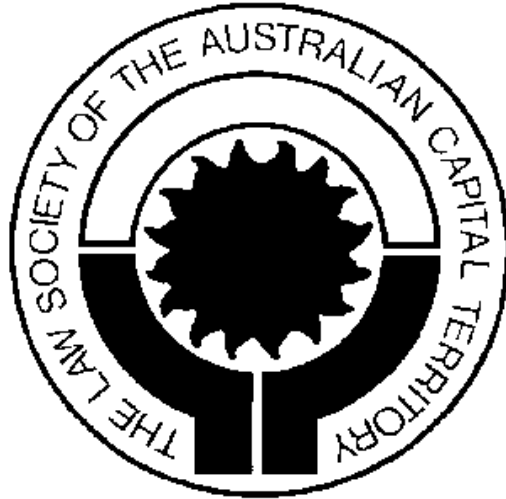


*Guide to Practice
Employment Standards*



Prepared by:

*Law Office Managers' Forum
May 2003*

GUIDE TO PRACTICE EMPLOYMENT STANDARDS

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Foreword

At its February 2002 meeting, the Small Practice Group of the Law Society of the ACT discussed the benefits to all firms and particularly small firms in having a Guide which covered, inter alia, issues such as occupational health and safety, workers' compensation, salary and superannuation obligations.

The Law Office Managers' Forum was then invited to undertake this project.

The result is this first edition of the Guide to Practice Standards which is aimed at providing office managers and sole practitioners with salient information in the day to day running of a legal practice.

Some of the information contained in this Guide is a conglomeration of practice procedures and pro-formas used in various legal practices in Canberra. In particular, we would like to thank Abbott Tout, Bradley Allen, John Nichol & Co, Macphillamy's, Maliganis Edwards Johnson and Richards Lawyers (now Slater & Gordon) for their contributions.

The "Useful Contacts" page is not an exhaustive list but we hope it includes most of the telephone numbers or web addresses that may be required when dealing with practice and staffing issues.

It is hoped that this Guide will continue to be improved upon and maintained for the benefit of Canberra's small practices in the future. To do this, the Law Office Managers' Forum would welcome your feedback. Any comment (both positive and negative) from practitioners and office managers in relation to the information contained in this Guide would be welcomed.

Finally, thank you to the subcommittee members of LOMF who prepared this guide.



Fran Nichols
Chair
Law Office Managers' Forum
May 2003

E&OE

This Guide is prepared at the express request of the Law Society of the ACT. The Law Office Managers' Forum does not accept liability for any errors, omissions or inaccuracies that may be contained in this document. It has been produced as a guide to practice procedures only and is not intended to be the sole source of information for a practice to operate.

1 HOURS OF WORK

The normal hours of work are 8.30am to 5.00pm, Monday to Friday with one hour break for lunch. The lunch break is normally between 1.00pm and 2.00pm. Although you are required to work for a total of 37 1/2 hours per week, nevertheless, pay is for a standard 38 hours per week (as per the Clerk's Award). Consequently, staff are asked to consider this when they are called upon to work beyond normal working hours. For further information, please see the Clerks Award ACT via the web link <http://www.osiris.gov.au/html/awards/1/AW772208/top.htm>)

Professional staff hours are in accordance with their employment contract.

2 OVERTIME/TIME IN LIEU

The policy of most firms is not to encourage overtime. Some firms do not pay overtime but time off in lieu (hour off for hour worked only) may be an option. If overtime is required, approval by the Office Manager before commencement and a detailed statement of the hours worked given to the Office Manager on the next working day. No time off in lieu will be given unless approval has been granted.

3 PROBATION PERIOD

A three month probation period is standard for all new staff members (support and professional). This should be confirmed in writing by a letter of offer or contract of employment. (see example at attachment "A")

Probationary periods can be extended for another three months provided the employee is advised in writing in the initial Letter of Offer that the employer reserves the right to extend the probation period a further three months if there are sufficient grounds to do so.

4 CONFIDENTIALITY POLICY

Confidentiality is a major issue for firms. At attachment B is a draft undertaking that may be included in the employee's letter of offer or contract as appropriate.

5 INDUCTION PROGRAM

Check list of things to include when an employee joins the firm are: -

- Day before commencing, ensure office/desk is set up with basic stationery
- Advise admin for professional staff of new arrival
- Send email to all staff advising of new employee commencing
- Map of office showing location of each employee
- Tour and introduction to current staff members
- Providing copy of firm's policy and procedures manual
- Introduce to key members of staff ie partner they are responsible to
- Arrange for someone within the firm to have lunch with them on the first day
- Arrange for someone to be their "help desk" for any issues that may arise
- Discuss things particular to the firm ie dress codes, confidentiality etc

- Discuss and show emergency procedures and exits, who floor wardens are etc
- Advise nearest location for lunches etc
- Provide with internal telephone directory
- Telephone training
- Wp training
- Specific technology training – ie time sheet entry
- Specific stationery for the firm, ie time sheets, cheque requests etc
- Normal office hours
- After hours access
- Provide with keys and security pass
- Provide with IT logon and password
- Collect contract, notification of personal data, bank details and tax form
- Delivery/collection of mail
- Reception operating hours
- Switchboard operating hours

See attachment C for draft program

6 SUPERANNUATION

In accordance with the legislation firms are required to contribute 9% (as at 1 July 2002) of all employees' salaries to an approved fund. Superannuation contributions are not paid on accrued annual leave, long service leave, annual leave loading, overtime, sick leave and payments in lieu of notice. With an employer contribution, tax instalments are not deducted prior to the contribution being made to the superannuation fund. For further information see web link

<http://scaleplus.law.gov.au/html/pasteact/0/170/top.htm>

7 PAY PROCEDURES

When a new employee commences the following checklist should be completed: -

- provide a letter of employment setting out terms and conditions of employment including salary, hours of work, overtime, sick leave, annual leave, long service leave and any other entitlements. The employee should sign and return a copy of the letter as acceptance of the terms and conditions.
- Create an employee file where the letter of employment and future documentation will be retained.
- Employee to complete Tax File Number declaration. Employer to forward to Australian Taxation Office within 14 days of commencement of employment. Forms are available on line at <http://www.ato.gov.au/download.asp?file=/content/forms/downloads/n3092.pdf&title=Tax+File+Number+Declaration>
- Obtain details of next of kin (details should include name, address, contact numbers, relevant medical information) and banking details (including name of bank, BSB (branch number), account number, account name) from the employee.
- Add new employee on to payroll software (MYOB, Quicken, Attache etc).
- Advise employee of payroll frequency (fortnightly, weekly, monthly).
- Timesheets, leave forms to be handed to payroll by a certain date/time.
- Payroll authorisation & checking (who will check the payroll officer's input, who will authorise the payroll to go to the bank, etc).

- Superannuation – frequency of payment (suggest super paid each month for ease of administration, cashflow planning).

It is generally at the discretion of the firm whether or not to offer a choice of superannuation funds to the new employee. Some firms may elect to request the employee provide their own superannuation fund but have a “standard” fund should the employee not have their own (such as L(aw) I(industry) S(uperannuation) T(trust)).

8 CLERKS (ACT) AWARD 1998

A copy of the award can be located at the following website address: -
<http://www.airc.gov.au/asawards/AW772208.htm>

The Clerks Award is applicable to those employees deemed as "office workers", i.e. secretaries, administration staff and, where applicable, professional staff.

9 EMERGENCY CONTACT DETAILS

Firms should keep a register of the following: -

- 1 who can be contacted in case of an emergency?
- 2 employee pre-existing medical conditions that may require immediate attention; and
- 3 other relevant information.

Details required include:

- Emergency contact name, relationship to employee.
- Work/Home/Mobile numbers.
- Doctors/Hospital dept number.
- Known allergies

10 ANNUAL LEAVE

All permanent support staff are entitled to an annual leave loading based on 17.5% of actual salary. Solicitors leave loading will be at the discretion of the firm. The loading is paid in one lump sum on the first occasion leave is taken following the twelve month anniversary and is not paid on resignation (for further information see Clerks Award (ACT) on the web link).

<http://www.osiris.gov.au/html/awards/1/AW772208/top.htm>

11 LONG SERVICE LEAVE

The Long Service Leave Act provides various leave entitlements. The level of entitlement will depend on the commencement date of the employee. Currently, (March 2003) the Act provides for long service leave at 15 years service with pro rata entitlements at 10 years service.

It is recommended that Long service leave be taken within six months of becoming due. See the following link for further information.

[http://www.wagenet.gov.au/WageNet/Search/view.asp?docid=151627&query=\(LONG%20SERVICE%20LEAVE\)&page=0&quickview=Y](http://www.wagenet.gov.au/WageNet/Search/view.asp?docid=151627&query=(LONG%20SERVICE%20LEAVE)&page=0&quickview=Y)

12 PERFORMANCE/SALARY REVIEWS

It is recommended that each employee has at least one review per year. This should be in the form of a written evaluation and discussion with their supervisor. Salaries, where appropriate, may be adjusted. The employee should also have the opportunity to respond (preferably) in writing.

13 OHS ISSUES

Firms are required to comply with current OH&S Commonwealth and State Legislation. This can be found at

http://www.workcover.act.gov.au/content/switchbox.cfm?name=shared_ohands_page1&textonly=no

An employee should be made aware of OHS standards. They should advise the office manager as soon as possible of any contravention of these standards.

The office manager should then rectify the issue in a timely manner.

14 WORKERS COMPENSATION

Firms should comply with all Workers Compensation requirements under the various legislation applicable. Please see the website for further information.

http://www.workcover.act.gov.au/content/switchbox.cfm?name=shared_work_comp&textonly=no

15 EEO ISSUES

Firms should comply with all relevant legislation for Equal Opportunity policies. See attachment D for sample policy wording.

16 DRESS CODES

Staff are required to attend during business hours dressed in a manner appropriate to a professional services firm.

If staff are attending firm functions outside normal business hours, then they are considered to be “at work” and should dress appropriately.

If a staff member is inappropriately dressed they may, at the absolute discretion of the firm, be requested to return home and change into clothing appropriate to the firm’s dress standards. Time spent in completing such a request may be deducted from the staff member’s salary or additional time worked may be required. See sample standards at attachment E.

Attachment A

Draft letter of offer per clause 3

Dear [name]

OFFER OF EMPLOYMENT

We refer to your telephone discussion with the writer today and write to confirm our offer of employment for you to join our firm as a [position].

We confirm that your remuneration package will be \$[total] comprising an annual salary of \$[base] and a superannuation benefit of \$[amount] (currently 9% of base salary).

As discussed, your commencement date will be Monday [date] (to be confirmed). An initial probationary period will apply until [end probationary period date].

It is customary in our office to review the performance of each employee prior to the end of June each year. Assuming you complete your probationary period in a satisfactory fashion, your performance will be reviewed prior to 30 June 2003 and annually thereafter.

Our Human Resources Department will prepare a more formal contract reflecting the above terms.

If you have any queries, please contact [details of contact person]

We look forward to welcoming you on [start date].

Yours faithfully

Attachment B

Draft policy wording per clause 4

DRAFT CONFIDENTIALITY UNDERTAKING

1. “**Confidential Information**” means information acquired or produced by or available to me arising out of or in connection with my employment, which is not in the public domain and includes, without limitation, information:
 - (a) which is, by its nature, confidential, including client information;
 - (b) which is designated by the Employer or another person as confidential; or
 - (c) which relates to the Employer, parties with which the Employer deals, the employer’s management, structure, policies or finances or the Employer’s clients and personnel.

2. I acknowledge and understand that it is an essential condition of my employment contract with the Employer that I must ensure that Confidential Information in my possession, knowledge or control:
 - (a) is only made available to those persons who have a “need to know” for the proper performance of my employment;
 - (b) is stored with or protected by appropriate security, having regard to the nature of the Confidential Information and the medium in which it is found;
 - (c) is used only on accordance with any conditions or limitations advised by either the Employer or by any of the Employer’s clients or personnel with whose file or personal information I am working; and
 - (d) subject to the above, is not, except as required by law, disclosed to any other party or made public without the prior approval in writing of the Employer.

3. This undertaking is given for valuable consideration.

SIGNED on the _____ day of _____ 20__

.....
(name of employee)

Attachment C

Sample induction program per clause 5

DRAFT TRAINING SCHEDULE FOR NEW EMPLOYEE

AREA OF TRAINING	PERSON RESPONSIBLE	COMPLETED ON	CHECKED BY/DATE
Telephone system - call back - calls on hold - do not disturb - std/mobile calls - transferring calls			
Photocopier -general use - recording against matter - replacing toner - fixing paper jams etc			
Facsimile Machine - using facsimile - recording outgoing faxes - fixing paper jams etc - replacing toner			
Email/Calendar Software - diary - appointments, accepting etc - inbox/mail/phone messages - to do list – task list - follow ups - deleting messages - calendar invitation			
Word Processing Software - directory structure - using macros and templates - how to save - set up views for open file screen - finding precedents - advanced features			
Library - bookselves - precedent system (pc and non pc based) - ACT legislation - Commonwealth & NSW legislation			
Closing Files - return of originals - “cleaning” file - outstanding accounts - trust account - archiving procedure			

<p>Accounting Software Client Detail Screen - where to find information - contact details</p> <p>Matter Detail Screen - ledger card time recording - cost recoveries - understanding ledger, time and cost recovery reports - opening files</p> <p>Other - time recording - credit policy - interim billing - drawing cheques - trust account - controlled moneys</p>			
<p>Time Management - appointment days - dictaphone use - time recording - signing mail - files - prioritising work - delegation of tasks</p>			
<p>Printers - location - use of different paper trays - paper tray selection - loading paper - cleaning and replacing toner - clearing paper jams and error messages</p>			
<p>Manuals - account - general office - practice include explanation of manuals and areas covered, their location on computer</p>			
<p>Office Administration - staff structure - roles and responsibilities for all staff - procedures for taking leave - completing forms - sick leave arrangements - doctor's certificate etc - service providers – intra and interstate agents</p>			

<ul style="list-style-type: none"> - confidentiality - clean desk policy - major clients - supervision of staff - delegation of instructions - file follow ups - communication with clients - relating to other staff members - team work 			
<p>Security</p> <ul style="list-style-type: none"> - building security - our office security - use of keys for after hours - location of after hours air conditioning 			

Attachment D

Sample Policy Wording – Clause 15

All employees have the right to be treated fairly and equally to ensure no one person is discriminated against and all staff have the opportunity to apply their abilities, aptitude and knowledge during their employment with our firm.

The firm requires commitment from all employees for the right to work in a discrimination free environment.

Discrimination can also take the form of harassment including sexual harassment. Harassment is not considered appropriate where neither party finds the behaviour offensive such as mutual attraction between people or a relationship that is freely accepted.

If a staff member feels they are being harassed, they need to make it clear to the other party that their comments, actions are inappropriate and request them not to continue. This is irrespective of the position which the “harrasser” holds.

If the harassment continues, the matter should be reported to the Office Manager/Managing Partner.

An investigation will be conducted into the matter and appropriate action taken. This can include counselling, formal apology, suspension

For further information, please see the EEO website at <http://www.eeo.gov.au/>.

Attachment E

Sample dress standards per clause 16

Minimum dress standards are: -

Professional Staff

Men	business suit, collar, tie, business shoes (polished)
Women	tailored suit, long pants suit, dress, skirt and blouse, suitable shoes (polished as appropriate)

Support staff

Men	collar and tie, trousers, business shoes (polished)
Women	dress or skirt, long pants or culottes, blouse or knitted top, suitable shoes (polished as appropriate)

Guidelines for Mufti (casual dress) Day

- Ensure clothing is clean, pressed and free from holes
- Never wear anything too revealing (ie short skirts, sleeveless shirts, tight clothing)
- Minimal jewellery
- No sweatpants, leggings or bike pants or other “gym” wear
- Avoid colourful prints
- Keep t-shirts with slogans or pictures to a minimum
- Keep shoes polished and in good condition – smelly/old/worn sneakers or shoes are not appropriate

Useful Contacts

Website Listings

ACT Chamber of Commerce <http://www.actchamber.com.au/>

ACT Clerks Award <http://www.osiris.gov.au/html/awards/1/AW772208/top.htm>

ACT Government Business Entry Point
<http://www.business.gov.au/BEP2002/Syndication/Channel/0.1447.ChannelID%253D7435.00.html>
(This site includes links to OHS, federal awards, and other general employment issues)

ACT OH&S/WorkCover <http://www.workcover.act.gov.au/>

Australian Taxation Office www.ato.gov.au

Equal Opportunity <http://www.eeo.gov.au/>

General Award/Wage Inquiries <http://www.wagenet.gov.au/WageNet/HomePage/HomePage.asp>
(this covers all states and territories)

Law Society of the ACT <http://www.lawsocact.asn.au/content/home2/index.asp>

New South Wales OH&S/WorkCover <http://www.workcover.nsw.gov.au/>

Superannuation Legislation <http://scaleplus.law.gov.au/html/pasteact/0/170/top.htm>

Useful research links <http://www.lawsocact.asn.au/content/links2/links2.asp>

Phone Numbers Etc: -

1 Law Society of the ACT

1 Farrell Place
GPO Box 1562
Canberra ACT 2601

Telephone 61 2 6247 5700
Facsimile 61 2 6247 3754
DX DX 5623, Canberra ACT

2 ACT Chamber of Commerce

ACT & Region Chamber of Commerce and Industry
Confederation of ACT Industry
12a Thesiger Court, Deakin, ACT 2600 Australia
PO Box 192, Deakin West, ACT 2600 Australia

Telephone: 61 2 6283 5200
Facsimile: 61 2 6282 5045

3 ACT Workcover

Telephone 61 2 6205 0200
Facsimile 61 2 6205 0797

4 ATO

Ethos House
28 Ainslie Avenue
CANBERRA ACT 2600

Business Information
Telephone 132866

Superannuation
Telephone 131020

5 Wagenet

Ground Floor
12 Mort Street
CANBERRA ACT 2600

Telephone 1300 363 264