



The Law Society
OF SOUTH AUSTRALIA

Guide to MCPD Compliance Audit

1. The MCPD Scheme

- 1.1 The Mandatory Continuing Professional Development (MCPD) requirements for practitioners holding South Australian practising certificates are set out in Division 3 and Appendix C of the *Rules of the Legal Practitioners Education and Admission Council 2018* (LPEAC Rules 2018).
- 1.2 Practitioners seeking to renew their SA practising certificate are required to satisfy the Society that they have complied with the MCPD requirements applicable to them. For annual renewals, this is done by completing and lodging an MCPD Certificate of Compliance at the end of the preceding MCPD period. The Certificate of Compliance is a simple declaration in which the practitioner states that they have complied with their MCPD requirements. Practitioners are not required to provide independent proof of compliance at that stage.
- 1.3 Compliance in this context does not only refer to satisfying the requirements with respect to the number and type of MCPD units completed. Practitioners holding practising certificates must also comply with their record keeping obligations as set out in paragraph 4 of Appendix C of the LPEAC Rules 2018 which states:
 - 4.1 *An individual legal practitioner must, in respect of each CPD year, maintain and retain for 3 years after the end of that CPD year:*
 - (a) *a written record of CPD activities undertaken and of CPD units completed and of any activities undertaken pursuant to a condition imposed by the Board pursuant to sub-rule 14(b)(1);*
 - (b) *material indicating the nature of each CPD activity undertaken and of any activity undertaken pursuant to a condition imposed by the Board pursuant to sub-rule 14(b)(1);*
 - (c) *a record of the fact that the practitioner undertook each such activity.*

Information about the MCPD Scheme can be found at
www.lawsocietysa.asn.au/mcpd.

2. Limits on certain forms of CPD activity

- 2.1 The LPEAC Rules prescribe limits in respect of certain types of CPD activity, as follows:
 - 2.1.1 Viewing or listening to material for, a multi-media, web-based or recorded program** – maximum 5 CPD units per MCPD year.
 - 2.1.2 Preparing material for any seminar, workshop, lecture, conference, educational program, course, discussion group or a multi-media, web-based or recorded program – maximum of 4 CPD units per MCPD year.
 - 2.1.3 Publishing, or substantively editing or refereeing an article in a legal or non-legal publication – maximum of 5 CPD Units per MCPD year.
 - 2.1.4 Regular attendance at meetings, and participation as a member, of a committee or other body undertaking work of substantial significance to the practice of the law and which is reasonable likely to assist the attendee's professional development – maximum of 5 CPD units per MCPD year.
 - 2.1.5 The maximum limits are pro-rata reduced for part-year practising certificates. See further [here](#).
- 2.2 **Please note: where a practitioner can participate interactively with the presenter, e.g. Webinar – such activity will be considered as an 'attendance' for the purposes of Appendix C, Clause 1.2(d)(i) of the LPEAC Rules 2018.

3. MCPD Audits

- 3.1 The Society conducts an MCPD Audit annually. The purpose of the MCPD Audit is to both check levels of compliance and to monitor the effectiveness of the MCPD Scheme. The MCPD Audit is carried out by an appointed Audit Officer. The Audit Officer reports to the Director (Ethics and Practice) (Director) for the purpose of MCPD Audits.
- 3.2 The MCPD Audit is performed on a sample of practitioners who held practising certificates in the relevant year. The sample comprises practitioners who have been both randomly and specifically identified. Specifically identified practitioners will include:
 - 3.2.1 Practitioners who filed with MCPD Certificate of Compliance after the 14 April deadline in both of the previous two CPD Years; or
 - 3.2.2 Practitioners who have completed rectification of MCPD non-compliance in both of the previous two CPD Years (Appendix C, LPEAC Rules 2018, Appendix C, Clause 7); or
 - 3.2.3 Practitioners who were referred to the Board of Examiners or Legal Profession Conduct Commissioner in the previous CPD Year.

- 3.3 All practitioners selected for MCPD Audit are required, pursuant to paragraph 4.2 of the LPEAC Rules 2018, to provide the Society with evidence of MCPD compliance (supporting documentation) for the relevant period. Paragraph 4.2 states as follows:
- 3.3.1 An individual legal practitioner must provide to the Law Society within 14 days of receipt of a written request for information about and/or evidence of the practitioner's compliance with his or her obligations under this Appendix in respect of any CPD year within the previous 3 years as specified in the request.
- 3.4 Practitioners who, in the opinion of the Audit Officer, fail to demonstrate compliance with MCPD requirements and/or with a request for supporting documentation may be the subject of a referral to the Ethics and Practice Committee for consideration of whether practising certificate conditions should be imposed and/or whether a report is required to be made to the Legal Profession Conduct Commissioner pursuant to section 14AB(1)(c) of the *Legal Practitioners Act 1981*.

4. Supporting Documentation

- 4.1 Practitioners selected for MCPD Audit are required to provide the Audit Officer with supporting documentation that evidences completion of the required MCPD units and compliance with record-keeping requirements. The following supporting documentation **must** be provided:
- 4.1.1 Independent proof of attendance at/completion of each activity.
- 4.1.2 Independent evidence of the nature of the activity, content and experience level/target audience, sufficient to distinguish between a claim of ordinary or 'required' MCPD units.
- 4.1.3 Independent evidence sufficient to allocate the number of MCPD units.
- 4.2 Any live event attended through the Society, either in person or online, does not require supporting documentation as the Society automatically allocates CPD units to the practitioner's MCPD record.
- 4.3 Any other CPD activity completed through the Society which is not a live attendance e.g. purchasing and watching a pre-recorded webinar or delivering a paper etc, will require supporting documentation as the Society does not automatically allocate CPD units to the practitioner's MCPD record. Such activities should therefore be treated like any CPD activity not completed through the Society.
- 4.4 Travel documents and calendar entries are not accepted as supporting documentation. Proof of registration does not comprise proof of attendance/completion.
- 4.5 The Audit Officer may require other forms of supporting documentation if the above evidence is not sufficient to confirm compliance or is not reasonably available to the practitioner being audited.
- 4.6 The following table provides examples of the various supporting documentation that may be accepted for each type of activity at the discretion of the audit officer.

Type of activity	Examples of Supporting Documentation
Attendance at a seminar, workshop, lecture, conference, educational program or course or discussion group.	• Copy of provider's sign in sheet evidencing attendance (names of other attendees to be redacted); and • Copy of the provider's promotional material/programme evidencing content** and duration (this alone is not sufficient to confirm attendance); and • Invoice for receipt / payment (this alone is not sufficient to confirm attendance); • Certificate of attendance/completion issued by provider (this must confirm content and duration); or • Letter from provider confirming attendance, content and duration.
Presenting material for a seminar, workshop, lecture, conference, educational program or course or discussion group	• Copy of the provider's promotional material and/or programme evidencing content and duration; or. • Letter from provider confirming engagement, attendance, content and duration; and • Copy of the presentation.
Viewing or listening to material for, a multi- media, web-based or recorded program	• Proof of purchase or borrowing of material with sufficient information to confirm content and duration; and • Screenshots of completion confirmation; or • Notes taken by the practitioner while engaging in the activity.
Preparing material for any seminar, workshop, lecture, conference, educational program, course, discussion group or a multi-media, web- based or recorded program	• Copy of the material prepared; and • Confirmation from provider of provision of the material, content and length or other information necessary to allocate number of units.
Publishing, or substantively editing or refereeing an article in a legal or non-legal publication	• Copy of the published article including the word count.

Regular attendance at meetings, and participation as a member, of a committee or other body undertaking work of substantial significance to the practice of the law and which is reasonable likely to assist the attendee's professional development.	• Extract of Minutes evidencing attendance, nature of meeting content and duration (all confidential information to be redacted); or • Written confirmation from Chair or presiding members of attendances, general content and duration.
<i>**Content refers to title of session, type and number of units, claimed</i>	

- 4.7 The Audit Officer is not responsible for obtaining material from third parties. The practitioner being audited is responsible for the collection and provision of all supporting documentation.
- 4.8 Practitioners who rolled over excess MCPD units from one MCPD period to the next must provide supporting documentation in relation to the rolled over MCPD units clearly evidencing that sufficient MCPD units, including 'required' units, were obtained prior to the points being rolled over to the following year.

5. MCPD Audit Process

- 5.1 Practitioners selected for audit will be notified by email.
- 5.2 Practitioners will be given 14 days within which to complete and submit the online form and upload their supporting documentation.
- 5.3 A failure to comply may form the basis for a referral to the Ethics and Practice Committee. Requests for an extension of time must be made by email to the Audit Officer at the earliest opportunity, along with the reason(s) for the extension. Requests for extension of time made after the 14-day period has expired will not be granted unless the Audit Officer (after consultation with the Director) is satisfied that there are reasonable grounds (such as illness) for granting the extension.
- 5.4 The online form and all supporting documentation must be presented in a clear and logical manner and be legible. The activities and supporting documents must be clearly referenced so there is no doubt as to which documents are relevant to which activities.
- 5.5 Supporting documentation which in the opinion of the Audit Officer is not presented appropriately, or is insufficient, will be returned to the practitioner. The practitioner will then be given an additional 14 days within which to provide the necessary supporting documentation in the required format.
- 5.6 The Audit Officer will determine whether, in their opinion, there is insufficient evidence to confirm compliance and will inform the practitioner accordingly.
- 5.7 The Audit Officer will refer all instances of insufficient evidence to the Director.

Date of implementation: 8 August 2019

Date of last review (at least every 12 months): 18 August 2026