

Core Competencies for Advocates

Competent Advocates conduct their work demonstrating the following attributes:

1. Knowledge and Values

- 1.1 understand legal framework, jurisdiction, procedure and subject matter of tribunal or decision maker.
- 1.2 exhibit professionalism and show commitment by providing high standards of presentation and representation. (Ethics, accountability, professional responsibility)¹
- 1.3 conduct a process fostering integrity, transparency and accountability in all advocacy.²
- 1.4 are aware of and respects diversity in all its forms. Such diversity may be related although not exclusively, to beliefs, gender, race, religious customs, age, disability, mental capacity, sexual orientation, transsexuality, social or economic status, marital or civil partnership status and lifestyles.³

2. Communication

- 2.1 communicate effectively – use Plain Language (“language readily understood by all”).
- 2.2 make effective use of supporting computing facilities and software.
- 2.3 support participation of all parties, representatives and members to ensure fair treatment and fair process.⁴

¹ Adapted from Tribunal Competencies – Qualities and Abilities in Action – Judicial Studies Board – October 2007 (JSC)

² Adapted from National Association for Court Management – Strengthening Court Professionals – Core Competencies (NACA)

³ JSC

⁴ Adapted from JSC

3. Conduct of Cases

- 3.1 establish and maintain independence of advocacy and representation.⁵
- 3.2 demonstrate integrity and professionalism in all communications and conduct.
- 3.3 act to maintain the impartiality of the decision maker.
- 3.4 understand four principles of duty to be fair and applies them to conduct of case.⁶
- 3.5 present case in the context of the decision maker's facilitation of full participation of all parties to ensure fair treatment and just outcome.
- 3.6 raise case management issues, also respond efficiently and effectively to case management issues.
- 3.7 advise the client and present the client's case to make more likely the best possible result.⁷
- 3.8 adhere to timelines in all aspects of preparation and presentation to reduce costs of hearings.
- 3.9 appear effectively in procedures required by a tribunal or decision maker. This includes preparing for hearings, using appropriate tribunal etiquette, participating in pre-hearing processes, participating in conciliation or mediation processes, and presenting a case.
- 3.10 engage in effective case assessment and early resolution practices.

⁵ Adapted from JSC

⁶ FOAJ POAJ materials

⁷ Adapted from JSC

4. Legislation

- 4.1 understand and apply governing legislation and other applicable legislation, policies and procedures.
- 4.2 use the modern method of interpretation to interpret legislation and use the interpretation in submissions on a case.
- 4.3 logically explain interpretation of legislation and incorporate it in presenting cases and making submissions.⁸

5. Evidence

- 5.1 undertake necessary preparatory work for all presentations.⁹
- 5.2 develop and implement a case preparation plan that advances the relevant evidence in the best format for the decision maker.
- 5.3 identify and assimilate relevant facts and expert evidence.
- 5.4 ask appropriate questions (in direct, cross or re- examination) of all witnesses.¹⁰
- 5.5 assess case and organize presentation of evidence and argument to address all relevant issues.¹¹
- 5.6 seek further evidence as required.
- 5.7 understand use of relevance and reliability for collecting evidence, weigh evidence appropriately, and distinguish between “information”, evidence and fact.^{12, 13}

⁸ FOAJ Interpreting Legislation and Presenting Cases materials

⁹ JSC, FOAJ POAJ, Effective Hearings

¹⁰ FOAJ

¹¹ FOAJ POAJ and Presenting Cases materials

¹² FOAJ course (Evidence and POAJ) materials

¹³ FOAJ POAJ, Evidence, and Interpreting Legislation and Investigations courses.

6. Decision-Making and Decision Writing

- 6.1 demonstrate sound judgment when conducting case.¹⁴
- 6.2 are aware tribunal uses a structured decision-making process. As a result, use a similar structured approach to submissions. This includes identifying issues, extracting legal tests from legislation, sorting evidence by test, weighing evidence to find facts on each test, deciding based on facts found on each test and reaching a conclusion.¹⁵
- 6.3 make submissions (oral and written) using effective and appropriate communication (plain language).¹⁶
- 6.4 deliver the submission promptly.¹⁷

¹⁴ Adapted from JSC

¹⁵ From JSC, FOAJ Decision Making, Decision Writing and Presenting Cases materials

¹⁶ Adapted from JSC

¹⁷ Adapted from JSC