

Continuing Professional Development (CPD) Guidelines:

- ❖ Absence from Legal Practice
- ❖ Reduced Hours of Practice
- ❖ Pro Rata Practice

1. Purpose of the Guidelines

The purpose of these Guidelines is to inform practitioners about the Legal Practice Board's (**Board**) requirements in seeking an exemption, in whole or in part, from the requirement to undertake continuing professional development (**CPD**) activities on the grounds of:

- Absence from legal practice due to, parenting leave, illness or disability, or unemployment; or
- Reduced hours of practice due to part time or casual employment; or
- Pro rata practice due to commencing or recommencing legal practice on or after the start of a CPD year.

2. Context

The *Legal Profession Uniform Law (WA)* imposes a statutory condition on all Australian Practising Certificates that the holder must comply with the applicable requirements of the CPD Rules¹. Together the **CPD Rules** comprise the:

- (a) *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015 (Uniform Solicitors CPD Rules)*; and
- (b) *Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015 (Uniform Barristers CPD Rules)*.

The CPD Rules² provide that the Board may grant exemptions, in whole or in part, from the requirement to undertake CPD activities, including for the purpose of earning up to 10 CPD units or points, imposed by the CPD Rules (**CPD Requirements**).

An application for exemption from CPD Requirements must be made in writing using the Board's Application for Variation of CPD Condition Form (**CPD Form 4**) as early as practicable in the related CPD year. An application for exemption can be made in respect of a previous CPD year, however the application must be made within as soon as the practitioner becomes aware of the non-compliance with the CPD Requirements, for Barristers an application must be made within 21 days^{3,4}.

¹ Section 52 of the *Legal Profession Uniform Law Application Act 2022*

² Rule 6 of the Uniform Solicitors CPD Rules; and rule 13 of the Uniform Barristers CPD Rules

³ Uniform Barristers CPD Rules r 13(2)(c) if made in respect of a previous CPD year, must be made within 21 days after the barrister becomes aware of his or her non-compliance with the relevant requirement to undertake CPD activities

⁴ A Barrister is an Australian legal practitioner holding a practising certificate imposed with a condition authorising the holder to engage in legal practice in the manner of a barrister only.

Version Number: 3	Object id: A1499924
Pagination: Page 1 of 5	Approval: PDC 17 August 2022
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On granting an exemption, the Board may impose any conditions it considers appropriate⁵. A legal practitioner must comply with any conditions imposed on granting an exemption⁶.

3. Absence from Legal Practice – Parenting Leave; Illness or Disability

If a legal practitioner is, or expected to be, absent from legal practice due to parenting leave, illness or disability for any of the CPD year (1 April to 31 March), the legal practitioner can apply to the Board for an exemption from the CPD Requirements.

An application must be made using the Board’s CPD Form 4 available on the Board’s website. The legal practitioner must advise the Board of the expected dates of absence from legal practice.

If granted the Board will apply the pro rata point variation to the annual CPD Requirements as per the table below.

Time absent (1 April - 31 March)	CPD points required
2 Months or less	10 Points
3 Months	9 Points
4 Months	8 Points
5 Months	7 Points
6 Months	6 Points
7 Months	5 Points
8 Months	4 Points
9 Months	3 Points
10 Months	2 Points
11 Months	1 Point
12 Months	0 Points

Unless otherwise advised by the Board, at least one CPD unit or point must be completed in each of the fields or categories in the CPD Rules⁷.

Where the units or points required fall below 4 the legal practitioner must complete units or points in a selection of the fields or categories, rather than completing multiple points in a single field or category.

Please Note: If a practitioner does not advise the Board, or is not advised that the request for exemption has been granted, the practitioner will be required to meet all CPD Requirements.

⁵ Legal Profession Uniform Law (WA) section 53; and rule 16.5 of the Uniform Solicitors CPD Rules

⁶ Legal Profession Uniform Law (WA) section 54; or rule 16.6 of the Uniform Solicitors CPD Rules

⁷ Rule 6 of the Uniform Solicitors CPD Rules; or rule 9 of the Uniform Barristers CPD Rules

Important notes

- The calculation for varying the CPD Requirements due to absence from legal practice on parenting leave, illness or disability is based on the actual time absent in weeks (to the nearest full week) then converted into months. As the Board can only approve full units or points, calculations will be rounded down to the nearest full month if up to an including half a month and up to the nearest full month if more than half a month.

For example, if you are absent for:

- 20 weeks of the CPD period: 20 weeks calculated to the nearest monthly equivalent based on 4 weeks per month is 5 months or 7 points.
 - 21 weeks of the CPD period: 21 weeks calculated to the nearest monthly equivalent based on 4 weeks per month is 5.25 months and is rounded to 5 months or 7 points.
 - 22 weeks of the CPD period: 22 weeks calculated to the nearest monthly equivalent based on 4 weeks per month is 5.5 months or 7 points.
 - 23 weeks of the CPD period: 23 weeks calculated to the nearest monthly equivalent based on 4 weeks per month is 5.75 months and is rounded up to 6 months or 6 points.
- Once the Board has approved a variation to your CPD Requirements you **must** advise the Board if there are any changes to the dates you are absent from practice to meet your CPD Requirements.
 - You will be required to complete a CPD Form 4 for each CPD period you hold a local practising certificate and are absent from legal practice on parenting leave, illness or disability. In other words, if you are absent over two CPD periods, please complete a separate CPD Form 4 for each CPD period.
 - **Parenting leave** - The Board considers that these guidelines apply to parenting leave for a duration generally considered to be an absence from work, paid or unpaid, to become the primary carer for a newborn infant or adopted child under the age of 16, being 52 weeks. If a legal practitioner intends on taking leave from legal practice after completing a normal period of parental leave, and continues to hold an Australian practising certificate, it is likely that the legal practitioner will be required to comply with the CPD Requirements.
 - **Illness or Disability leave** – The Board considers it reasonable to vary CPD Requirements for illness or disability for no more than 12 months. A decision to vary the CPD Requirements due to illness or disability that prevents a legal practitioner from fulfilling the inherent requirements of legal practice is considered on a case-by-case basis.

Version Number: 3	Object id: A1499924
Pagination: Page 3 of 5	Approval: PDC 17 August 2022
UNCONTROLLED DOCUMENT IF PRINTED – REFER TO ELECTRONIC MASTER	

- If a legal practitioner decides to remain on leave for more than 12 months, the legal practitioner may also choose to cancel, suspend, or not renew their Australian practising certificate until their return to practice. Any legal practitioner considering this option should contact the Board.

4. Unemployment

If a legal practitioner is unemployed for a period of one full calendar month, the legal practitioner can apply to the Board for an exemption from the CPD Requirements of 1 unit or point. The CPD Requirements will not be varied more than 1 unit or point for any period of unemployment during any CPD period.

4. Reduced Hours of Practice

If a legal practitioner has reduced hours of practice as a result of part time or casual employment of no less than 3 days per week that extends no more than 3 months in the CPD year (1 April to 31 March) (**Capped Reduced Hours**), the legal practitioner can apply to the Board for an exemption from the CPD requirements.

An application must be made using the Board's CPD Form 4 available on the Board's website. The legal practitioner must advise the Board of all the employment circumstances as well as the average days worked on a weekly basis.

If granted, the Board will apply the pro rata unit or point variation of the Capped Reduced Hours period to the annual CPD Requirements based on the equivalent time worked in the CPD year, calculated based on the average days worked each week, as per the table below.

Average Days Worked in the Capped Reduced Hours period	CPD units or points required in the Capped Reduced Hours period
5 or more	2.5 units/points
4 - 5	2 units/points
3 - 4	1.5 units/points

Unless otherwise advised by the Board, at least one CPD unit or point must be completed in each of the fields or categories in the CPD Rules⁸.

Please Note: If a legal practitioner does not advise the Board, or is not advised that the request for exemption has been granted, the legal practitioner will be required to meet all CPD Requirements.

⁸ Rule 6 of the Uniform Solicitors CPD Rules; or rule 9 of the Uniform Barristers CPD Rules

Version Number: 3	Object id: A1499924
Pagination: Page 4 of 5	Approval: PDC 17 August 2022
UNCONTROLLED DOCUMENT IF PRINTED – REFER TO ELECTRONIC MASTER	

5. Pro Rata Practice

A practitioner who commences or recommences legal practice on or after the start of a CPD year must complete, on a pro rata basis during the balance of the CPD year the CPD units or points set out in the CPD Rules⁹ and shown in the table below.

Month Australian practising certificate issued	CPD Units/Points Required
April	10
May	9
June	8
July	7
August	6
September	5
October	4
November	3
December	2
January	1
February	0
March	0

Unless otherwise advised by the Board, at least one CPD unit or point must be completed in each of the fields or categories in the CPD Rules¹⁰.

Where the CPD Requirements fall below 4 CPD units or points the legal practitioner must earn units or points in a selection of the fields or categories under the CPD Rules, rather than earning multiple units or points in a single field or category.

6. Authorisation

These Guidelines are authorised by the Board's delegate, the PDC.

Executive Director

17/08/2022

Position

Signature

Date

⁹ Rule 10.1 of the Uniform Solicitors CPD Rules; or rule 8(2) of the Uniform Barristers CPD Rules

¹⁰ Rule 6 of the Uniform Solicitors CPD Rules; or rule 9 of the Uniform Barristers CPD Rules

Version Number: 3	Object id: A1499924
Pagination: Page 5 of 5	Approval: PDC 17 August 2022
UNCONTROLLED DOCUMENT IF PRINTED – REFER TO ELECTRONIC MASTER	