can, contribute to fostering and/or maintaining a positive and supportive workplace culture.

#### **6.4 (Optional) Demonstrate leadership and management skills**

- Describe one or more situations where you have demonstrated leadership and management skills in the workplace, specifying the skills involved and any relevant outcomes.
- Reflect on how you would be able to apply these leadership and management skills to at least one future situation in the workplace.
- Identify one or more ways to develop your leadership and management skills and create an action plan based on this.

**6.5 Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements.**

- Describe a situation in which you have proactively sought feedback to aid your personal development.
- Identify at least one way that you have demonstrated that you are committed to the continuing learning and development of yourself and/or others.
- Identify examples of how you have demonstrated a commitment to supervisory requirements through engagement in professional development.
- You could also identify areas you need to work on in terms of ability to use legal technology, and your ability to innovate/respond to change.