ANNEXURE B

(formerly Annexure D in GG 43192 of 3 April 2020, later amended and published in GG 43981 of 11 December 2020)

PROGRAMME OF STRUCTURED COURSE WORK

NORMS AND STANDARDS : REGULATIONS 6 (11) AND 7 (10): AMENDED IN APRIL 2023

(Published in Government Gazette 41879 on 31 August 2018 under section 109 (1)(a) of the Legal Practice Act 28 of 2014)

	ALL FORMS OF LEGAL PRACTICE SECTION 34				
Subject and curriculum	**Outcomes**	**Remarks**	[1]	[2]	[3]
1 Taking Instructions and Obtaining a Mandate **Content**: This course starts with FICA and CPA compliance. An explanation why a client is entitled to an estimate of fees and disbursements. Reference to tariffs of fees and templates for making fee assessments. How to prepare for a first consultation. How to conduct a first consultation. How to contextualise a client's problem. How to arrange follow up consultations. The importance of first obtaining all the relevant facts. How to sequence facts and documents. How to obtain relevant documentation. How to listen to a client without interrupting.	Expected Outcomes The candidate must understand the following: a) What to do to prepare for a first consultation with a potential client. b) What are the basic compliance requirements? c) How to carry out the first interview or consultation. d) How to go about taking instructions. How to obtain the relevant facts. e) Techniques in carrying out a consultation. f) An understanding of applied research as opposed to academic research.	Note to Trainer This module contemplates training on a practical level. Candidates must know **what to do, why we do and how to do it**. An assessment of the candidates will take place through both formative and summative assessments. Candidates will have to score a minimum of 50% to pass an assessment.	**5**	**2**	**7**

[1] **Minimum contact hours**
[2] **Assignments**
[3] **Notional hours**

How to ask relevant questions to bring out the facts. How to structure questions. Why leading questions must be avoided. When to write letters and when not to write letters. How much detail to include in a letter and what type of detail. How to avoid precedents of letters based on adversarial language and why. An introduction on how to carry out legal research. Where to find the law. How to find the law quickly. How to use annotations effectively. How to use electronic Law reports and, in particular how to use annotations to reduce research time. What is meant by: "the best statement of the law is to be found in the most recent decision of the highest court."	g) How to use the available research tools. How to do research in an effective and efficient manner. h) Candidates must be up to date with Constitutional Court and SCA decisions to within seven days of their first consultation with clients. i) When writing their exams or doing orals, candidates must be up to date with Constitutional Court and SCA decisions **to within seven calendar days of the most recent decision of each court**.				
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
2 <u>Plain Language Writing and Analytical Thinking</u> **<u>Content:</u>** A sensitive assessment of English language competency needs to be done. What is plain language writing: why plain language is relevant to lawyers:	<u>Expected Outcomes</u> The ability to write well is an essential skill. The following is expected of candidates: a) Candidates must write in plain English on their own. They must **not** become slaves to precedents.	<u>Note to Trainer</u> The module is extremely important: an effort has to be made to improve literacy skills amongst candidates. Principals and pupil masters must be aware of their roles in this.	**5**	**2**	**7**

and, how to achieve writing in plain language. A short course on writing skills to cover grammar, syntax, sentence construction, punctuation and vocabulary. Assistance with comprehension skills. Introduction of a compulsory reading programme. All candidates and pupils are required to read at least one book, of their own choice, per month throughout the period of the PVT contract. Principals and pupil masters must ensure compliance. Candidates must be encouraged to write on their own without copying and pasting from office precedents. <u>Problem Solving</u> An explanation of how to analyse a legal problem. How to think like a lawyer. How to apply logic. How to find solutions to legal problems. Critical thinking: What is critical thinking? How to apply critical thinking. How to apply the law to the peculiar facts of one's case. How to understand fact in the context of the client's needs. How to use AI, like ChatGPT as a tool to assist drafting contracts, pleadings and documents without losing personal agency.	b) After the PVT contract is completed, there must be a demonstrable improvement in the candidate's literacy skills. c) During PVT contracts, candidates must be encouraged to develop a culture of reading and writing, not cutting and pasting. d) Candidates must demonstrate the ability to write as a lawyer without *sounding* like one. Candidates must not use jargon or "legalese". e) Candidates must understand that plain language writing is good legal writing. f) Candidates must understand how to approach a legal problem. They must grasp that the facts are the most important: only then should one consider the law. g) An understanding of how to gather the known facts and analyse them is an essential skill. h) The candidate must understand that first the facts have to be obtained, then the matter can be contextualised as to the area of the law that is applicable. i) Candidates have to understand that any legal solution must be supported by the facts of the case.	An experienced English teacher must present the plain English writing module. The module must have writing and reading assignments from the outset: one book per month. Principals and pupil masters must monitor candidates from the outset. Assessment of writing skills needs to take place throughout the PVT contract. The final assessments will include the ability to write. Experienced practitioners (at least seven years' experience in practice or a comparable level of expertise) must explain the concept of how to understand a legal problem: how to analyse and contextualise the problem. Then follows the method of finding answers for a client with reference to the facts and the law. Writing involves thinking. There is a method in this. Candidates must apply their minds before putting pen to paper. This must be taught during the first month of the PVT contract. **NB**: Candidates cannot expect to pass exams and assessments if they are unable to write properly due to poor literacy skills.			

Understand what the mantra **<u>Facts first</u>**: **<u>law later</u>** means and how to apply that approach in practice.					
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
3 <u>Drafting Legal Documents – Pleadings and Motions</u> **<u>Content:</u>** <u>Managing Fact:</u> a) How to obtain relevant facts. b) What are the sources of fact. c) Obtaining documents including electronic documents. How to preserve documents. d) Obtaining witness statements. e) Carrying out *in loco* inspections if necessary: how to record the evidence. f) How to obtain and preserve relevant exhibits: what exhibits are and what is visual evidence and how to use it. g) The explanation above is required **before** any papers are drafted. <u>Analysing Fact.</u> a) Candidates must understand what to do after gathering the facts. b) Candidates must learn, at the outset, to sequence all the facts and documents. c) Candidates must be able to analyse facts on the basis that only relevant facts must be retained and presented at a hearing; only facts that are	<u>Expected Outcomes</u> Candidates will know the following: a) Candidates must understand the skills listed in the content column. They are not expected to be expert drafters already. b) Candidates must be able to recognise the procedures and be able to assist in dealing with cases under the supervision of principals and pupil masters. c) Candidates will be subjected to both formative and summative assessments. d) Candidates will know how to analyse three sets of affidavits in motion matters. e) Candidates will know how to grasp findings of facts on affidavits, including the *Plascon-Evans* test. f) Candidates will know how to bring an interdict [as part of the case studies]. g) Candidates must know what a provisional or interim order is and when to apply for one; as compared to a final order in motion proceedings.	<u>Note to Trainers</u> Note: for this module we expect the trainers to have at least 7 to 10 years of practical experience or a comparable level of expertise in all areas of dispute resolution and litigation in particular. When assessing assignments, assist by correcting the faults and ask the candidate to redraft; in this way there will be some skills transfer. Remember to explain managing facts before allowing candidates to start drafting pleadings. Explain that the sequence of facts forms the crux of chronologies needed in terms of Directives in many Courts. Candidates must be able to draft a chronology document.	**5**	**2**	**7**

admissible, in terms of the rules of evidence, can be relied on. Further, candidates must understand that any version of facts they intend to rely on, must be probable in relation to the circumstances of the case. d) Candidates must learn, early in their careers, that they cannot go to court with a version that is improbable or implausible. e) Candidates must be able to work out that there are facts which support their own client's version of what actually happened; and that there will be facts that do not support their client's version. f) Candidates must understand that carrying out such an analysis is the only way for lawyers to understand the facts of their client's case. g) Merely reading witness statements and documents is of no value. Nor is it of any value merely to accept a version on the basis that "those are my instructions"; one must carry out an objective fact analysis first. Working out the case concept (or theory of your case) a) What happened according to your client's version of the facts? b) What are the issues, factual and legal, that emerge from the facts? c) Make a note of the undisputed facts;					

your client's version must be supported by the undisputed facts. d) What are you going to tell the judge at the hearing? e) What version are you going to present in your papers? f) How will you present evidence? g) Who will be the witnesses and what documents will you need? h) How will you run the case from pleadings to final argument? i) This process has to be applied **before** any papers are drafted. <u>Working out the cause of action or defence</u> a) There must be a comprehensive explanation, using case studies, of how one takes a set of facts and works out what your client's cause of action or defence is. Look to the case concept and the applicable law. Do not draft papers without first undertaking this step. b) Candidates must understand the meaning of the elements of one's cause of action or defence and where and how to find those elements in the peculiar facts of your case and with reference to the law. c) Candidates must know how to recognise and formulate a cause of action and defence **before** any drafting commences.		Emphasise the importance of drafting pleadings without using a precedent.			

d) The object is for candidates to understand this method instead of consulting a precedent first. <u>Deciding what procedure to use Action / Application</u> a) Candidates must understand the test whether to proceed by way of action or motion. b) Candidates must understand the main differences between actions and applications. c) Refer to the Uniform Rules of Court and practice directives. d) What is meant by a dispute of fact: how does one test a set of facts? e) Candidates must know what happens in court when an application cannot be adjudicated on the papers. What are the options available to the judge and the parties. <u>Drafting pleadings</u> (including how to get to your first rough draft) a) Candidates must draft on their own without the assistance of a precedent. b) Candidates must read and understand rules 18 and 22 of the Uniform Rules. c) Candidates must know how to establish a "cause of action" or "defence" from a set of facts or instructions.		We recommend using case studies to assist candidates to understand the test whether to proceed by way of motion or action. Explain a referral to evidence and a referral to trial. In each case use a case study of how such referrals are drafted. Refer to the case law. Emphasise that candidates draft on their own without the assistance of a precedent. Explain the method of drafting with reference to Rules 18 and 22 of the Uniform Rules of Court. Use case studies to assist candidates to draft all causes of action. Assignments can be submitted on e-learning platforms. Trainers must assess each assignment.			

d) Candidates must know how to draft particulars of claim and a plea. e) Candidates must draft causes of action in contract, delict, divorce and unjust enrichment. The focus must be on contract and delict. f) Candidates must do assignments for formative assessments. g) Candidates must grasp the lay-out of pleadings with proper paragraph numbering, appropriate spacing, font types, use of headings and point first drafting. h) No pleading may be vague: each pleading must disclose a cause of action based on the peculiar facts of the case. i) A plea must comply with Rule 22 of the Uniform Rules. Bare denials are not allowed. Candidates must plead their client's version, which, if proved, will amount to a defence to plaintiff's claim, based on the peculiar facts of the case. j) Candidates must be able to draft a Special Plea and to know when and how to draft a Special Plea. k) Candidates must know when a pleading is vague, does not disclose a cause of action or defence and amounts to an irregular step. How to deal with this.		Explain the lay-out of pleadings with proper paragraph numbering, appropriate spacing, font types, use of headings and point first drafting. Explain what is meant by a pleading that is vague and one that does not disclose a cause of action. Explain that in a plea there must be a response to the plaintiff's facts and that evasive drafting is not tolerated. They are not to draft bare denials without setting out their client's version. Explain a "Special Plea", when it is used and how it is drafted. Use case studies and get the candidates to draft on their own. Explain the purpose of founding, answering and replying affidavits. Online Drafting exercises and case studies will have to be completed.			

Drafting Notices of Motion and three sets of affidavits a) Candidates must learn the different types of notices of motion and when each is used. This must include a long form notice of motion, a short form notice of motion and a Two-Part notice of motion. b) Candidates must know when and how each of the three types is used. c) Candidates must learn to draft founding, answering and replying affidavits. d) Candidates must know the required lay-out of each of the affidavits with reference to the requirements in the Uniform Rules and directives. e) Must have an understanding of the *Plascon test* ad how it is used f) Candidates must know how to index and paginate court files.					
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
4 Ethics for legal Practitioners **Content:** A single contact session as well as Ethics for Legal Practitioners needs to be incorporated into the introduction to each module recommended in this programme. Candidates must be aware of the ethical requirements for all types of practitioner.	Expected Outcomes a) Candidates will know the seven universal ethical principles that apply to all professions. b) Candidates will know any specific rule in the Code of Conduct that applies to any module.	Note to Trainer The content of the course must be uniform for all candidate legal practitioners. Currently the regulations and the Code of Conduct provide for three types of legal practitioner. So, the candidate must be aware of the ethical requirements for all three.	**6**	**0**	**6**

Details of course content The seven universal ethical principles The current Code of Conduct of 29 March 2019: Section 3 of the general provisions in the Code of Conduct requires attention. For candidates the emphasis is on professional legal ethics generally and for pupils on professional conduct and legal ethics of advocates. Section 56 The scope and limits of legitimate cross-examination are particularly important. What to do when client's instructions amount to a "hopeless case".	c) Candidates will be able to apply the Code of Conduct applicable to all branches of the legal profession, be it attorney, advocate or advocate with a trust account. d) All candidates will understand and know the provisions of section 3. e) All candidates will be able to apply section 56 of the Code when doing the Trial Advocacy programme and in the summative assessment.	Candidates will answer questions based on applying the Code and the relevant case law applicable to the **form of practice** in which the candidates **seek to practise**. The forms of legal practice are set out in section 34 of the Legal Practice Act 28 of 2014.			
Universal ethical principles honesty trustworthiness loyalty respect for others adherence to the law doing good and avoiding harm to others accountability	The universal ethical principles text is from https://www.iaa.govt.nz/for-advisers/adviser-tools/ethics-toolkit/professional-ethics-and-codes-of-conduct/	Only the seven ethical principles set out in the first column must be memorised by rote.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
5 Civil Procedure and Trial Advocacy **Content:** There is a substantial overlap in the Uniform Rules of Court and Magistrates' Courts Rules. The emphasis will be on rules that are in regular use in practise.	In these Norms and Standards all candidate legal practitioners need similar course content for high court practice and advocacy skills, including trial and motion court proceedings and attendance of court proceedings.	**We provide for six days of training** Note to Trainers What follows is part of the Trial Advocacy programme. For purposes of this PVT programme	**36**	**6**	**42**

These rules will be highlighted in the reading lists for candidates. Candidates must have knowledge of the rules in both courts. The differences must be highlighted. In particular the difference in powers and functions regarding the Magistrate's Court. Candidates must be made familiar with Practice Directives in both the High Court and Magistrate's Court, but only of the division (seat) of the High Court where candidates write their exams. Candidates must know where to find the directives and how they are applied. The following must be dealt with: <u>Mediation</u> The impact of and compliance with Rule 41A of the Uniform Rules of Court <u>Contingency Litigation:</u> What is contingency litigation and how to decide whether to take a matter on contingency? What are the rules and how to charge contingency fees? How to carry out a risk analysis before deciding on accepting a contingency fee arrangement What do courts say about contingency litigation? <u>Case management:</u> What is Case Management, and how to apply it in your practice and in court proceedings.	<u>Expected Outcomes</u> Candidates must understand the process and procedures in taking a matter to trial from pleadings to hearing. The purpose is to ensure that candidates understand the practical steps required to be taken and how to prepare for a trial. Candidates will know how to set down a matter for trial. Candidates will know the case management regime utilised in the court where the case is brought. Candidates must know how expert witnesses are case managed; including the filing of joint minutes.	we expect the various disciplines to be dealt with in a programme which can be included within the high court and magistrates court practice and procedure. The minimum hours must be achieved. This course is not to be confused with the **five-day advanced course** that we recommend for those practitioners who want to appear in court trials and applications. That advanced course is dealt with separately, below. The instruction method is practical: this requires the use of case studies. Advocacy is a performance skill: so, trainers are expected to give demonstrations. This can also be included in a moot court programme. <u>Note to Trainers</u> Since instruction is of a practical nature, trainers must use case studies so that candidates can actually carry out various tasks or see how they are done. The trainers for this module must have at least 7 to 10 years' experience or a comparable level of expertise in dispute resolution. Instruction must be given about the process and procedures in case management and certification			

Candidates must learn that modern day litigation is less adversarial and more cooperative with the object being to resolve disputes quickly and at a reasonable cost. Candidates must know how to refer a matter to case management, the process and procedures in case management. <u>Certification</u>: Candidates must understand how the trial certification process works. In particular that a judge will require the parties to agree and record the triable issue/s. <u>Trial Preparation:</u> Candidates **must** understand that there is a duty on a practitioner to settle a matter at any stage. The earlier the matter gets settled, the better. Candidates must acquire the following skills: * How to obtain all the relevant facts and documents * How to carry out an effective fact analysis. * How to analyse pleadings. * How to determine triable issues. * How to limit the issues for trial. * How to initiate case conferences for certification and for trial readiness. * How to do pre-trial conferences, and how to draft the agenda. * How to carry out a proof analysis.		process: this must include attending case conferences and certifications with a judge. <u>Note to Trainer</u> Explain what is meant by “door settlements” and why our courts are against them. Explain the consequences of making door settlements. Explain that the intended purpose of the pre-trial conference **must** be achieved; it is not merely a step requiring compliance. Candidates must learn the benefits of case management and how to reduce the scope of disputes at case conferences, including conferences chaired by a judicial officer. Explain that once the issues are settled, candidates have to consider how they will go about proving their client’s version.			

Candidates must understand what is meant by “proof of a fact” and how to discharge the onus. * How to carry out witness and documentation analysis. * How to prepare chronology documents. <u>Discovery:</u> * Candidates must understand latest Developments on how to obtain, preserve and present relevant documentation including **Electronic Documents**. Candidates must know what *meta data* is/are and how to use meta data to authenticate documents. * Candidates must understand the concept of narrow discovery and proportionality. * Candidates must know how to prepare trial bundles. This must include the importance of sequencing. <u>How to Attend Pre-Trial Conferences and Case Conferences.</u> * Candidates must understand the purpose of these conferences and how that purpose can be achieved. Good preparation is required before any conference is initiated or attended. <u>Trial Procedure</u> Requirement of practice notes for the court. When are these notes expected to be filed and what are the contents?		<u>Note to Trainer</u> This will include an explanation of case conferencing with judicial officers. Explain how to prepare for a case or pre-trial conference. Explain the purpose of practice notes.			

<u>The content</u> Before proceeding with this programme, candidates must be made aware of their Case Concept, how they intend to proceed with the hearing and discharge the onus. * Witness briefing. Candidates must know how to prepare a witness for court appearances. * Opening Statement. * Leading a witness in chief. * Cross examination. * Re-examination. * Presenting argument. Note: this is part of the trial advocacy programme. These skills will be split up as separate modules which will be incorporated into and presented as part of the civil procedure programme. Different instructors can be used. <u>Heads of Argument.</u> * When are heads required. * What is meant by "main heads of argument". * What are Short heads and Comprehensive heads. * How to draft heads of argument		Explain how a typical set of heads is laid out. Trainers explain how to draft heads			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
6 <u>Criminal Court Practice and Trial Advocacy</u>	<u>Expected Outcomes</u> Candidates will understand the process	<u>Note to Trainers</u> This module contemplates training	**12**	**4**	**16**

<u>Content:</u> Candidates must know the peculiar requirements in a criminal trial thus: <u>Course Content</u> * How to obtain and analyse the charge sheet and docket. * How to take instructions and obtain your client's version. * How to obtain witness statements and ensure witness presence in court. * How to do plea bargaining by engaging with the prosecutor. * How to do bail applications. * How to plead effectively, including when to make a Plea explanation. * How to draft an effective and accurate section 112 statement for an admission of guilt. * How to draft an effective section 115 plea of not-guilty; how to understand the strategy of an effective s 115 statement. When is it necessary to make a plea explanation? * How to attend trial and pre-trial conferences. * How to cross-examine state witnesses. * How to present your client's version to a state witness. * How to lead evidence in chief including the decision to call your client. * How to manage experts in criminal proceedings.	involved in conducting a criminal matter, from obtaining the charge sheet to final argument. In particular candidates must have a practical understanding of what is entailed with regard to: **Bail**: Chapters 9 and 10 of the CPA. Section 35(1)(f) of the Constitution, 1996. **The charge**: ss 80 to 104 of the CPA **The plea**: ss 105 to 122 of the CPA How pleas are drafted (form and content) and plea and sentence agreements **Conduct of proceedings**: ss 144 to 146 and Chapter 22 of the CPA **Discharge applications** at the close of the State's case: section 174 of the CPA Competent verdicts: Chapter 26 of the CPA Sentencing: Chapter 28 and 29 of the CPA Appeals and reviews: Chapters 30 and 31 of the CPA (sections 302-324)	on a practical level. So, avoid repeating the university lectures on criminal procedure. Candidates are expected to attend criminal trials and bail applications in the Magistrate's Court and High Court during the duration of the PVT contract. Use case studies and demonstrate what happens in court. The trial advocacy component can be incorporated into the trial advocacy training for the High Court. Despite the admonition to avoid repeating the LLB, trainers may verify whether candidates can apply the rules of evidence such as: Confirmation or cautionary rules in regard to: Single witnesses: Section 208 of the CPA; Evidence of identification: Complaints in matters of a sexual nature: children; Confessions: Section 209 of the CPA; and Accomplices			

* How to present argument * How to present sentencing options and evidence in mitigation. **Note**: the court craft here will also be a module of Trial Advocacy.					
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
7 <u>Insolvency practice</u> **<u>Content:</u>** How to bring an: Application for sequestration both: - Voluntary and - Compulsory Liquidation and, Business rescue. Application for Rehabilitation. Discussion of the relevant provisions of the Insolvency Act and Companies Act. Candidates must understand the effect of a sequestration of a person's estate and the effect of the winding up of a juristic person. Candidates are not expected to run meetings of creditors. That experience is gained inhouse while in practice with senior lawyers.	<u>Expected Outcomes</u> The candidate will be able to: a) Draft a notice of motion for each type of application, be it liquidation or sequestration. b) Draft the founding affidavit for each type of application so that the allegations contain all the basic compliance requirements. c) Understand the difference between friendly and voluntary applications for sequestration. d) Understand the effect of sequestration on the insolvent's property. e) Find the applicable law concerning the winding-up and liquidation of companies. f) Be able to apply the relevant practice directives.	<u>Note to Trainer</u> The course requires formative assessments while candidates get used to drafting the notices of motion and founding affidavits. The summative assessment must establish whether the candidate can produce a valid application: it must not rehash the LLB degree.	**12**	**4**	**16**
	ATTORNEYS AND NON-REFERRAL ADVOCATES				
8 <u>Drafting of Contracts</u> **<u>Content:</u>**	<u>Expected Outcomes</u>	<u>Note to Trainer</u>	**12**	**3**	**15**

* General techniques in drafting a commercial contract: Obtaining instructions: * The basic provisions for effective contracts: * The structure of a contract (international best practice): * How to use commercial precedents. * How to draft the standard boilerplate provisions. * How to draft transactional provisions. * Where relevant, questions of basic compliance must be addressed. * Introduction to due diligence.	Candidates must understand that drafting a contract involves much more than merely reaching for a precedent. Candidates must understand that it is their task to advise client regarding the proposed contract. Understanding the transaction is of vital importance followed by due diligence. Candidates must understand how: To draft the clause that pertains to the details of the actual transaction concluded by client. To meet the peculiar requirements of your client. How to use precedents, including document assembly software and AI. How to update precedents; How to read the law reports and note judgements impacting on commercial transactions handled by the firm. What are the essential elements or details that must be included in a contract? High lighting the most common and useful boiler plate clauses; such as breach clause and dispute resolution; notices clauses; authority of signatories etc	The emphasis must be on how to understand the transaction, then to draft the provisions. There must be a critical method in using precedents. It is not a mere copy and paste exercise. We recommend the use of a case study which will become part of the formative assessment. Trainers need to ensure that candidates understand: • the different types of business entities and their legal requirements for entering into contracts; • competence to enter into a contract.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
9 **<u>Matrimonial Matters and Divorce</u>** **<u>Content:</u>** Taking instructions in detail. Advice on marriage and its consequences	<u>Expected Outcomes</u> Candidates must appreciate that all family law matters are dealt with differently. Our courts do not encourage adversarial litigation and	<u>Note to Trainers</u> This module must be presented by a practitioner with 7 years or more experience or a comparable level of expertise in all aspects of family	**10**	**6**	**16**

Ante-nuptial contracts Advice on out of community of property with or without the accrual system and marriage in community of property Divorce and its consequences Drafting particulars of claim / defence. Drafting Rule 43 Applications. How to settle matrimonial disputes outside Court. ADR in Family Law. Advice on rights and duties concerning children in a marriage, including: Adoptive children: Step-children: and, Children in foster care. How to deal with custody of children. The best interests of the child principle. Maintenance of children and, if applicable, former spouses. A discussion on the judgement in Brownlie v Brownlee 2008. The duty of a practitioner in all family matters to resolve disputes quickly and cheaply. Understand that an adversarial approach in all family law matters is unacceptable and will result in a punitive cost order.	expect the parties to cooperate towards a reasonable settlement. These matters must be dealt with in a sensitive and sensible manner. Candidates must be alive to this especially where minor children are involved. The candidate must understand the following: a) How to carry out the first consultation to get all the facts. b) How to advise on marriage, ante-nuptial contracts with or without the accrual system, community of property and the consequences of marriage. c) How to advise on divorce and its consequences. d) How to settle matrimonial disputes outside Court and to introduce clients to the idea of settlement through ADR. e) How to draft divorce particulars of claim or defence. f) How to draft Rule 43 applications. g) How to give advice concerning the Children's Act 38 of 2005, especially the Hague Convention. h) How to work out maintenance for children, and where applicable, former spouses. i) How to enforce divorce settlement agreements. j) Able to identify the principle in the Brownlie case.	law. The course requires formative assessments while candidates get used to drafting pleadings for divorce and Rule 43 applications. Summative assessments need to focus on the relevant parts of the Children's Act 38 of 2005, and legislation like the Marriage Act 25 of 1961, Recognition of Customary Marriages Act 120 of 1998, Civil Union Act 17 of 2006 and Divorce Act 70 of 1979, and all applicable practice directives and practice manuals. Emphasis must be on the application of the law, not rote learning of statutes. 50% is required to pass an assessment. One must assume that candidates dealt in their LLB with the law relating to engagement, the contract of marriage, the formalities required for a valid marriage ito the Marriage Act, the Recognition of Customary Marriages Act and the Civil Union Act. Likewise, one assumes the LLB dealt with the Child Care Act 38 of 2005 and the Divorce Act 70 of 1979.			

	ALL FORMS OF LEGAL PRACTICE SECTION 34				
10 <u>Delictual Claims Including Personal Injury Claims</u> **<u>Content:</u>** * How to gather & analyse the facts before deciding on a cause of action. * How to work out the cause of action. * How to draft the cause of an action in Delict (particulars of claim) correctly. - wrongfulness - fault - causation - damages * How to assess and plead quantum. * Candidates must be familiar with the Uniform Rules of Court and practice directives relating to these claims. * Case studies on RAF claims and medical negligence claims. Candidates are not to plead general terms and allegations out of precedents but are expected to plead the peculiar facts of their case. Understand the compliance requirements for claims against organs of state. * How and when to engage an expert and the case management of experts before the matter is allocated a trial date (case management process). The impact of Rule 41A of the URC	<u>Expected Outcomes</u> Delictual claims, including personal injury claims are an important part of any litigation practice. Candidates must know how to obtain the facts, contextualise the matter and formulate a cause of action with reference to the facts and the law. Candidates are expected to know that there is a process of "certification" in court which case manages these claims from issue to hearing. Candidates must be aware of particular directives dealing with RAF claims. There are particular directives dealing with RAF claims.	<u>Note to Trainer</u> This module requires a trainer of more than 7 years of practical experience or a comparable level of expertise. It is important for trainers to point out that there are abuses that take place; such as the over-inflation of quantum. Candidates must avoid this and where possible, settle the claim as soon as possible. There should be no "door settlements". Where a "door settlement" is unavoidable, there must be a reasonable explanation. In new directives, door settlements may require the legal practitioners to forego their fees or, worse, pay the fees of the parties.	**6**	**6**	**12**

	ATTORNEYS AND NON-REFERRAL ADVOCATES				
11 <u>Legal Practitioners Accounts Management</u> In accordance with the prescripts of the Legal Practitioners' Fidelity Fund: **<u>First Module</u>** * How to use accounting software. * Comprehensive training on the management of trust funds and trust accounts – the rules and obligations. * Thorough knowledge of sections 86 to 91 of the Legal Practice Act. * The rules and requirements of the Fidelity Fund. * Applying for a Fidelity Fund Certificate. **<u>Second Module</u>** * How to manage the finances of one's practice. * How to manage personal finance. **<u>Third Module</u>** * Introduction to Legal Practice Management	<u>Expected outcomes</u> Candidates will be able to apply the regulations, rules and recommendations of the Legal Practitioners' Fidelity Fund. Candidates will have a basic knowledge of trust accounting and practice management accounting. Candidates will understand how to distinguish trust money from other money.	<u>Note to trainers</u> It is important to emphasise the difference between trust money and other money.	**30**	**6**	**36**
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
12 <u>Labour Dispute Resolution</u> **<u>Content:</u>**	<u>Expected Outcomes</u> The candidate will understand the following:	<u>Note to Trainer</u> The course requires formative	**12**	**0**	**12**

Industrial Relations Framework. Identification of an employee Permanent employees. Temporary employees. Disciplinary Proceedings and Hearings. Dismissals. Bargaining Agents, Forums and Collective Bargaining. Dispute resolution. The process of conciliation. How to prepare and move an interdict in the Labour Court. Labour Relations Act 66 of 1995. Basic Conditions of Employment Act. Employment Equity Act 75 of 1997. Rules for the Conduct of Proceedings in the Labour Court (GN 1665 of 1996: GG 17495 of 14 Oct 1996) Rules for the Conduct of Proceedings in the Labour Appeal Court (GN 1666 of 1996: GG 17495 of 14 Oct 1996)	a) How to conduct consultations to get all the facts, especially to obtain a balanced understanding of any dispute between the parties. b) How to identify an employee. c) How to identify temporary and permanent employees. d) How to identify the difference between temporary employees and independent contractors: Chapter IX of the LRA. e) How to draft a statement of claim ito Form 2, Rule 6 Referrals of the Labour Court Rules. f) How to draft applications ito Form 4, Rule 7 Applications of the Rules. g) Whether a dismissal complies with Chapter VIII and Schedule 8: Code of Good Practice: Dismissal of the LRA.	assessments while candidates draft statements of case, notices of motion and founding affidavits for the Labour Court, and appeals to the Labour Appeal Court. Summative assessments need to focus on the relevant parts of the Labour Relations Act, the Basic Conditions of Employment Act, and the Employment Equity Act. The summative assessment must establish whether the candidate can produce a valid pleading: it must not rehash the LLB degree.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
13 <u>Alternative Dispute Resolution</u> **<u>Content:</u>** The impact of Rule 41A of the Uniform Rules of Court Understand that courts expect actual compliance with Rule 41A, not lip service. Any notice under Form 27 opposing referral to mediation that does	<u>Expected Outcomes</u> The candidate must understand the following: a) How to identify a conflict. b) The differences between negotiation, mediation, arbitration and litigation. c) The pros and cons of negotiation, mediation, arbitration and litigation. d) When is mediation appropriate?	<u>Note to Trainer</u> The course requires formative assessments while candidates engage in case studies. Candidates need to focus on the relevant parts of the Arbitration Act, the International Arbitration	**6**	**0**	**6**

not contain an averment of personal service needs to be interrogated carefully. Mediation occurs when the parties have actual knowledge of its existence. Service on *domicilia* does not meet that standard irrespective of the contractual basis for the service of process. Defining and understanding: - what is a conflict. Negotiation. Mediation. Protection of Investment Act 22 of 2015, section 13. Arbitration. Arbitration Act 42 of 1965 and the International Arbitration Act 15 of 2017. The role of ADR in litigation. The LSSA Manual on Alternative Dispute Resolution.	e) When does mediation not work? f) How arbitration differs to litigation. g) Is arbitration appropriate for organs of state that are audited by the Auditor General? h) Arbitration is not open to the public. How can any organs of state use arbitration validly under our Constitution, especially in relation to financing of projects that may have been subject to tender fraud or other forms of dishonest conduct?	Act and section 13 of the Protection of Investment Act 22 of 2015. Candidates are not expected to know the statutes off by heart.			
	ATTORNEYS AND NON-REFERRAL ADVOCATES				
14 <u>Wills and Estates</u> **<u>Content:</u>** Wills. The Wills Act 7 of 1953 The Trust Property Control Act 57 of 1988. Drafting Wills. Using plain language and avoiding precedents based on archaic language. Using clear and concise definitions as a glossary to every Will where complex	<u>Expected Outcomes</u> The candidate must understand the following: a) How to conduct a comprehensive consultation with clients before advising on the law of succession and drafting a will. b) How to draft a will. c) How to draft a living will. d) How to apply the Trust Property	<u>Note to Trainer</u> The course requires formative assessments while candidates engage in drafting wills. Candidates will answer questions based on applying the latest relevant case law applicable to Wills and Estates to within one	**18**	**4**	**22**

concepts like massing are used so that the testator or testatrix or both can indicate their understanding of the concepts before executing their Wills. Taking instructions, what one needs to know to draft a will. Proper consultation. Interpreting (archaic) Wills. Drafting Living Wills. Does the National Health Act 61 of 2003 make provision for a living will? Testate and Intestate Succession. Intestate Succession Act 81 of 1987. Maintenance of Surviving Spouses Act 27 of 1990 Recognition of Customary Marriages Act 120 of 1998 Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009. Administration of deceased estates. Administration of Estates Act 66 of 1965 Estate duty. Estate Duty Act 45 of 1955.	Control Act to trusts established in a will. e) How to apply the Intestate Succession Act. f) How to apply the Administration of Estates Act from reporting the estate to the final liquidation and distribution account. g) How to apply the Estate Duty Act. h) How to contest a Will. i) Candidates must be familiar with the other legislation mentioned in the first column.	week before their exams of the latest High Court, SCA and Constitutional Court decisions.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
15 <u>Introduction to E- Commerce and application of the Electronic Communications and Transactions Act 25 of 2002, including the use of electronic signatures</u> **<u>Content</u>:**	<u>Expected Outcomes</u> This module is intended to introduce candidates to the ever-changing world of digital technologies and how this impacts on	<u>Note to Trainers</u> The trainer for this module must be an experienced practitioner who is routinely involved in digital	**3**	**0**	**3**

A discussion on the content of “ECTA”, the Electronic Communications and Transactions Act 25 of 2002. What is an electronic signature? How to deal with these signatures in practice. What is an advanced signature and where is it required in practice? The effect of ECTA on drafting contracts, in particular “non-variation clauses”. The effect on business and legal practice of the internet and cloud technology. An introduction to Block Chain technology, AI and smart contracts.	the work of practitioners, how clients access legal services and the impact on how contracts are drafted and concluded. It is important for candidates to understand what is meant by an electronic signature and how this impacts on commercial transactions.	commerce. **This module will not be subject to any summative assessments**.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
Basic Business Transactions **<u>Content</u>:** The seven main business transactions. * Sale of business * Sale of shares * Lease of immovable property * Employment of an independent contractor * Partnership agreement * Joint venture * Service level agreement Good faith, public policy and legal certainty in drafting contracts. Performance and administration of business contracts. Remedies for breach of contracts.	<u>Expected Outcomes</u> The candidate must understand the following: a) How to identify the seven main business transactions. b) How to understand the peculiar transaction client is engaged in. c) How to apply the general principles of contract from offer and acceptance to capacity and reciprocal obligations. d) How to negotiate, plan, draft and administer a contract. e) How to weigh key elements of the contract like liabilities and debts, taxes, manageability and business growth with	<u>Note to Trainer</u> The instruction must focus on candidates drafting their own contracts without recourse to precedents insofar as it relates to the transaction. Ensure candidates can understand the difference between a sale and a lease: and a partnership and a joint venture. For a critical comparison of constitutionalism bringing potential			

NB. Responsible use of precedents is allowed.	reciprocal obligations (rights and duties). f) When and whether good faith is an element of a contract: implied, tacit, express, or required by law – like case law.	uncertainty to contract law, see the article by Judge of Appeal Malcolm Wallis '*Commercial Certainty and Constitutionalism: Are They Compatible*' (2016) 133 SALJ 545.			
	ATTORNEYS AND NON-REFERRAL ADVOCATES				
Business Rescue **Content:** Definition & purpose of business rescue Definition of financially distressed How to accomplish business rescue Who may object to business rescue and the grounds of objection? How an affected person applies to court for an order placing a company under supervision and commencing business rescue proceedings. How a company may legally dispose of its property while under business rescue. The order of preference of creditors when a company lacks money to meet its debts. Effects of business rescue on contracts: employees, shareholders and directors. Rights of employees during business rescue. Participation by creditors and holders of company securities. Requirements of a business rescue plan. Implementing a business plan. Consequences for failure to implement the plan.	Expected Outcomes The candidate must understand the following: a) How business rescue in Chapter 6 of the Companies Act is applied. b) How to assess whether a company is financially distressed. c) The advantages and disadvantages of business rescue generally. d) How an affected person applies to court to place a company under business rescue. e) What is the effect of such an order? f) How to draft such founding affidavit. g) How to draft an answering affidavit against business rescue. h) Who has preference in claims against the company under rescue? i) The effect on contracts, employees, shareholders and directors. j) Who has a right to participation in the business rescue proceedings? k) The requirements of a business rescue plan. l) How a plan is implemented and the consequences if it is not.	Note to Trainer Trainers need to discuss the pros and cons of business rescue and ensure candidates know the extent and effect of the moratorium on legal proceedings and the protection of the company's property interests. Candidates should know the general powers of business rescue practitioners. The rights and duties of the affected persons from employees, directors, shareholders to creditors needs to be understood generally. Finally, the implementation of a business plan must be understood as well as the consequences for default.			

	ALL FORMS OF LEGAL PRACTICE SECTION 34				
16 **Constitutional practice (Reg 6) for candidate attorneys and constitutional and customary law for pupils (Reg 7)** **Content:** Introduction to Constitutional law and Customary law. [For Customary Law see the online course below at item 20]. **Constitutional Law**: Constitution of the Republic of South Africa, 1996 Citation of Constitutional Laws Act 5 of 2005 What is the rule of law? Jurisdiction of our courts to hear constitutional matters. The 2013 change to the jurisdiction of the Constitutional Court. Introduction to the Rules and Directives in the Constitutional Court. Eleven ways to get to the Constitutional Court. How to enforce Constitutional rights. How to advise clients about their Constitutional rights, duties and obligations. How to apply Chapter 2 of the Bill of Rights and the limitations clause. How to apply the rest of the Constitution in giving advice to clients.	In these Norms and Standards all candidate legal practitioners need the same course content for constitutional matters. Expected Outcomes The candidate must understand the following: a) How to conduct a comprehensive consultation with clients before advising on the Constitution. b) How to assess a constitutional issue. c) How to draft constitutional law applications in the High Court. d) How to draft applications in terms of the Rules of the Constitutional Court. e) How to draft applications for leave to appeal to the Constitutional Court. f) How to explain and give clients advice about the remedies permitted ito the Constitution. g) When writing their exams or doing orals, candidates must be up to date with SCA and Constitutional Court decisions to within **seven calendar days of the most recent decisions.**	Note to Trainer Candidates must understand and be able to apply the: **Citation of Constitutional Laws Act 5 of 2005** when drafting legal documents. Candidates must understand that principles of drafting documents are the same as set out earlier in these Norms and Standards.	**6**	**3**	**9**

	ALL FORMS OF LEGAL PRACTICE SECTION 34				
17 Legal Technology (Online) **<u>Content</u>:** This module is intended to introduce candidates to the impact of technology on legal practice. Candidates must be aware of how a modern legal practice is set up and what technologies avail practitioners. Candidates must be made aware of how technology has changed the way clients, or consumers, access legal services. This must include how practitioners make use of technology to market their firms and remain relevant to their clients.	<u>Expected Outcomes</u> This module represents an introduction to the use of technology in a 21st century law practice. Candidates must understand how technology has changed how consumers access legal services. Candidates must be encouraged constantly to keep up with the changes that flow from the increasing use of technology in our practices. Candidates must be aware of ChatGPT and AI and document management systems.	<u>Note to Trainers</u> All candidates must be introduced to Caselines and how it works. This module must be presented by a practitioner in a practice that makes use of the latest technologies. Trainers must impress on candidates that technology will constantly influence how we work and serve our clients. **There will not be any summative assessments of this module**.	**0**	**6**	**6**
	ATTORNEYS AND NON-REFERRAL ADVOCATES				
18 Introduction to practice management (Online) **<u>Content</u>:** The role of management Organisational behaviour Business plan Marketing Financial management Administration Risk management Personal management	<u>Expected Outcomes</u> This module is vital to candidates who seek eventually to open their own practices.	<u>Note to Trainers</u> This module must be presented by an experienced practitioner who started his or her own practice from scratch. **There will not be any summative assessments of this module**.	**0**	**6**	**6**

Starting a practice The attorney and insurance					
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
19 Introduction to Cyber law (Online) **<u>Content</u>:** Awareness of cyberattacks. Protective risk management strategy. Data response plan. Chapter 1: Technology Chapter 2: Organisational processes Chapter 3: Staff training Responsibility for personal/commercial information. Specific cyber security tips. The future of artificial intelligence as a boon and a threat to legal practitioners.	<u>Expected Outcomes</u> Candidates will be able: a) to make adequate decisions about the technology required to sustain a reasonable measure of cybersecurity in the context of a law firm/practice, b) to have a good grasp of the organisational processes involved in a law practice to maintain adequate cybersecurity, and, c) to have an appreciation of what is required to keep all staff in a law practice, in particular – oneself – up-to-date with the essential elements of cybersecurity.	<u>Note to Trainer</u> Currently the cybersecurity course is an online course. Summative assessments are done online during the course.	**0**	**6**	**6**
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
20 Customary Law **<u>Content</u>:** Customary law in the context of the Constitution, 1996 The anomaly of the <u>*Bhe* decision</u> (living versus official customary law) Marriages ito customary law – section 15 of the Constitution	<u>Expected Outcomes</u> After having studied this study unit, candidates are able to: a) explain the concept customary law b) differentiate between living customary law and official customary law c) differentiate between customary law and common law	<u>Note to Trainer</u> Currently, the Customary Law course is an online course. Aspects of the course that need to be emphasised are the • status of customary marriages • Proprietary consequences of	**0**	**4**	**4**

Recognition of Customary Marriages Act 120 of 1998 Language and culture – section 30 of the Constitution Traditional leadership – ss 211 & 212 of the Constitution Social structure of indigenous communities Succession and inheritance Land and property rights	d) Analyse the significance of customary law in relation to the Constitution e) Give advice about customary law marriages. f) Give advice about inheritance and succession under customary law. g) Give advice about land and property rights.	customary marriages and contractual capacity of spouses and • Communal ownership of land compared with individual ownership Summative assessments are done online during the course.			
	ALL FORMS OF LEGAL PRACTICE SECTION 34				
21 Numeracy skills training **<u>Content</u>:** The numerical system Basic symbols and terminology in mathematics Using your calculator Basic calculations Order of calculations Rounding off Substitution into formulae Introduction to fractions Adding and subtracting fractions Multiplying and dividing Fractions, decimals and percentages Percentage increase and decrease	<u>Expected Outcomes</u> After having studied this study unit, candidates will be able to: a) understand Roman numerals and writing and reading numbers; b) The windows calculator, the ordinary calculator and the scientific calculator; c) Addition, subtraction, multiplication and division; d) Rounding off, fractions and the concept of the lowest common denominator; e) Adding, subtracting, multiplying and dividing fractions. f) Calculating interest and VAT; g) Understand proportions, ratios and proportional allocation; and h) Apportionment of damages.	<u>Note to Trainer</u> Be patient with candidates. **There is no exam for numeracy skills**. The trainer must be competent in teaching mathematics to adults. **There will not be any summative assessments of this module**.	**0**	**6**	**6**

Value Added Tax and averages Simple and compound interest Proportional allocation Introduction to ratios Comparing ratios Proportional allocation Apportionment of damages					
	ATTORNEYS AND NON-REFERRAL ADVOCATES				
22 Legal Costs **Content:** Section 35(4) of the Legal Practice Act provides that the SALRC must investigate legal costs and report to the Minister within two years. Until then the tariffs determined by the Rules Board for Courts of Law apply. In the interim the content of the module is as follows: The concept of "legal costs" non-litigious matters civil litigious matters Early advice to client and estimate of costs Estimate of fees and disbursements Mandate Taking a deposit Contingency fees Retainers Agreed fees Ethics in relation to costs overreaching undercharging	Expected Outcomes After having studied this module, candidates will be able to: a) explain the concept of legal costs; b) differentiate non-litigious matters and litigious matters; c) give a client an accurate estimate of the costs of a matter concerning fees and disbursements to the sheriff, counsel and expert witnesses (if any); d) understand and apply the law about contingency fees; e) understand the need to keep proper accounting records; f) understand the need to account to client in terms of the mandate between client and attorney; g) understand the different costs orders and be able to explain the orders to a client; h) draw a bill of costs; i) attend at taxation and give a useful	Note to Trainer Summative assessments may be done online during the course. Candidates must read *Moropa and Others v Chemical Industries National Provident Fund and Others* 2021 (1) SA 499 (GJ) at paragraphs [80] to [90].	**6**	**0**	**6**

recovery / attempted recovery of costs for work not strictly necessary Keeping proper accounting records Failure to render accounts Different cost orders party and party costs attorney and client costs attorney and own client costs costs *de bonis propriis* wasted costs reserved costs / costs to stand over costs in the cause costs of the day all costs/costs/taxed costs no order made / no order as to costs specific cost orders Settlement agreements Payments into court and tenders Cost consultants settling of bills of cost formal requirements for taxation notice of taxation taxability of costs appearance on taxation interest on a taxed allocatur consent to taxation Review of taxation	and meaningful response to the Taxing Master on items in the Bill of Costs.				

OPTIONAL COURSES

The LPC will have to accredit institutions to provide the two options below. The LPC can anticipate applications for the options below. The structured course work and the norms and standards appear below. These courses will be attended by practitioners as well.

23 Optional courses:	Expected Outcomes	Note to Trainer
a) Advanced Trial Advocacy – 5 days (40 hrs) This is a structured course as contemplated in Section 25 (3) (a) of the LPA and rule 19.2. The programme must satisfy the requirement of 40 hours, minimum. Advocacy is a performance skill. The course is divided into four parts: the first two parts comprise theory: the last two parts are performances in a mock trial situation under supervision as indicated in the third column, notice to trainers. **Part one**, how to assess facts. Fact analysis. **Part two**, how to adopt a strategy for trial, aka a trial theory: a candidate will learn the essential difference between a leading question (for use in cross-examination) and a valid question in leading a witness (the who, what, when, where, why, how and how much questions). **Part three**, performing in the mock trial as counsel for plaintiff and/or defendant: one day a candidate will be counsel for plaintiff, the next counsel for defendant *et cetera*. **Part four**, cross-examination in a mock criminal law trial: all candidates will practice this session.	The trial advocacy training will ensure that: a) Candidates appreciate and understand how to conduct trials with confidence despite their natural nervousness when performing in court. b) Candidates will be able to assess facts that are in their client's favour and against their client's case. c) Equally, candidates will be able to assess facts that favour the other litigant in the case as well as facts that do not favour the other litigant. d) Candidates will have a good grasp of the Good fact – Bad fact assessment. The model assesses good and bad facts for each party independently, first for the plaintiff and then for the defendant. e) Candidates will be able to present an opening statement. f) Candidates will be able to conduct an examination-in-chief using, *inter alia*, the piggy-back or looping method. g) Candidates will be able to conduct cross-examination in civil cases.	The course requires formative assessments while candidates engage in mock trials. The trainer must identify the following six steps during the training and require the candidate to repeat the drill. 1. **Headnote** – a catchy phrase to identify only one fault in the candidate's performance. 2. **Playback** – repeat exactly the phrase the candidate used which requires improvement. 3. **Rationale** – explain the nature of the problem and why the performance needs improvement. 4. **Prescription** – a clear pithy statement of how the performance can be improved. 5. **Demonstration** – the trainer shows the candidate how to perform. 6. **Replay** – then candidates immediately repeat the critical part of their performance to show they have grasped the lesson. The replay must be short and to the point. The method requires all candidates to be

The theory and mock trial performances deal with: • Opening statement • Examination-in-chief • Cross-examination (civil & criminal) • Re-examination (to be avoided) • Final argument **NB**: it is assumed that the candidates have an adequate knowledge of the rules of court, the rules of evidence, how to draft pleadings and heads of argument, and a good grasp of ethics. It is also assumed that candidates will read the trail exercises properly before attending the trial advocacy course.	h) Candidates will understand that leading questions are permissible ONLY in cross-examination. i) Candidates will be able to conduct cross-examination in criminal cases. The core duty in criminal cases is to put the version of the accused to the witnesses for the State. Failure to do so renders the accused at risk of being found guilty as charged. j) Candidates will understand why re-examination is not advised. k) Finally, candidates will be able to present a coherent final argument at the end of the trial.	present for each performance. Learning is incremental and each candidate learns from other candidates' performances. Candidates must also be witnesses in the mock trials while they are not performing as counsel in the mock trial. Accordingly, candidates must read the trial exercises carefully and have a thorough recollection of the role each witness plays in the mock trial. **NB** the trainers will be responsible for both formative and summative assessments of the candidates. The standard of such assessment must be approved by the LPC. **At the end of the training a candidate must receive a certificate of competence in terms of Rule 19.2.4**.
b) Advanced drafting course – 5 days **Content**: Candidates must receive practical training in the following skills: Drafting Pleadings Candidates must receive training in the following disciplines: a) How to obtain the facts and documents; b) How to sequence the facts and documents; c) How to contextualise the matter in law; d) Where to find the applicable law; e) How to apply the law to the facts of the case; f) How to work out the cause of action or defence.	The Expected Outcomes Candidates are expected to have a working knowledge of how to draft. This course must be done after the candidate completed the course on plain English writing. The candidate must also be part of the literacy programme which requires the candidate to read and complete one book per month.	Note to Trainers This module is an intensive course. Encourage candidates to write on their own from day one. We encourage the use of case studies. Give candidates a statement of fact and require them to draft particulars of claim on their own and without the assistance of precedents. Candidates are expected to draft particulars of claim in Contract and Delict. Each effort must be assessed by a trainer and candidates must be encouraged to repeat the draft until they get it right. This is time consuming and

<u>Drafting skills</u> With the use of case studies, candidates must draft the following: a) Be able to write down the material facts of the case; b) Be able to recognise the material elements of the cause of action or defence; c) Be able to use this to prepare a rough draft of particulars of claim'; d) Draft particulars of claim with reference to the Uniform Rules and practice directives; e) Draft particulars of claim with reference to the peculiar facts of the case; f) Draft particulars of claim without reference to precedents. g) Be able to draft a plea with reference to the Uniform Rules and practice directives; h) Be able to draft a version setting out a defence to plaintiff's claim. i) Candidates must be introduced into drafting statements of claim and statements of defence.		trainers are to impress upon candidates that they are expected to work long hours and at home to complete case studies. The trainer for this module must have more than 10 years' experience or a comparable level of expertise in drafting for litigation.
<u>Motion Court</u> Candidates must learn the following skills: a) To assess the facts and the law to decide whether a matter may be dealt with in an application rather than an action. When is a dispute of fact not capable of being adjudicated on the papers? b) To draft notices of motion; including long and short form notices as well as two-part notices of motion. A notice of motion in		<u>Note to Trainers</u> This module requires trainers with at least 10 years of experience or a comparable level of expertise in drafting motion papers. We recommend the use of case studies where candidates must draft on their own under supervision of a trainer. We recommend that one of the case studies

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<td>search and seizure applications (Anton Piller).
c) To draft a founding affidavit. This must include the recommended layout in the Uniform Rules and practice directives. Candidates must learn how to set out the cause of action and the supporting evidence and be able to provide justification for the order sought.
d) To draft an answering affidavit. The most effective layout must be explained including how to set out a version that will answer an applicant’s case.
e) To draft a replying affidavit. It must be short and only drafted if strictly necessary.
f) To know how to use annexures. Avoid bulky documents and ones not strictly necessary to support the deponent’s case.
g) Candidates must know how to apply the Plascon-Evans test.

<u>Heads of Argument</u>
Candidates must be familiar with the layout and method of drafting the different types of heads of argument (concise heads; comprehensive heads; main heads of argument (SCA) and written argument (CC)).
The following must be in this module:
a) The typical layout of heads of argument;
b) The method to be used in Applications;
c) The method to be used in Trials;
d) The method to be used in Appeals and Reviews.
e) Candidates must know how to draft</td>
<td></td>
<td>include drafting papers for an interdict.

This is an intensive course and requires intensive application by trainers. We therefore recommend that no more than 20 candidates be accommodated per 5-day session.</td>
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chronology documents to be filed with heads of argument. Candidates must know the relevant Rules and practice directives; in particular regarding page limitations and the prohibition of copying and pasting from authorities.		
<u>Writing Opinions</u> Candidates must learn how to set out and write an opinion. <u>Course content</u> The following must be in this module: a) The modern method of setting out an opinion. b) Understanding the question. c) The need to answer the question and provide recommendations. d) An efficient approach to legal research. e) How to write short opinions. f) How to justify your position with reference to the facts and the law.		<u>Note to Trainers</u> It is recommended that candidates be given a simple opinion to write under supervision of the trainer.