



# Bar Association of **Queensland**

Mentor and Reader Guidelines



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## Introduction to the Mentor and Reader Guidelines

1. Selecting a senior and junior mentor is one of the most important decisions a reader will make, as appropriate selections will ensure that readers gain the most out of their readership period, as well as receive the necessary support and guidance from their mentors as they navigate practice at the Bar. If the right mentors are chosen, then the relationship will continue to be sustained long after the readership period.
2. These Guidelines are intended to assist readers and mentors in establishing and developing their relationship, particularly in the initial meeting and the early stages of readership.
3. Whilst it is presumed that those reading this document are readers that have already selected mentors, we encourage those who have not yet selected a mentor, or are planning on coming to the Bar (non-readers), to read the article [Five Questions Every Reader Should Ask Before Selecting their Mentors](#).
4. Mentors may find the topics list in [Appendix 1 – Suggested Program of Instruction](#) helpful as an agenda for ongoing meetings with their readers. The content is designed to support the development of a 12 month program of mentor meetings, and should be read in conjunction with these Guidelines.

## Regulation of the Reader and Mentor Program

5. The duties of readers and mentors are set out in the [Administration Rules of the Bar Association of Queensland](#) (the **Administration Rules**) made pursuant to section 231 of the *Legal Profession Act 2007* (Qld) (the **LPA**). It is important that readers and mentors familiarise themselves with the requirements set out in the Administration Rules. These Guidelines do not change the requirements under the Administration Rules. If there is any inconsistency between these Guidelines and the Administration Rules, the Administration Rules will prevail to the extent of any inconsistency.

## Bar Council's Expectations of Readers

6. The Administration Rules detail the duties of readers during the readership year, their compliance with which must be recorded in their schedule 6 through their MyBAQ profile (see rule 3.25.1 of the Administration Rules).
7. Compliance with these duties must be satisfactorily achieved in order for the readership condition to be removed from the reader's practising certificate. These duties include:
  - (a) an initial meeting with each mentor (Rules 3.12, 3.13) and monthly meetings with a mentor (Rules 3.13, 3.16);
  - (b) court orientated work (Rules 3.11, 3.17, 3.18, 3.24, 3.26-3.29);
  - (c) compulsory Reader Seminars and Essential Learning Program (Rules 3.21, 3.23); and
  - (d) direct Access Briefing restriction (Rule 3.1.4).
8. These program requirements are designed to ensure that readers are adequately supported during the early stages of their career and have the greatest opportunity to succeed at the Bar.

### *Meeting with mentors: The Rules*

9. Administration Rules 3.12-3.16 require readers to meet with their senior and junior mentor in their first month, and then either their senior or junior mentors for each month of their readership program.
10. Readers are asked to record these meetings punctually in their schedule 6 record, which the Association will monitor monthly.
11. While it is up to readers and their mentors as to whether additional meetings will occur each month, it is not acceptable to record two meetings in one month to 'catch up' from missing a previous month's meeting, and this should be avoided.

### *Meeting with mentors: Purpose and further guidance*

12. The purpose of mentor arrangements during the readership program is to ensure readers have the necessary support, education and guidance to:
  - (a) develop their practice as a barrister;
  - (b) develop as a barrister and advocate;
  - (c) develop and understand relationships with solicitors, other barristers and the courts;
  - (d) identify, reflect upon, and/or assist with any problems encountered by the reader in practice;
  - (e) ensure the reader understands their duties as a barrister; and
  - (f) develop relationships with other members of the Bar.
13. The required meetings with mentors are mandatory, and provide readers with the opportunity in a judgement free forum to discuss any issues, ethical, technical or otherwise, in an informal environment without the perception that they are escalating a situation. Mentors are thereby given the opportunity to engage with a reader and identify if the reader requires any additional assistance, guidance or direction with managing their new practice at the Bar.
14. Some mentors will prefer a specified time each day or week to check in. Given the danger of a busy practice impeding on both the mentor's and reader's availability, it is strongly recommended that designated times each week are diarised to concentrate both minds on their role as mentor or reader.
15. Outside of the agreed meeting times, readers may raise discrete matters with their mentors at any time. It may be convenient for the mentor to nominate an appropriate time (perhaps at the beginning and/or end of the day) when the reader is free to contact the mentor for ad hoc assistance.
16. See 'Communication between Readers and Mentors' below (from paragraph 45) for further guidance on the communication that should occur between the reader and the mentor.

### *Court orientated work: The Rules*

17. Court orientated work is defined in Rule 3.11 of the Administration Rules to mean "conferences or other preparation for a hearing and actual court or tribunal attendances".

18. By Rules 3.17 and 3.18, the reader must complete 60 hours of court orientated work with either mentor or another barrister with more than five years' experience at the Bar ("senior barrister"), to be undertaken as follows:
  - (a) at least 20 hours in the first three months of readership;
  - (b) a minimum of 40 hours in the first six months of readership (which is inclusive of the 20 hours to be completed in the first three months), of which at least 20 hours must comprise actual court or tribunal attendances, with the balance comprising work which otherwise meets the definition of court-orientated work as outlined above; and
  - (c) a minimum of 20 hours in the second six months of readership, of which 10 hours must comprise actual court or tribunal attendances.
19. Rule 3.24 provides that a reader will not receive any fee for this court orientated work.
20. The Administration Rules entitle a reader to sit at the Bar table with their mentor (Rule 3.27), and the mentor shall announce to the court the presence of the reader as a matter of courtesy (Rule 3.29).
21. By Rule 3.19, the senior mentor, in consultation with the junior mentor, may by notice in writing to the reader and the Chief Executive, increase by up to 50 percent, the remaining hours of court orientated work the reader must complete based on "their belief that the reader requires more intensive training". By Rule 3.20, the senior or junior mentor must report to the Chief Executive, in writing, any persistent or inexcusable non-compliance by the reader with the Administration Rules.

#### *Court orientated work: Purpose and further guidance*

22. As a specialist advocate, a barrister's performance in court or before a tribunal requires mastery of discipline, skill and technique. This level of mastery is unlikely to be acquired, to the requisite standard, at law school, as a practising solicitor, or from the Bar Practice Course. An essential part of the readership program is that the reader attend court.
23. Court orientated work does not include work in which a reader is briefed, whether for a fee or pro bono. This reinforces the requirement that the reader attend court as an observer.
24. As a pure observer (and not engaged as a junior), the new barrister may sit, without distraction, and properly listen to and contemplate exchanges between the active participants (experienced barristers, clients or judges/tribunal members) in pre-hearing conferences or hearings, with a view to learning by observation and afterwards, to the extent necessary, discussing those matters observed with their mentors.
25. A rationale for the prohibition on paid work counting towards court orientated work for readership is that it allows new barristers to step outside their comfort zone and grow as practitioners, by learning from experienced barristers in areas of practice in which they may not have previously worked prior to coming to the Bar. It is not uncommon for readers to accept briefs in practice areas that they would not usually work in, particularly in the initial stages of their career at the Bar.



26. It is strongly recommended that readers take the opportunity, to make arrangements to do court orientated work with a mentor or another barrister with greater than 5 years' experience (**senior barrister**) in practice areas outside their areas of expertise.
27. Readers are encouraged to actively engage with their mentors to plan and confirm opportunities to accompany their mentor to court as early as possible in their readership year.
28. It is the expectation of Bar Council that readers maximise the opportunity to develop their advocacy skills, and learn from their mentors and senior barristers, in the completion of their court orientated work. The value of attendance at court is significantly enhanced where:
  - (a) the reader is fully immersed in the matter before the court;
  - (b) the reader has read all the necessary documents before attending court;
  - (c) the reader understands in advance:
    - i. the legal and factual issues in the case;
    - ii. what the mentor proposes to do and why;
    - iii. the purpose of the hearing;
    - iv. the issues in dispute; and
    - v. the approach the mentor or senior barrister plans to take with each witness (if applicable);
  - (d) the reader has had the opportunity to discuss the matter with their accompanying mentor or senior barrister, both before and after court. It is noted that explanation after the event – although useful – is unlikely to teach the reader as much as contemporaneously following the proceedings with the benefit of prior discussions and an understanding of the strategy and tactics involved; and
  - (e) the reader attends conferences during adjournments and after court, if permitted by the instructing solicitor and client.
29. It is recommended that readers consider and plan attendance at a variety of hearing types, particularly to ensure attendance at trials where possible (as opposed to only interlocutory hearings and appeals).
30. It may not always be possible for the reader to attend at the Bar table. If a reader is attending as an observer at the back of the court, the reader should ensure they contact the mentor or senior barrister, and discuss the matter at every appropriate opportunity before, during, and after court.
31. For the avoidance of doubt, the following activities will not be considered court orientated work, as defined in the Administration Rules:
  - (a) viewing online court hearings without further preparation (including reviewing key documents and engaging with a barrister involved in the matter);
  - (b) pro bono work or other work where the reader is briefed;

- (c) settlement negotiations, including Court ordered settlement negotiations;
- (d) mediations, including Court ordered mediations;
- (e) arbitrations, including Court ordered arbitrations; and
- (f) any Court work where the reader is engaged as the junior counsel and/or receiving payment for these services.

Please note that the above list of non-court orientated work activities is not exhaustive. If you are unsure if an activity is considered court orientated work, please check with the Association (readership@qldbar.asn.au).

- 32. The practice of attending court with mentors or senior barristers should not be confined to the readership program, and is strongly encouraged in the early stages of every barrister's career to the extent that their practice permits.

#### *Compulsory Reader Seminars and Essential Reader Program: The Rules*

- 33. Rules 4.7 and 4.11 of the Administration Rules require that a barrister in Queensland must in each Continuing Professional Development (**CPD**) year engage in CPD activities sufficient to earn at least 10 CPD points, including one CPD point in each of the four mandatory categories of: Substantive Law, Practice and Procedure, and Evidence; Ethics and Professional Responsibility; Practice Management and Business Skills; and Barristers' Skills.
- 34. In addition to this mandatory CPD obligation, the Administration Rules require readers are required to undertake such CPD activities as directed by the Chief Executive (Rules 3.21 and 3.23).
- 35. The Chief Executive currently directs readers to:
  - (a) over the 12 month readership program, view a series of short online videos which comprise the [Essential Learning Program](#); and
  - (b) participate in seminars identified by the Chief Executive as [Compulsory Reader CPD](#).
- 36. A reader's completion of the Essential Learning Program and Compulsory Reader CPD will count towards their overarching CPD requirements. For the avoidance of doubt, The Chief Executive's direction is not in addition to a reader's overarching requirement to obtain 10 CPD points in a year.

#### *Compulsory Reader Seminars and Essential Reader Program: Purpose and further guidance*

- 37. The legal education program is designed to supplement the role of mentors and court orientated work prescribed by the Administration Rules.
- 38. The Essential Learning Program is designed by the Association in consultation with the New Bar Committee to support readers, and to ensure that readers have the tools needed to develop and grow their practice at the Bar. Importantly, it was also designed to include content addressing issues identified as relevant to potential complaints and claims of misconduct.
- 39. The Chief Executive identifies Compulsory Reader CPD in consultation with the New Bar Committee, and having regard to the relevance of the content for readers.



40. Brisbane based readers must attend Compulsory Reader CPD in person, which facilitates further development of their relationships with other readers, presenters and more senior members of the Bar. Whilst attendance in person is not required for regional readers, the Association actively engages with members in these regions to ensure there are alternate opportunities, such as the Queensland Regional Advocacy Intensive or the viewing of online CPD at regional locations. Regional readers are encouraged to attend in person, where possible.

#### *Direct Access Briefing: The Rules*

41. Rule 3.1.4 of the Administration Rules prohibits a reader from accepting a direct access brief from a client unless they have obtained the prior written approval of the reader's senior or junior mentor. Such approval must then be submitted to the Chief Executive in writing prior to acceptance of the brief.
42. Supreme Court Practice Direction 20 of 2021, District Court Practice Direction 8 of 2012 and Magistrates Court Practice Direction 20 of 2012 address the issue of Direct Access Briefing. Rules 24A and 24B of the [2011 Barristers' Conduct Rule, as amended](#) (the **Barristers' Conduct Rules**), contain ethical requirements relating to direct access briefs.
43. For the avoidance of doubt, a brief received from anyone other than a solicitor is considered a direct access brief. A solicitor, as defined by the LPA, is an Australian lawyer holding a solicitor's practising certificate. The exception is a Government Legal Officer, who can also be considered a solicitor, without holding a solicitor's practising certificate (refer to section 12(9)(b) of the LPA). Otherwise, for example:
- (a) an in-house lawyer (admitted) of a corporation who does not hold a practising certificate, is not a solicitor and as such a brief received would be considered a direct access brief, and the relevant disclosure rules apply; and
  - (b) pro-bono briefs from an organisation such as LawRight are considered direct access briefs, given the nature of LawRight's involvement, and the relevant disclosure rules apply.

#### *Direct Access Briefing: Purpose and further guidance*

44. The first year of practice has many challenges, and often readers are still finding their feet during this time. To ensure readers are sufficiently supported during this time, the Administration Rules require readers to liaise with their mentors before accepting a direct access brief to ensure:
- (a) the reader is able to properly prepare the case for hearing; and
  - (b) they will be able to take all appropriate action on the client's behalf, in a timely fashion, and in accordance with any rules of practice and procedure, and practice directions made in respect of the conduct of the matter.
45. This restriction ensures that there is a process to guard against readers accepting briefs that are unsuited to them by reason of the subject matter or complexity, or the reader's experience, or the nature of the client in circumstances where there will not be the assistance and involvement of a solicitor who has a duty to the court, or the client's self interest in the outcome.

### **Bar Council's Expectations of Mentors**

46. The Bar Council expects that mentors will, to the extent that it is reasonable:

- (a) instruct the reader in:
    - (i) the art of advocacy;
    - (ii) barristers' work;
    - (iii) the proper conduct of a barrister's practice;
    - (iv) the ethical standards required of a barrister; and
    - (v) how to manage stakeholder relationships and expectations;
  - (b) set aside sufficient time to meet and speak with the reader regularly; at the very minimum, monthly;
  - (c) make arrangements for the reader to attend the mentor in chambers, to be shown and to assist in chamber work from time to time;
  - (d) make arrangements for the reader to appear with the mentor in court as an observer, noting the Bar Council's expectation that readers will maximise the opportunity to develop their advocacy skills, and learn from their mentors and senior barristers, in the completion of their court orientated work;
  - (e) introduce the reader to the mentor's colleagues and assist the reader to build their professional network; and
  - (f) assist the reader meeting their readership program requirements; in particular, the court orientated hours.
47. Mentors are encouraged to attend court, where possible, to see and monitor the performance of their reader. Feedback and constructive criticism following such attendances is valuable and affords the reader important opportunities to enhance or improve their court skills or etiquette.

### **Communication between Readers and Mentors**

48. This section provides guidance on the communication that should occur between the reader and the mentor, as well as the steps that should be taken should something go wrong during the readership year.

#### *Initial meeting*

49. A reader and their mentors should discuss their mutual expectations of the relationship from the outset. Topics that should be discussed include:
- (a) the reader's previous litigation/advocacy experience;
  - (b) expected regularity of communication, preferred method of communication, expected regularity of meetings, convenient meeting arrangements and times for ad hoc queries;
  - (c) any particular concerns the reader may have, or areas in which the reader feels they require further development;
  - (d) having regard to (c) above, suggestions by the mentor for further development of the

reader's skills;

- (e) opportunities, if any, for work to be received from the mentor, or from the mentor's chambers, along with expectations as to payment;
- (f) expectations as to behaviour/conduct in the course of practice;
- (g) how the mentor can support the reader in attending court and conferences as an observer; and
- (h) the approach a mentor will take in the context of the other mentor, including how they will work with that other mentor.

50. Other topics that mentors and readers might like to discuss at the initial meeting include:

- (a) the areas of practice that the reader is interested in developing;
- (b) the likely delay of being paid after commencing work at the Bar and the need to have savings or some other means of supporting oneself after commencing. In this regard, it should be noted that usually there will be little to no income in the first three to six months of practice, but the reader's expenses must be paid. Even if a reader is fortunate enough to obtain work and send out invoices, payment might not arrive for some time. Readers will need sufficient capital so they can gain experience in court with their mentor, undertake devilling, and observe proceedings in court without payment, whilst also ensuring that their expenses are paid; and
- (c) opportunities for the mentor to support the reader in complying with the requirements of the readership program.

#### *Other important topics in the early stages of readership*

51. Other matters which the reader may wish to seek guidance from their mentor on in the early stages of readership include:

- (a) small business requirements and financial arrangements;
- (b) relationships with colleagues and others;
- (c) the importance of maintaining work/life balance;
- (d) ongoing continuing professional development;
- (e) the Professional Standards Scheme;
- (f) business development;
- (g) organising chambers, particularly post readership; and
- (h) court etiquette, such as robing.

#### (a) Small business requirements and financial arrangements

52. The extent to which mentors need to discuss small business requirements with readers will depend on the background and experience of the reader. For those readers with little or no prior small business experience, matters that might be discussed include:

- (a) the need to obtain an Australian Business Number;
- (b) the need to complete Business Activity Statements and make regular payments to the Australian Tax Office (ATO) in respect of both GST and PAYG instalments;
- (c) the importance of setting aside sufficient money to make payments to the ATO, ideally by setting aside money in a separate account whenever the reader receives a payment, and the importance of contacting the ATO before payment falls due if an extension of time to pay is needed;
- (d) the likely costs of practice, including chamber fees, professional indemnity insurance and fees related to membership of the Association including a premium for the Association's Group Life Scheme and levy for the Professional Standards Scheme, and the importance of meeting these and possibly other financial obligations, in a timely fashion;
- (e) the importance of making personal contributions to superannuation as a way of saving for retirement;
- (f) the importance of having a system (computerised or otherwise) to issue and track invoices, funds received, and expenses incurred;
- (g) how to decide upon a rate to charge for work;
- (h) the benefits of having an accountant or bookkeeper to assist;
- (i) the benefits of obtaining appropriate financial planning advice, including about matters such as income protection insurance and trauma insurance;
- (j) appropriate strategies for managing irregular cash flow, including how to manage delays that may occur in receiving payment from solicitors (see 47(b) above);
- (k) the benefits, in some circumstances, on insisting that solicitors have money in trust to cover a reader's fees; and
- (l) the fee recovery assistance provided by the Association.

#### *Disclosure and Billing*

53. It can be useful for a mentor to explain to a reader the requirements of the LPA, the *Legal Profession Regulation 2007* (the **Regulation**), and the Barristers' Conduct Rules, in relation to fee disclosures and the form of invoices (see Part 3.4 of the LPA and the Regulation, and rule 24B of the Barristers' Conduct Rules relating to direct access briefing). It is usual for a mentor to share with the reader the form of fee disclosure letter and invoice usually issued by the mentor.

#### (b) Relationships with colleagues and others

54. Matters that might be discussed include:

- (a) the importance of dealing with honesty, integrity and politeness with colleagues, the court, and other members of the profession;
  - (b) the importance of maintaining a professional reputation as a trustworthy person; and
  - (c) the importance of eliminating sexual harassment, bullying and discriminatory behaviour. The Bar Association of Queensland's [Policy Against Sexual Harassment](#) and its Model Bullying Best Practice Guideline for [chambers](#) and [members](#) (**Bullying Best Practice Guideline**) can be accessed on the Association's website under the Regulation & Protocols tab.
55. The following cases and materials may be useful to discuss, as they explore standards of professional conduct and relationships with colleagues/others:
- (a) *Attorney-General for the State of Queensland v Di Carlo* [2017] QSC 171;
  - (b) *Attorney-General for the State of Queensland v Colin Lovitt QC* [2003] QSC 279;
  - (c) *Bradshaw v Attorney-General for the State of Queensland* [2000] 2 Qd R 7;
  - (d) *Legal Services Commissioner v Fajardo* [2018] QCAT 92;
  - (e) *Legal Services Commissioner v Trost* [2019] QCAT 357;
  - (f) *Civility and Professional Courtesy*: Justice Philip McMurdo, Queensland Law Symposium 21 March 2014; and
  - (g) *Ethics and the Rule of Law*: Martin Daubney SC, North Queensland Law Association Conference 2 June 2007.

#### (c) Maintaining work/life balance

56. While being available to undertake work is particularly important during the readership year, it is important that practising barristers maintain work/life balance, personal relationships and outside interests, take leave, and maintain their physical and mental health. Mentors may discuss these issues with the reader, and assist the reader to develop a strategy to manage the commitments of the readership year with personal commitments.
57. If at any time a mentor suspects that the reader is not coping adequately with the pressure of life at the Bar or issues in the reader's personal life, the mentor should raise this with the reader and, where appropriate, recommend to the reader the professional assistance available from Bar Care.

#### (d) Ongoing continuing professional development

58. Whilst mentors are not responsible for a reader meeting mandatory CPD requirements, mentors should discuss with readers the importance of undertaking CPD, and encourage them to attend a variety of CPD sessions in-person – not just attend the mandatory reader CPD sessions and events, and completing the Essential Learning Program.
59. Where possible, mentors should consider inviting readers to assist them with any presentations/conference papers they may prepare. Further, a mentor might arrange for the reader to assist a mentor's colleague with their presentation/paper.

#### (e) Professional Standards Scheme

60. Mentors are encouraged to discuss with readers the Professional Standards Scheme. The scheme limits private Bar member's occupational liability to a maximum of \$1.5 million in the event that they are sued by a client or a related party, subject to certain conditions outlined in the scheme. Section 34 of the *Professional Standards Act 2004* (Qld) requires that a barrister include on all "business documents" given to a client or prospective client, a statement ("disclosure statement") to the effect that the barrister's occupational liability is limited under the Act. Section 6 of the *Professional Standards Regulation 2017* (Qld), prescribes the following words for the disclosure statement: "*Liability limited by a scheme approved under professional standards legislation*".

#### (f) Business development

61. Mentors should explore with the reader strategies for business development, including contributing to the Association's Hearsay publication, delivering presentations for the Association or third parties, or joining an Association Committee.
62. Mentors may wish to explain to readers the importance of developing a profile, including having an online presence, such as a well-prepared Chambers profile and/or LinkedIn profile. Mentors are encouraged to provide guidance on how they have built their practice, and how they maintain/develop relationships with clients such as solicitors and in-house counsel.

#### (g) Organising chambers

63. Whilst readers are not prohibited from practising from home, new barristers should be strongly encouraged to work within chambers. The philosophy of the readership year is based on a close reader/mentor relationship which is greatly facilitated by the proximity of chambers to court. Further, barristers continually assist one another at all stages of their careers and a new barrister should not let this valuable and essential support pass by.
64. Mentors should also encourage their readers to consider where they will obtain chambers following their readership year, and to take steps to secure such chambers.

#### (h) Court etiquette, such as robing

65. The requirements of each jurisdiction on robing are available on the relevant court website. Where there is uncertainty, readers should consult with their mentors.

#### *Working with both mentors*

66. Whilst it is not necessary for a reader to meet with both mentors at the required meetings, it may be appropriate to have the initial meeting between the reader and *both* mentors to establish how everyone will work together.

#### *Frank and direct communication*

67. Communication difficulties can be minimised by open and direct communication with readers and, in particular, by mentors explaining what to expect. For example, it may be appropriate for mentors to offer forthright criticism of their reader's paperwork or of their reader's approach to a particular problem. Mentors should make it clear that such criticism is intended to be helpful, and readers should accept it in that spirit.

68. If there are matters of concern to mentors - even on apparently trivial issues - they should not hesitate to raise them with the reader. Similarly, readers are encouraged to broach their own concerns about their work or professional relationship to mentors.

#### *What if things go wrong?*

69. Difficulties may arise for many reasons; for example, a mentor may be appointed; may take a long interstate brief with the consequence that the mentor is not able to assess the reader's capacity nor provide effective mentorship; or the reader and mentor may have a personality clash. It is not expected that readers or mentors will complete the year if the experience will be unproductive or distressing to either party.
70. Should either party regard the difficulties in the reader/mentor relationship as significant, they must first raise the issue directly with the reader/mentor. Additionally, the following avenues may be pursued to resolve these difficulties:
- (a) raising the issue with the Head of Chambers or a senior member of the floor for their advice and/or conciliation;
  - (b) raising the issue with one of the senior counsel listed in the [New Bar Support List](#);
  - (c) raising the issue with a Bar Council member or a member of the New Bar Committee; or
  - (d) if either the reader or the mentor has adopted the Bullying Best Practice Guidelines, engaging with the procedures in those guidelines.
71. In the event that the steps recommended are unsuccessful to resolve the difficulties, the reader and/or mentor should contact the Chief Executive of the Association. In exceptional circumstances, the Chief Executive may give approval to the reader to be reallocated to a new mentor nominated by the reader; the new mentor must be prepared to assume the role.

#### **Program of Instruction**

72. Many mentors take the view that there are certain texts and materials that every new barrister should be reading during the readership year, regardless of previous studies of the subject. A mentor might compile a list of leading authorities on basic topics (such as certain rules of evidence, the setting aside of subpoenas, legal professional privilege and so on), which should be read. The list of authorities and topics will depend on the views and fields of practice of the mentor and the reader.
73. Such reading may provide the basis for a program of instruction, of particular value in the first few months of the readership year. An example of such a program of instruction appears in [Appendix 1](#) of this document; although, of course, ultimately the mentor and reader should together determine whether it is essential or desirable that they follow this or a similar program of instruction.
74. The topics and issues covered in the program of instruction may also serve as a guideline or checklist for discussion and monitoring during the readership year for those mentors or readers who may prefer a less structured arrangement.

## Junior Work and Devilling

75. This section provides guidance on how readers and mentors can work together during the readership year. It also discusses the challenges that may arise and how mentors can assist readers with such challenges.

### *Preparation of drafts of pleading, affidavits or advices*

76. A critical part of readership is instruction and practice in the settling of pleadings, affidavits and other litigious documents, in the preparation of written advices, and in 'devilling' generally. It may not be practicable for the reader to prepare a draft in every case, but subject to this limitation, it is desirable for the reader to prepare a first draft of some of the pleadings, affidavits and advices which the mentor is briefed to settle or provide. Readers should also be encouraged to undertake legal research in the preparation of advices and in preparation for the mentor's court appearances.
77. The fact that both mentor and reader are contemporaneously concentrating on the same matters means that the reader's draft can be efficiently assessed by the mentor. It is one thing for readers to be told how to draft something as a theoretical exercise; it is another for them to compare their own draft in connection with a current brief with the work of their mentor on the same matter, and to have the benefit of their mentor's feedback on the draft. It may be of assistance for readers to maintain diary notes of work exercises undertaken together with a summary of their mentor's comments.
78. Review and correction of a reader's draft should be accompanied by discussion of it. The reader will benefit from the comparison of their work with the mentor's work, where the mentor explains why changes are made and the mentor's approach to the legal problem at hand.

### *Devilling*

79. There may be different expectations between mentors and readers, as to when, if at all, payment will be made for work performed by readers (i.e. devilling). This can create tension in the relationship. It is imperative that mentors discuss with their readers at the outset the basis and timing of payment.
80. No rigid rule can be laid down. Readers are not unpaid legal or research assistants. On the other hand, readers must not expect to be paid for all the work that they undertake for their mentors. Whatever approach is adopted, it is better that the reader and mentor understand and accept the ground rules at the outset.
81. In respect of some work which the mentor gives the reader to do, the mentor could do it to a higher standard and in less time. The work is often given for the reader's benefit, not for the benefit of the mentor.
82. Often a balance must be struck; that is, instances where the reader will not charge all of the time taken to complete the work, but nevertheless, it is important that the reader be remunerated for work that is of value. What is essential is clear communication between the mentor and reader to avoid confusion or disappointed expectations.
83. In this connection, two points should be noted. First, the Barristers' Conduct Rules:



(a) Rule 16 provides:

A barrister must be a sole practitioner, and must not:

- (a) practise in partnership with any person;
- (b) practise as the employer of any legal practitioner who acts as a legal practitioner in the course of that employment;
- (c) practise as the employee of any person;
- (d) be a legal practitioner director of an incorporated legal practice; or
- (e) be a member of a multi-disciplinary partnership.

(b) Rule 107 provides:

A barrister will not have breached Rule 16 by carrying out a specific task of research or chamber work given to the barrister by another barrister, or by giving such a task to another barrister, so long as:

- (a) the barrister who was briefed to do the chamber work takes full personal responsibility for the work,
- (b) the work is delivered under the name of the barrister who was briefed,
- (c) the arrangement between the barristers does not go beyond an ordinary devilling or reading arrangement and in particular does not involve any standing retainer or employment terms, and
- (d) the arrangement between the barristers does not provide and is not intended to enable the barrister giving the task to make a profit from the other barrister's work, over and above reasonable remuneration for supervision of and responsibility for the other barrister's work.

84. Second, pursuant to section 309 of the LPA, where a barrister is retained by solicitors to act on behalf of a client, the barrister is required to disclose to the solicitors (among other things) the basis on which legal costs will be calculated. The Association provides a [template costs disclosure agreement](#) for members only, to be used in the barrister-solicitor briefing arrangement (not for direct access briefing arrangements). It is also relevant to note the disclosure requirements set out in section 308, noting that the definition of "law practice" in Schedule 2 of the LPA includes a barrister. This becomes particularly relevant in the case of a direct access brief, in which case the barrister-client cost disclosure obligations go beyond those outlined in section 309, requiring the more extensive disclosure provided for in section 308.

#### *Challenges of junior work*

85. Traditionally, readers are warned that income in the first year or two may not be high because of the nature of the work available. New barristers are naturally anxious to begin to earn a good income at the earliest possible opportunity.

86. Mentors ought to have a frank discussion with their readers as to the likely opportunities, which may arise during the year for the reader to be briefed as the mentor's junior.

87. Mentors should also keep a general eye on the nature of work the reader is undertaking to ensure it is at an appropriate level. By way of example, a reader may be particularly vulnerable to the lucrative offer of a brief to undertake the task of document discovery. This may take up months, if not all, of the readership year. Whilst it is cost effective for a firm to employ a junior barrister rather than a solicitor for this task, this type of work is not, in the long term, helpful in developing advocacy skills or a practice. It may preclude opportunities for a variety of court experiences and can result in lack of contact between mentor and reader.
88. It is suggested that the mentor raise with their reader at an early opportunity common challenges which arise in undertaking junior work – particularly for readers, including but not limited to:
- (a) how to deal with last minute ‘flick’ briefs e.g., strike out applications or minor interlocutory applications;
  - (b) settling disputes and drafting consent orders;
  - (c) undertaking pro bono work and/or duty barrister work;
  - (d) the care required in undertaking direct access work, including to make the additional requisite disclosures, and remembering the requirement in relation to a reader accepting a direct access brief pursuant to Rule 3.1.4 of the Administration Rules;
  - (e) dealing with absent solicitors in witness conferences/at court;
  - (f) juggling multiple mentions in different courts; and
  - (g) chasing payment.

### **Behaviour at the Bar**

89. It is imperative that both mentors and readers are aware of the behaviour that is required of them as members of the Bar. Below is a brief summary of the relevant rules, regulations and guidelines. Whilst the onus is on the reader to familiarise themselves fully with these rules, regulations and guidelines, mentors should also educate readers as to the behaviour that is expected of a barrister.
90. All barristers are expected to treat their colleagues at the Bar with professionalism, dignity and courtesy.
91. If for some reason that expectation is not being met within the reader/mentor relationship, the relationship may deteriorate. It is best to raise any issues early before they escalate and affect the long-term relationship between reader and mentor. As discussed at [67], there are avenues available to both a reader and mentor to address any issues that may arise in the relationship. The path chosen will largely depend on the nature and circumstances of the issue.
92. Readers and mentors are reminded that Rule 12 of the Barristers’ Conduct Rules provides that a barrister must not engage in conduct which is dishonest or otherwise discreditable to a barrister, or is likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute.
93. Regardless of whether a Chamber group has adopted the Bullying Best Practice Guidelines, if a

reader or mentor experiences discrimination, sexual harassment or workplace bullying, they are encouraged to raise the matter informally or formally with the Association to have the matter resolved (see [67] for further guidance). Additionally, it is noted that there are protocols at each of the Queensland Courts which provide for informal procedures in relation to judicial conduct.

94. It is also important to note that the *Work Health and Safety Act 2011* (Qld) (WHS Act) applies to Barristers' workplaces.

## Conclusion

95. The role of the mentor in the reader's first year at the Bar is a significant and unique one. While readers will have different and individual requirements for supervision and guidance, the key objectives of mentorship are to provide readers with education and support.
96. This places a serious responsibility on those who are prepared to accept the role of mentor. Mentors must recognise and accept the responsibility they assume when they agree to take on readers. But long experience at the Bar has demonstrated that the relationship of mentor and reader is usually a mutually rewarding one that is sustained following the conclusion of readership.
97. The issues that arise during the readership year will be many and varied. It is not possible to anticipate in these Guidelines all the aspects in relation to monitoring and guidance that mentors may encounter. However, in recognition of the importance of the relationship, frequent and transparent communication, as well as dealing with challenges at an early stage, will facilitate the reader's successful introduction to the Bar.
98. Finally, mentors and readers should also be aware that if things go wrong, or look as if they may go wrong, during the readership year, help is readily available and they should discuss the issues and seek the advice of senior members of the profession.
99. It is hoped that these Guidelines will assist readers and mentors to establish and maintain a productive relationship.

## Version Control

Version	Date	Approved
1.0	August 2020	Kelsey Rissman, Chief Executive New Bar Committee
1.1	March 2022	Kelsey Rissman, Chief Executive New Bar Committee
1.2	April 2023	Kelsey Rissman, Chief Executive New Bar Committee

## Appendix 1 | Suggested Program of Instruction

### *Introduction*

1. The program set out below is intended as a resource for those who may appreciate a pro-forma structure for the readership year. The program sets out the range of issues to be addressed at regular meetings.
2. The reading/watching list and suggested program topics below may also serve as a guide or a checklist for discussion and monitoring development during the readership year for those mentors or readers who may prefer a less structured arrangement.
3. The topics listed below are in addition to the topics mentioned in paragraphs [45] to [62] above.
4. Arranging these meetings is the reader's responsibility.

### *Background Reading/Watching*

5. Before starting the readership year, readers should endeavour to read:
  - Back to Basics columns written by Kylie Downes QC (now the Hon. Justice Kylie Downes, Federal Court of Australia), published in the Queensland Law Society's Proctor magazine.
  - Fundamentals of Trial Technique, 4<sup>th</sup> edition by Les McCrimmon and Thomas Mauet (2018).
  - Advocacy in Practice, 6<sup>th</sup> edition by James L Glissan QC (2015).
  - "Advocacy" lecture delivered by Murray Gleeson QC in (1998) 17 Aust Bar Rev 9-13.
  - Evidence and Advocacy by A Wells (1987) Law Book Company.
  - Making Your Case: The Art of Persuading Judges by Antonin Scalia and Bryan A. Garner (2008).
  - Effective Written Advocacy by Andrew Goodman (2nd ed) Wildy Simmonds and Hill Publishing.
  - ["Cross-examination Basics" by Simon Couper QC.](#)

### *Initial Meeting*

6. In the initial meeting with your mentor, readers should discuss the following (see paragraphs [45] to [61] above for more information):
  - Reader's litigation and advocacy experience;
  - Proposed meeting times and regularity;
  - Methods of communication;
  - Areas for development;
  - Expectations;
  - Professional and ethical conduct;
  - Opportunities to obtain court orientated work;
  - Areas of practice;
  - Delays in payment of invoices, and related processes;
  - Compliance requirements, including CPD, Professional Standards, audit, and professional conduct;
  - Chambers;
  - Business development; and
  - Court etiquette.

## *Suggested program topics*

### (a) Finance and fee books

- Small business and financial arrangements (see [49]);
- Keeping a separate account through which ALL income is banked, and nothing but income;
- Establishing a practice of putting money aside to meet tax liability;
- Record keeping, including keeping a file of receipts for all deductible expenses;
- Retaining an accountant early;
- Manner and detail for recording time in matters where fee is on a time cost basis to determine how to keep track of time spent on work, invoices rendered and when paid. This may include the application of one of the various practice management software applications available for barristers such as SILQ, Bar Books, and Verdict; and
- Making yourself accountable and recording your success - prepare a spreadsheet which is completed weekly recording your fees billed and the fees recovered each week and set yourself a budget each year.

### (b) Fee disclosure

- Appropriate rate;
- How to estimate fees;
- Timely provision of fee agreements; and
- Content of fee agreements.

### (c) 2011 Barristers' Conduct Rules, as amended

- Professional and ethical standards;
- Cab-rank rule;
- Various duties; and
- Integrity of evidence.

### (d) Directions hearings/applications

- Preparing for and attending directions hearings;
- Preparing for and appearing in applications;
- What is the underlying dispute;
- What interlocutory orders are sought;
- Understanding/appreciating/anticipating other side's position;
- What evidence has been served;
- What evidence is missing;
- Admissibility of the evidence;
- Identify key authorities;
- Written submissions;
- Speaking notes;
- Have bundles prepared for Judge and opponent(s) and solicitors; and
- Practice directions.

### (e) Relationships with solicitors

- How to build relationships;
- Role is to be helpful and to add value;
- Workload;
- When it is appropriate to decline a brief;

- Communications in court;
- Reporting on outcome of hearing;
- Not taking on more than one brief for a day unless there is a sound basis for being confident that they won't be called on at the same time in different courts; and
- Note taking and keeping records.

(f) Relationships with other barristers and attending court

- Honesty, integrity and politeness with colleagues, the Court and other members of the profession;
- Professional reputation;
- [Policy against Sexual Harassment](#);
- Bullying Best Practice Guidelines;
- Communications “without prejudice”/ “without prejudice and without instructions” / status of “counsel to counsel” discussions;
- *2011 Barristers’ Conduct Rules*, as amended;
- Email communication with opponents and the court; and
- Devilling – agreement about fee, time, deliver product on time, do the job properly rather than just doing the job.

(g) Rule in *Browne v Dunn*

- Consider: What is the rule? Is it a rule of law? What are the consequences of not complying? What are the different ways of complying?
- How to engage with witnesses - undesirability of “I put it to you that ....”, preferability of other forms such as “could it be that ...”; and
- Need to identify matters to put to opposing witnesses before going to court, and to check before sitting down that you have complied.

(h) Conferences with clients and witnesses

- *2011 Barristers’ Conduct Rules*, as amended;
- Have a solicitor present;
- Taking instructions on a significant issue in the litigation, e.g. settlement, inconsistencies in a prior account;
- Use the pre-trial conference to ask non-leading questions to elicit the client’s or witness’ account (rather than reciting the affidavit or statement back to the witness);
- Not leading or suggesting what the answers should be;
- Let the witness answer the question; and
- Note taking and keeping records.

(i) Preparing a case

- Reading and marking up the brief;
- Diary management and recording deadlines;
- Importance of chronologies and preparation when reading the brief;
- To-do lists;
- How to keep a record of questions and matters to be followed up (arising from reading the brief);
- Pleadings and a pleadings matrix;
- Evidentiary matters – advice on evidence / evidence matrix;
- Keeping a folder for key documents;

- Organising documents likely to be needed in court and essential documents such as pleadings and submissions;
- Organising documents to be tendered;
- Organising documents needed for witnesses (in chief and cross-examination);
- Summary folders;
- Speaking notes; and
- Use of technology.

#### (j) Court Processes

- UCPR requirements;
- 2011 *Barristers' Conduct Rules, as amended*;
- Pleading fraud;
- Strike-out applications (making and responding); and
- What does the affidavit need to say?

#### (k) Examination-in-Chief

- How to ask the questions in chief;
- Identify the witness' strong points of recollection in conference. Use those in evidence as a framework, and "back fill" the details around them;
- When it may be appropriate to seek opponent's agreement to lead some aspects of examination in chief (i.e. where uncontroversial, or inquiries to avoid witness revealing sensitive inadmissible information or breaching suppression orders in open court);
- Use of documents;
- Refreshing memory;
- Organising material; and
- Use of technology.

#### (l) Objections

- Written objections;
- Anticipating objections that may be made by or against you;
- Preparing submissions and bundle cases for objections;
- When appropriate to be made;
- What objections need to be taken (to preserve position in the event of an appeal);
- Article – the taking of objections to evidence: *Glissan JL, (1988) 82 ALJ 370*; and
- *Evidence Act (Qld)*.

#### (m) Cross-examination

- How to prepare for cross-examination;
- Use of documents;
- Organising material;
- What not to ask;
- What has to be asked; and
- Use of technology

#### (n) Re-examination

- Limits of re-examination; and
- Effective re-examination.

#### (o) Privilege

- Identify the basis upon which privilege may apply to documents produced prior to the final hearing. Explain the difference between joint privilege and common interest privilege, and the scope of each;
- When and how does the privilege against self-incrimination arise;
- If issues of self-incrimination arise, when and how to make an application should be made to modify pleading rules and disclosure obligations; and
- When can material of settlement negotiations be relied upon in court?

#### (p) Working with senior counsel

- Preparing cases;
- Key documents;
- Key facts;
- Working as a team;
- Do work on time;
- Do the job properly versus just doing the task;
- Don't be a passenger;
- Drafting submissions;
- Drafting speaking notes; and
- Organising material.

#### (q) Pro bono work

- Opportunity to:
  - work on different types of matters;
  - appear unled; and
  - establish connections with solicitors;
- Option to register with pro-bono institutions and the type of work: LawRight, Community Legal Centres/Services, Women's Legal Service etc.;
- Rules on direct access briefings for readers; and
- Distinction between pro-bono and conditional fee work/costs agreements: see s 323 *Legal Profession Act 2007* (Qld).

#### (r) Criminal law

- Awareness of summary jurisdiction / committal procedure;
- Circuit court expectations and etiquette;
- Case conferencing and negotiations;
- Key forms and charge documents;
- Supreme and District Court Benchbook directions;
- Magistrates Court Criminal Benchbook;
- LAQ Duty Lawyer handbook;
- Jurisdiction guides/ matrices;
- *Youth Justice Act 1992* (Qld);
- Prosecutorial guidelines ODPP and PPC;
- Carter's Criminal Law of Queensland, 22nd Edition; and
- Ross on Crime, 8th Edition.



(s) Family/ Guardianship Law

- Awareness of draft orders and templates in family law matters;
- Call over and hearing procedures in the Children’s Court of Queensland;
- Negotiations with government Departments in Child Protection matters;
- Taking instructions and negotiating in parenting and property applications;
- Family Law, 6th Edition, Anthony Dickey QC;
- *Human Rights Act 2019*;
- Children’s Court Practice Directions; and
- Family and Federal Circuit Court Practice Directions.

(t) Personal injuries and speculative fees

- Managing your role - lawyer vs social worker/doctor;
- Preparing for the emotional burden of acting for individuals vs corporate entities;
- Managing cashflow whilst working with speculative fee arrangements;
- Duty to client overrides timely recovery of fees;
- Speculative fee arrangements and appropriate uplifts;
- Managing client expectations;
- Recording fees and rendering speculative bills;
- When to bill for speculative fee arrangements;
- The highs and lows of speculative work; and
- Ensuring instructing solicitors are recording any oral advice given.

(u) Be happy and have fun

- [Bar Care Resource Centre](#) and [Bar Care Panel](#);
- [The Wellbeing Conversations](#);
- Work and family;
- Turning devices off when at home / do not disturb;
- Holidays;
- Communicating with spouse / partner about coming work commitments; and
- Coping with stress.