

10861NAT Diploma of Aboriginal and Torres Strait Islander Legal Advocacy

2024

Week 2



Acknowledgement of Country

We acknowledge the traditional owners of the land on which Tranby stands, the Gadigal people of the Eora nation. We pay our respects to their Elders both past and present, who remain the traditional knowledge holders of this land.



We proudly extend this respect to all current and emerging leaders around Australia, for they hold the memories, the traditions, the culture and the future of their people.



Session 2 (20/03/2024)

Assessment 1 Tutorial

1. Assessment 1A: Role play discussion
2. Professional and ethical standards
3. Importance of accurate records/case notes
4. Interview skills
5. Cultural awareness
6. Identifying legal issues
7. Research
8. Writing reports to solicitors
9. Referrals



Role Play sessions

- Monday 25 March, 2024: 6.30pm AEDT
- Tuesday 26 March, 2024: 8.30pm AEDT
- Wednesday 27 March, 2024: 7.30pm AEDT
- Thursday 28 March, 2024: 7.30pm AEDT
- (Tuesday 2 April, 2024 (TBC))
- Written Assessment Due: Monday 08/04/2024



Role Play

- During the interview:
- Introduce yourself to the client and explain what will happen at the interview
- Ask general questions first – name, address, contact details (you may already have been given this detail; however, the purpose of asking at an interview is to check they are correct and to authenticate your client)
- Listen to the situation carefully & use culturally appropriate interview techniques
- Clarify the details using closed questions
- Ask the client if there is anything further they could add
- Confirm the next steps that you will take
- Take notes.



Marking and Observable Behaviours Checklist

- **Introduce themselves and explain what would happen at the interview**
- **Ask general questions first – name, address, contact details**
- **Listen to the situation & use culturally appropriate interview techniques**
- **Clarify details with closed questions**
- **Ask the client if there is anything further they could add**
- **Confirm the next steps**
- **Take notes during the interview**
- **Conduct the interview in a professional and ethical manner:**
 - **Speak clearly and concisely**
 - **Promote client participation**
 - **Use non-verbal communication to assist with understanding**
 - **Respond to questions as required**
 - **Use active listening techniques to confirm understanding.**
 - **Refrain from making personal comments about the client or the situation**
- **Align with the XYZ Legal Communications Policy**



Conducting Interviews (Refer to Learning Manual)

Key steps for conducting a client interview:

- Explain the purpose and format of interview to the client
- Following statutory and workplace guidelines when conducting a client interview- confidentiality and conflict of interest
- Record client responses in an appropriate format
- Debrief the client after an interview



Legal requirements to consider

- Your role in a legal service or similar organisation will be subject to legislation, rules, regulations and codes of practice relevant to the legal profession in your jurisdiction and the organisation's own policies, procedures and code of conduct. This includes the Legal Profession Uniform Law which governs the conduct of the legal profession in Australia.
- Other laws and regulations that your role may be subject to includes; privacy legislation, possible mandatory reporting requirements under child protection legislation, anti-discrimination legislation, workplace safety legislation, etc.
- You need to be aware of your obligations and duties under these rules when you are dealing with clients, particularly if the clients are children or vulnerable in any way.
- There are also requirements to consider regarding confidentiality and conflicts of interest.



Conducting Interviews

- Before taking the client's details explain that anything the client tells you will be confidential i.e. that nothing the client tells you, or anyone else working at the service, can be repeated unless client gives permission
- Ensure that the client has a clear understanding of the services that can be provided and that if you can't provide that service you will refer them to a service that can help them.
- Talk the client clearly through the intake process always checking the details as you go, for example, spelling of name, address, contact number, next of kin, name of other party if applicable, etc. Ask best method to contact them.



Conducting Interviews

- Ask client they have any questions so far or if they would like anything explained again. Let them know what will happen next. For example: you are going to ask them to tell you their story (why they are here); you will be asking some questions as they go to find out what the legal issues are (if any); and then talk about what you want to achieve and what options are available.
- Next ask client to tell you in their own words why they have contacted the service. Listen carefully and take notes if necessary. Let client finish talking because you might miss something important if you keep jumping in. After client has finished go back over the story to check you understand what they have told you and you have dates, names, events, etc. correct.
- Make sure here that there are no time sensitive issues you have missed, for example imminent court dates, probation/police reporting obligations, etc.



Conducting Interviews

- At this point you should be able to identify the client's issues, both legal and non-legal, to determine if matter is to be retained internally or referred to another specialist law firm or agency. This decision will be taken in accordance with your organisational workplace procedures and may require you to consult with one of the lawyers at your service if you are not sure.
- At the end of the interview make sure you explain all the options to the client clearly, give the client a further opportunity to ask questions, and be satisfied that the client understands the options. Put any information the client needs to take with them in writing, going over it and making sure they understand what is written. This will include information about the tasks that must be done and who has responsibility for doing them.
- If the client needs to make another appointment try to arrange the time and date before they leave. If necessary ask them to bring any supporting documents with them next time they come. Confirm the best contact method and details for them.



Case Notes

- 3 things a thorough file note should include:
- **When it happened** - date of the meeting/discussion/occurrence. Time of day **and** duration.
- **Who was there** - names of who were in the meeting/discussion/occurrence
- **What was discussed** - record of discussion, substance of advice given, the client's response to the advice and any instructions given. Use plain language that can be understood widely and by whoever may read it in the future. Ensure it is legible and written as a note for the purpose of the file, not a 'note to self'.



Case Notes

- **Tips**

- Prepare file notes in real time at the meeting and finalise shortly following to ensure accuracy.
- Ensure they are legible, minimise jargon and anyone could understand them
- Make them a note to file, not a note to self. Could another lawyer pick up this matter and have all the information they need from the file notes?
- Utilise available technology to streamline the process – eg templates, recording.



Report to Solicitor

- In your report:
- Clearly identify the client
- Clearly outline the legal issue
- Suggest the options available to the client
- Include sources of legal research (e.g. *Bail Act 2013 (NSW)* , *Crimes Act 1900 (NSW)*, etc.)
- Seek advice from the solicitor on the options
- Use polite, courteous and business-like text.



Legal Research

- **Finding legislation and case law**

- 1. Austlii - www.austlii.edu.au

- Access to case law from most superior Australian courts and tribunals, as well as current and past Federal, State and Territory legislation.

- 2. Jade - <http://jade.barnet.com.au>

- Free subscription service for searching, annotating and sharing Australian legal judgments and decisions. Delivers tailored results to your inbox daily of the latest superior court decisions (a favourite of some leading barristers I know).

- 3. ComLaw - www.comlaw.gov.au

- The Attorney-General's Department site for Commonwealth materials is the most up-to-date, authoritative resource for Commonwealth legislation.



Social Media Resources

- **Legal blogs**

Australian Law Blogs - www.djacobson.com/australian-law-blogs

- **Social Media - the fastest way to get the latest news**

The online legal research landscape is constantly evolving. Social media is fast becoming a great way to stay in front with the latest news and law reform in Victoria, Australia and the world. Join the LIV Young Lawyers Facebook page at www.facebook.com/LIVYoungLawyers for articles, reform updates, forums and other upcoming events for new lawyers (both legal and not-so-legal).



Law focused Twitter

LIJ - @theLIJ

ALRC - @AusLawReform

Australian Law News - @AusLegal

Australian Competition and Consumer Law (Julie Clarke) -
@competitionlaw

Arts Law Centre of Australia - @ArtsLawOz

Julian Burnside (barrister, human rights activist) - @JulianBurnside

Lawyers Weekly - @LawyersWeekly



To Do

- Continue reading the Learner Manual for this Module (Ch. 7 & 8)
- Watch the video called: Working with a client entering the legal system
- Watch the video called: Professional and ethical standards in legal representation
- Read Assessment 1 instructions carefully
- Write down some notes for yourself ahead of the role play e.g. questions, prompts, etc.

