



**National Uniform Law
Legal Services Council
Admissions Committee**

**Submission in Relation to
Proposed Admission Rules**

30 January 2015

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A. Summary of Submission

1. The College strongly supports the objectives of the Uniform National Law and the work of the Legal Services Council toward creation of the National Legal Profession. Over the past 10 years the College has made major contributions of time, money and human effort toward national profession objectives, creating extensive new national infrastructure, intellectual property, regulatory accords and communication networks.
2. As a matter of constitution, the College exists to be an institutional servant of the national legal profession and it sees its corporate mission in terms of education services to the practising profession in the ultimate best interests of the law-consuming public. It is willing to engage in any dialogue, participate in any process and provide any support necessary to assist the Council and the Committee in their important work.
3. However, the College does not support the Draft Admission Rules in their current form. In the College's view, if those Rules were adopted on a permanent basis they would deepen and worsen existing major problems in the national PLT sector. The College encourages the Admissions Committee to review its approach to the Draft Rules in the context of the matters raised in this submission and to modify its approach in a way which addresses these problems directly, in both short and long term frames of policy planning.
4. Under existing Admission Rules across the various jurisdictions the overall national system of PLT regulation in Australia exhibits high levels of unevenness, uncertainty and unfairness. The College makes this observation from its unique position as the only institution in Australia which is directly accredited in five separate jurisdictions and therefore directly subject to multiple jurisdictional rules, procedures and historically entrenched cultures.
5. The College is encouraged by the high integrity of each of the State regimes as applied in their local jurisdictions. However it does not believe that these regimes, as currently administered, are capable of integration in any way which satisfactorily equates to a national standard, without a major next stage of detailed work on how any such national standard might be prescribed or, in the alternative, a comprehensive review of how all State regimes can be monitored and assured against the Standards currently framed by the LACC.
6. The College urges the Committee to pause in its important work and to take the short time necessary to address in a new version of the Draft Rules the most immediate of the problems currently impeding sector effectiveness and accountability. Priorities should include:
 - qualifying current automatic mutual recognition of corresponding interstate courses in a way which better protects against variable standards and unfair competitive advantage
 - bringing PLT courses and SLT programs into a unitary framework for prescription of learning content, outcomes and assessment, as well as program accreditation, monitoring and review
 - addressing the definition and prescription of work experience directly in the Rules or by some other machinery more satisfactory than current references in the Competencies and Standards.
7. Beyond these initial measures, the College urges the Committee to formally foreshadow a comprehensive Australia-wide review of the entire PLT sector in order to address the full range of inconsistencies and contradictions in the system, to establish a new definition of minimum common standards on a national basis and to deliver stronger confidence that the sector as a whole can be held accountable to a single set of common national standards.

B. The Need to Better Define and Enforce Common Minimum Standards

Standards Expressed in Nationally Recognised Prescriptions

8. There are two key documents currently contributing to the definition of minimum standards for the PLT sector in Australia. They are:

- LACC National Competency Standards for Entry Level Lawyers¹ (the Competencies)
- Standards for PLT Providers and Courses² (the Standards)

The Standards are extensively cross-referenced to a third document, namely the Final Report on an Accreditation Project conducted by Professor Ainslie Lamb on behalf of the Australasian Professional Legal Education Council published in 2008 (the APLEC model)³.

9. The Standards refer to the 2008 Uniform Admission Rules which they describe as being adopted in a revised version by all admitting authorities. However, while clearly they have been adopted by all admitting authorities in their roles on the LACC, it does appear that they have been translated only unevenly into the actual Admission Rules of the States and Territories themselves, at least at this stage. This position is apparently confirmed in papers published on websites of the Legal Profession Admission Board of New South Wales and the Law Council of Australia.⁴
10. In interpreting the two key documents in the context of their own rules and practices, local admitting authorities over the years have approved and/or acknowledged for local admission purposes, individual PLT programs in ways that have created high variability both within and across jurisdictions. In the result the national PLT system, when viewed as a whole, can be seen as a highly diversified system, in which:
 - some students are required to complete formal academic credentials at Graduate Diploma (or equivalent) level, whilst others qualify with little or no formal training at all, nor credentials of any kind.
 - some students pay tuition fees in the order of \$9,000 - \$18,000, some pay nothing.
 - some students are required to complete a 600 hour (15 week) work placement, heavily prescribed in the detail, and variable across State boundaries, while others have less than 90 hours in placements of unchecked quality or, sometimes, no work placement at all.
 - some students sit formal assessments across 12 or more competency fields, others are assessed informally in groups or by observation of course work, some have no formal assessment of any kind whatsoever.
 - some students study in standard academic-year programs over 30 or more weeks, others complete in as little as 15 weeks.
 - some students start their pre-admission studies while engaged in under-graduate study – and in some cases wholly complete their PLT as under-graduates – while others are strictly prohibited from participating in PLT at all during their under-graduate years.
 - some firms are engaged in co-operative arrangements with providers in which time and work requirements are quantified and programed on a weekly basis and co-ordinated around work tasks, others reach arrangements with providers in which PLT course time for students is entirely quarantined from work time and responsibilities.
 - some firms pay wages to students in work experience placements in accordance with State awards and related industrial rules, others pay nothing - often with many students employed without pay, all seeking to overcome the significant barrier to admission which work experience requirements are seen to represent, while students elsewhere face no particular barriers at all on the score of work experience.
 - some providers are permitted to provide features which are highly attractive to students and firms when other providers are specifically prohibited from offering those exact same features.

¹ Competency Standards for Entry Level Lawyers (Australasian Professional Legal Education Council; Law Admissions Consultative Committee) November 2000; 2002

² Standards for PLT Courses and Providers (Council of Legal Education) February 2013

³ Lamb, Ainslie, Australasian Professional Legal Education Council, Accreditation Project – Final Report, 2008

⁴ Statement on Uniform Admission Arrangements prepared for the COAG Taskforce on National Legal Profession reform, Law Council of Australia website, July 2009 page 5

- some providers in some jurisdictions are closely regulated in the detail of what they do with direct committee oversight of aspects of day-by-day operations. Others elsewhere have virtually no regulatory oversight of any kind over years and, in some cases, decades.
11. In early 2014 the College commenced a series of investigations designed to determine whether the circumstances described at 10. above together represent flaws in the overall national PLT system which are so fundamental that the College should be advocating a comprehensive, whole-of-sector National Review. The College Board has not yet finalised its detailed response to this proposition and is not yet in a position to make full recommendations about particular review priorities or possible review methodologies. However, having considered extensive material from the work of the PLT Sector Review to date, the Board is clear in its view that a comprehensive National Review of some kind is imperative.
 12. Attachment A is a List with descriptors of the main Reports in the PLT Sector Review project which the College believes would add significant value to any national PLT review process. These Reports are cross-referenced in this submission and included in full or in part as attachments at various points as relevant.

Standards Expressed in State and Territory Rules

13. Attachment B is a copy of the August 2014 version of a report prepared for the College by Creative Consequences Pty Ltd, a consultancy headed-up by former NSW Legal Services Commissioner, Steve Mark, and Tahlia Gordon.
14. The report describes the high level of diversity in current regulatory approaches to defining Standards in the PLT sector, as well as the troublingly variable levels of monitoring and review processes related to those Standards. It also makes comments about the implications for legal education of globalisation and technological change, the changing nature and increased diversity of legal work, equity and access issues and the challenge of sector benchmarking.

Standards Expressed in Multiple PLT Course Offerings

15. Attachment C is an extract from a larger table prepared as part of a report by College consultants, Kay Smith and Tania Digges, the final version of which is expected to be ready in early February. It describes some basic points of comparison between the ten major PLT courses in terms of qualifications, teaching modes, time commitments, tuition fees, work experience requirements and admission destinations.
16. The table describes areas of high inconsistency in PLT course offerings around Australia, although it is also encouraging about some areas of good consistency. Where there are critical areas of difference they are invariably related to the cost-quality trade-off faced by all educational institutions in the current financial environment of Australia's higher education sector, in turn related to perceptions of competitive advantage as between providers:
 - Award level
 - Recognition of Prior Learning (RPL) and permitted point of commencement
 - Course length and work volume
 - Course content (x # of jurisdictions)
 - Teaching method including syndicate strategies
 - Assessment strategies
 - Distribution of volume between course component
 - Work experience requirements
17. Many of the standards-related issues which arise from multiple differences in PLT course offerings fall outside the current scope of the Competencies and the Standards. The trend to syndicate teaching with associated assessment strategies based on group work is a major issue in the cost/quality trade-off. The issue of course content is also important when considered in the context of multi-jurisdictional course portfolios. The College's jurisdictional-specific approach to the customisation of course content involves very significant costs in updating and otherwise maintaining the large volumes of course materials necessary to support multiple different courses, dwarfing the related costs of those providers who adopt a pan-jurisdictional approach, with a single curriculum containing multi-jurisdictional references.

The Special Challenge of “Corresponding Courses”

18. Attachment D is a chart which interprets Department of Education statistics as 2009-2013 market share trends applying to the four largest PLT providers, with particular focus on the College. It explains the impact of the current regulatory approach to National Mutual Recognition (NMR) of courses which are said to be “corresponding” in the Rules of all Australian admitting authorities. This approach is specifically preserved by Draft Rule 6 (4). The statistics in Attachment D are validated by the separate PLT Sector Economic Review recently developed by Ernst & Young mentioned in Attachment H.
19. Different PLT providers will naturally have different explanations for these kinds of market trends. Some will cite innovation in course design, effectiveness of relations with students and firms or relative teaching quality as reasons for market outcomes, positive and negative. In the College’s view, the more overtly obvious explanation for these trends is that some providers, by virtue of their jurisdiction of origin, operate without particular regulatory oversight of any kind and are thereby permitted to offer features which are highly attractive to students and firms whilst the College, by virtue of its multi-State accreditation arrangements, is obliged to meet in every small particular the highest standards set by any one of its five accreditors, thereby effectively being prohibited from offering those same features.
20. The problem of variable standards associated with Mutual Recognition Schemes are well known. The College notes the Review⁵ currently being conducted by the Productivity Commission into this precise issue, with submissions due by end February. It also notes the recent initiatives by admitting authorities in ACT and Victoria, with support from the LACC, to review the question of variable standards as it applies to one provider, at least in their own jurisdictions.
21. The market trends described in the chart at D illustrate some of the stark challenges for regulators and providers in the current diversified national PLT system. If Draft Rule 6 (4) preserves the current approach to corresponding courses within that system, it is quite plain that it will soon become untenable for the College or any other PLT provider to sustain a federal operating structure. The practical effect would be that all PLT providers would be forced back into the regulatory arms of their jurisdiction of origin, relying on National Mutual Recognition principles to support the inter-state admission of their graduates, with plain negative implications for the quality and relevance of the learning of those graduates.
22. The implications of this scenario go beyond the potential for damage to the College organisation. The College’s 10 year strategy of multi-State course accreditation - emphasising the need for local students to be trained in local law and practice, by local practitioners within locally accredited curricula - has made a real contribution to the intellectual and pedagogical narrative of the national legal profession, with extensive new intellectual property, training networks, cross-border training collaborations and administrative infrastructure, much of which is at risk to be lost to the national profession.
23. ANU is one of Australia’s leading universities, consistently ranking among the world’s leading universities in regular assessments by international agencies⁶. Its PLT program is based on a well developed pedagogical model⁷ and it seems clear that many students have a positive experience of the course itself. The College does not raise any issue of standards in any of those respects. The College’s concern is that under current arrangements for corresponding course recognition between jurisdictions, the ANU program is not being held to account for the same standards as locally accredited courses. This inconsistency is not the fault of the ANU but arises because of shortcomings in the way Admissions Rules are currently framed and administered. There is a plain need to address these shortcomings in the new National Admissions Rules.

⁵ Productivity Commission Issues Paper: Mutual Recognition Scheme; Australian Government January 2015

⁶ See for example the Times Higher Education University World Rankings 2014/15

⁷ Rowe M, Murray M & Westwood F, “Professionalism in pre-practice legal education: an insight into the universal nature of professionalism and the development of professional identity” in *The Law Teacher*, vol 46 No 2, July 2012, 120 – 131

The Special Challenge of Supervised Legal Training (SLT)

24. Attachment E is a copy of a report prepared for the College in August 2012 by Dr John Nelson in relation to accountability factors applying to Supervised Workplace Training (SWT) and related programs in other Australian jurisdictions. It was commissioned in order to help the College better understand how these kinds of programs operate. It will be among the group of papers to be considered at the College's Planning Conference in the context of Best Practice Regulation Principles. Attachment F is a chart which summarises the differential treatment of SWT and PLT courses under the draft Rules.
25. The College is opposed on philosophical grounds to apprenticeship training for the legal profession. The decision to abolish apprenticeship training in New South Wales from 1974 explains the reason for the College's mission. It looks to multiple reviews of clerkship systems around the world since that time⁸ to support its view. It observes that many millions of dollars in various forms of public funding were deployed to establish and maintain in NSW a comprehensive PLT course regime, operating as a direct alternative to apprenticeship training, based on structured curricula with formal credentialing at Graduate Diploma (or equivalent) levels. As many as 50,000 new lawyers have been admitted to practice under that regime since 1974, by far the largest single cohort of new admittees to the national profession. The College regards apprenticeship training as generationally outdated and will continue to advocate that it should be excluded or heavily qualified in any future national PLT system.
26. However, the College does not seek in this submission to exert its philosophical view point on this matter. It accepts the priority of maintaining momentum in the national profession initiative. It also accepts that different traditions have applied in other Australian States and there is a strong will among the regulatory leadership of those States to preserve aspects of apprenticeship training within the larger national PLT system in order to accommodate perceived local needs. Accepting that reality, the College's strong submission is that SLT-type programs must be held to standards which are unitary with PLT courses and involve provisions for accreditation, monitoring and review which, if not precisely identical to those related to PLT courses, are at least demonstrably appropriate as a direct equivalent.
27. Attachment F shows that the Draft Rules as they presently stand address SLT in provisions which are conceptually inconsistent with surrounding provisions as applied to academic and PLT courses. A number of important provisions in the draft Rules (6 & 7), which relate to accountability standards, are dealt with in a direct way for PLT courses but addressed in an indirect way for SLT via a schedule. The draft Rules in their current form create a binary system in which students engaged in one mode of qualification are subject to different rules and standards from students in another mode. The College urges the Committee to address these inconsistencies by developing a next version of the Draft Rules which includes a unitary regulatory framework for SLT and PLT courses.

Definition and Purpose of Work Experience

28. Attachment G is an extract from a report written by Christopher Roper⁹ in 1992 on the Practical Experience Component of the (then) proposed Professional Program in New South Wales. Mr Roper was at that time co-author with the College's current CEO, Neville Carter, of the Blueprint for the Preparation for Practice as a Solicitor in New South Wales, which was subsequently adopted by the Council of the Law Society of New South Wales and the NSW Solicitors Admission Board (as it then was). Also relevant under this section is Attachment C, mentioned at item 15. above, which describes the high variability between work experience requirements of the major PLT providers.

⁸ For example, in England and Wales the Report of the Committee on Legal Education ("the Ormrod Report"), 1971; in NSW the Survey of Training received by Articled Clerks in New South Wales ("the Trew Report"), 1966; in WA the Development of a Practical Legal Training Course in Western Australia (the "Eckert Report"), 1994; in Ontario, Canada, The Teaching Term of the Bar Admission Course: a Critical Assessment and Proposal for Change (the "Spence Report"), 1988; Campbell S, Victorian Department of Justice, Review of Legal Education Report: Pre-Admission and Continuing Legal Education, 2006 (the Campbell Report)

⁹ Journal of Professional Legal Education Volume 10. No. 2

29. Prior to 1994 work experience was not a requirement of PLT in New South Wales. The thinking was that because first admission was limited to supervised practice, a two year period of post-admission supervision would be sufficient to meet public expectations. This situation changed as a result of a three year review process which was probably the most thorough and extensive review of PLT ever conducted in Australia. It commenced with the findings of an LSNSW Review Committee which recommended in October 1991:

“that post academic pre-admission training be so structured as to provide both institutional training and practical experience”.

30. When this proposition was in due course translated into Work Experience Rules the central educational principle was that no part of the work experience component for any student was designed as “training” toward any particular learning objective or competency. Work experience was seen as having an undefined and unmeasurable intrinsic value. While minimum standards of supervision needed to be set, the actual learning in the curriculum as a whole was the exclusive responsibility of the institution, not the workplace supervisor, and all teaching and assessment was to be separately assigned to trained teaching professionals within the institution.

31. Work experience in this context is a different thing entirely from the work experience dimension of SLT. It is there to provide context for learning and reflection on learning, carrying no accountability whatsoever to regulatory prescriptions of learning outcomes. This important difference needs to be taken carefully into account in determining the best balance between structured training and work experience in any future national PLT scheme. It is also important as a starting position for any new characterisation of the nature and objectives of work experience which might be contemplated by any such scheme.

32. When the NSW model of thinking about work experience was first established, the College was a monopoly provider in NSW and there was little consciousness of what was happening in other Australian States and Territories. Since that time the context of work experience has changed enormously, with more than 3,000 placements involved each year in the College operation nationally, and almost double that for the PLT system as a whole, involving a plurality of legal work sites and styles which the Roper definition could not have imagined in 1992. As the model has been extended into other States it has attracted different interpretations in different places. College administrative staff work with five different sets of Work Experience Rules with inconsistent and sometimes contradictory requirements.

33. More broadly across the national PLT system, the length of required work experience varies considerably from as little as 3 weeks¹⁰ to as much as 16 weeks, without any identifiable common prescription of what it is supposed to achieve. At the same time, in the current difficult employment market, it has become a practical barrier to entry for many students in a number of jurisdictions. All the old social equity arguments about privilege, exploitation of students and artificial barriers to entry, previously associated with the Articles system during the 1960’s and 1970’s, are again resurfacing.

34. In the College’s submission the whole area of work experience is in urgent need of redefinition and this should be dealt with directly in the Rules themselves or by some other new and better machinery than that currently provided by the Competencies and the Standards.

C. The Need to Understand the Impact of Regulatory Change

Understanding the PLT Sector

35. Attachment H is an extract from a report of Ernst & Young dated 10 September 2014 prepared as part of the College’s 2014-15 PLT Sector Review. It describes a legal education market valued at between \$480M and \$570M of which the PLT segment represents around \$50M - \$60M. PLT is a significant segment within a significant market. It is the gateway to the larger legal services market, assessed by the Australian Bureau of Statistics in 2007/08 as contributing \$11Bn to the Australian economy and generating around \$18Bn in income. More recent market research reports from IBIS World suggest an annual revenue of \$23Bn with annual growth over the past 5 years of 1.6% and an employment compliment of 98,970.

¹⁰ as per Standards

36. It is important that regulators have access to reliable data about their target sector and the College believes the Ernst & Young report can make an important contribution to next stages of review of the PLT system. The recent high incidence of public misreporting of statistics about the number of law graduates has been a matter of concern to the College and other providers in this context. As the Ernst & Young Report shows there are not 12,000 law graduates per year but rather around 8,300 of whom approximately 75% (6,250) will be seeking admission as legal practitioners, and not all of those intending to seek employment as practitioners.

Co-regulatory Considerations

37. Attachment I is a table extracted from a report prepared by Dr John Nelson as part of a recent review commissioned by the College in collaboration with APLEC in October 2013. It was a limited review without particular actions arising. The table lists the various agencies which exercise regulatory influence over institutions within the PLT sector, notably those related to the higher education sector and to individual universities within which a number of PLT providers are housed.
38. PLT happens in a co-regulatory environment which creates both risks and opportunities for regulators. Regulatory best practice, as the College understands it, carries a presumption against regulatory duplication and the multiplication of administration and costs which flow from it. The Standards as developed in 2013 address this issue in a satisfactory way but there is a good case for it to be more closely explored as part of any next stage of review of PLT, given significant developments in the work and policies of the TEQSA since the Standards were first formulated.

Affordable, Manageable Administrative Framework

39. The College is aware that considerable interest has been expressed by a number of stakeholders in the administrative and financial implications of the proposed Draft Rules 15 – 25, among other concerns. The College has had the opportunity to review the APLEC submission on these matters which it endorses without further comment.
40. More generally the College encourages the Committee to reflect in next stages of development of the Draft Rules the general principle of proportionality and the need to ensure that those who interact with the administrative systems the Rules create will be managed efficiently and respectfully.

Best Practice Regulation Principles

41. The establishment of the Legal Services Council and its Admissions Committee creates an unprecedented opportunity to review the protocols and processes by which regulatory agency in the legal services sector initiate, develop and monitor policy reform with regulatory impact. The College encourages the Committee to develop as part of its current work sector-specific Best Practice standard to assist agencies to follow consistent principles of the general type contemplated by the Council of Australian Governments (COAG) in its Guide for Ministerial Councils and National Standard Setting Bodies (the COAG Guide).
42. The COAG Guide was developed in response to commitments given by all Australian Governments at the meeting of COAG on 10 February 2006. These involved the establishment and maintenance of effective arrangements to maximise the efficiency of new and amended regulations and avoid unnecessary compliance costs and restrictions. The COAG Guide is intended to ensure that regulatory processes at a national level are consistent with principles of Best Practice, as regularly reviewed and agreed by the COAG.
43. The College appreciates the many practical difficulties involved in co-ordinating the decision-making activities of the various admitting authorities and related State and Territory agencies by reference to common goals and uniform principles, as for example in an organisation such as the LACC. The College believes that the profession has been very well served by the LACC leadership in this difficult work over many years. However, the College also believes that there is an opportunity through the new Admissions Committee and Council to forge new protocols and processes, and to deliver improved co-ordination and overall effectiveness of national policy making in legal education into the future.

D. Toward a New National PLT Prescription

First Attempts

44. When APLEC initiated work on the first version of the Competencies in the late 1990's its purpose was to create for the first time in Australia a single statement of what all parts of the diversified national PLT system could be relied on to achieve. Necessarily, given the plurality of input and process modes nationally, the statement was focused on outcomes stated as exit competencies. Creation of the Competencies was a critically important breakthrough in work toward establishment of the national legal profession. It was subsequently adopted by the LACC in 2000 with various reviews and modifications under the LACC aegis over the years, but has remained in regulatory terms the enduring enabler of a national approach to entry level standards of new Australian Legal Practitioners in what is otherwise a complex and confusing multi-jurisdictional regulatory environment.
45. It was always understood that an exclusively outcomes-based approach to the definition of National Minimum Standards in PLT was never going to be adequate to ensure consistency and accountability of the sector in the long-term, given the many regulatory, competitive and economic influences on its operation. This was recognised by APLEC leaders from the beginning. They developed a counterpart document to the Competencies in the form of a schema for relating the various national courses and modes to each other. Although it was never formally adopted or accredited by any agency, the schema was the first of a number of attempts to create a single statement of what all parts of the diversified national PLT sector might be relied on to exhibit in terms of inputs and processes. Its main focus was on the number and distribution of course hours between structured training and work experience. A sample is Attachment J.

The Roper and McKinnon Reports

46. In 2008 the Victorian Council of Legal Education (CoLE) commissioned Christopher Roper AM to develop a set of draft PLT standards following his previous work developing the *CALD Standards for Australian Law Schools*¹¹. As described in the background section of the Standards the College then invited the LACC to circulate Mr Roper's Preliminary Report¹² to interested stakeholders, seeking their comments with more than 20 responses received. The Preliminary Report was in some ways controversial, mainly because of its approach to online teaching technologies and a number of other matters of direct concern to PLT providers, including in particular the College. However, the report as a whole made an important contribution, drawing attention to the lack of definition in PLT prescription where inputs and processes were concerned and opening up the opportunity to review and modernise PLT standards more generally.
47. The response of the College to Mr Roper's Preliminary Report was to establish a Committee consisting of leading persons in law and education under the chairmanship of former Wollongong Vice Chancellor, Emeritus Professor Ken McKinnon. The McKinnon Committee conducted an extensive review of all aspects of the national PLT system and produced a comprehensive report which made recommendations around the following principles to guide the creation of a new national standard.
- apply established higher education principles
 - align learning approaches to the needs of students and the sector
 - co-ordinate regulatory requirements
 - enable sector efficiency
 - understand the nature of the online classroom, and
 - modernise the LACC/APLEC Competencies

¹¹ Council of Australian Law Deans Standards for Australian Law Schools, resolution March 2008

¹² Roper AM, Christopher, Standards for Approving Practical Legal Training Courses and Providers, Victorian Council of Legal Education, Victoria Australia 2008

The Standards

48. The Standards subsequently developed by the LACC responded in a systematic way to the McKinnon Recommendations, and incorporated many of them, although a number of major sector issues raised by the full report remain unaddressed. In their final form, the Standards represent by far the best baseline statement available of what should be minimally required, in terms of inputs and processes, from PLT providers and courses Australia-wide. If they had been wholly adopted in their full form by all admitting authorities, reflected as rules, and administered consistently across jurisdictions, many of the problems identified in item 10. *ante* might well have been relieved.
49. However, it is clear that for whatever reasons the Standards are not being universally or consistently applied and that current deep sector problems require a response which goes beyond a mere redraft of existing documentation. In the College's view, any next major definition of standards, however documented, needs to be built up from a detailed understanding of how the various components of the national PLT system are actually operating on the ground and the implications for students, firms and the profession at large.

Next Stages of Sector Review

50. Australia's legal profession has strong traditions of innovation and leadership in education standard setting, supported by a legal education system which has sustained outstanding record of achievement within unique educational frameworks and pedagogy. This history of achievement has been largely driven from State level and the great challenge before the law and legal education in this decade is to co-ordinate effort into a legitimately national approach.
51. The Competencies and Standards as well as the Roper and McKinnon Reports and other important contributions to thinking in recent decades, have provided important foundations on which to address that challenge and to build a next major stage of development for the national PLT system.

Recommendations

52. The College recommends that the Committee:
- i) foreshadow publicly its intention to commence a comprehensive National Review of all aspects of PLT prescription, accreditation and oversight within a 12 month period, with a view to establishing a new definition of minimum common standards and a new regulatory framework to better monitor and assure its effectiveness
 - ii) in the circumstances of i) above, make interim changes to the Draft Rules which achieve the following outcomes on an interim basis:
 - qualify current automatic mutual recognition of corresponding interstate courses in a way which better protects against variable standards and unfair competitive advantage
 - bring PLT courses and SLT programs into a unitary framework for prescription of learning content, outcomes and assessment, as well as program accreditation, monitoring and review
 - address the definition and prescription of work experience directly in the Rules or by some other machinery more satisfactory than current references in the Competencies and Standards.

Neville Carter
CEO
30/01/2015

F. Attachments

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Attachment A

List of PLT Sector Review Reports

Attachment A – List of PLT Sector Review Reports**College of Law
Board of Governors****List of Reports in 2014-15 PLT Sector Review**

1. **Sector Economic Review** – this report has being prepared by Ernest & Young. It contains comprehensive information about the economic dimension of Australia’s legal education system and the PLT sector within that system, including findings about key metrics such as student numbers, provider capabilities, tuition fees, career destinations etc.
2. **National Regulatory analysis** – this report has being prepared by Creative Consequences Pty Ltd, a consultancy led by former NSW Legal Services Commissioner Steve Mark. It contains a detailed evaluation of the various regulatory prescriptions and practices applying within and across jurisdictions in the PLT sector in Australia.
3. **PLT Course Audit Australia**- this report is being prepared by former College Director of Programs Kay Smith with the assistance from College lecturer Tania Digges and is close to completion. It includes a detailed analysis of all the various PLT programs operating in Australia in terms of their content, teaching method, duration, costs and fees, assessment principles and practices. This report also includes an evaluation of how the current system came to be, drawing on Kay’s 30 years of experience as a sector leader in PLT institutions and law schools across Australia, New Zealand and United Kingdom.
4. **PLT Course Audit international** – this report has been prepared by English consultancy Savage Hutchinson, led by former long serving CEO of the University of Law (England & Wales), Nigel Savage. It compares and contrasts regulatory requirements and PLT course prescriptions across a number of common law jurisdiction including United Kingdom, United States, South Africa, Canada, New Zealand, Hong Kong and South East Asia
5. **Stakeholder Survey & Review Report** – this report arises from the extensive consultation process mentioned earlier in this memorandum, in which the College has been engaged since April last year. Leading research house AMR has followed through on the consultation meetings to gather data about stakeholder perceptions of the relative effectiveness of the current system. Follow up reports are expected in the next month or two.
6. **Review of Best Practice Regulation Principles** - this report will be in the form of a series of papers which review how the various components of the highly diversified current national PLT system fit with the legal system itself in the context of the COAG Principles and Best Practice Regulation more generally. They will also review the main reports effecting the way the sector has been regulated over the past decade including the Campbell Report in Victoria, Roper and McKinnon Reports from the 2008/09 reviews of the LACC, and subsequent related reports developed in 2012 and 2013 by Dr John Nelson in relation to various aspects of PLT sector regulation.

Attachment B

**Creative Consequences Report dated 15
August 2014**



**CREATIVE
CONSEQUENCES P/L**
LAW, BUSINESS AND REGULATION ADVISORY

**THE REGULATION OF PRACTICAL
LEGAL TRAINING IN AUSTRALIA**

15 AUGUST 2014

EXECUTIVE SUMMARY

Creative Consequences has been retained by the College of Law Ltd (“the College of Law”) to assist the College in undertaking a comprehensive review of post-academic, pre-admission legal training in Australia. The desired outcome of the review is to develop a series of recommendations about how the current PLT framework might be reformed in relation to regulation.

As a foundation for this review, the College of Law engaged Creative Consequences to investigate and document all of the current laws, regulations, rules and guidelines which impact on the sector. Specifically, the College of Law asked Creative Consequences to address the following issues: PLT modes – range, number and types; prescriptions, if any, as to length, content, assessment and reporting requirements of PLT courses; pre-requisites and other requirements of PLT providers accredited in each jurisdiction; procedures for accreditation of courses and providers, requirements (if any), provisions are for review of those accreditations and time cycles involved; relationship between academic law and PLT in each jurisdiction and any requirement as to segregation and or integration; and, additional features, as appropriate for discussion. This Report considers all of these issues in detail.

The purpose of the engagement is to produce a simple, clear comparative analysis of how the regulation of PLT impacts in each State and Territory as well as Australia-wide and to comment and make recommendations as to the efficacy of PLT.

In order to conduct this inquiry Creative Consequences has been provided with a number of key documents concerning PLT in Australia. These documents comprise as follows:

- Council of Australian Governments, *Best Practice Regulation A Guide for Ministerial Council and National Standards Setting Bodies*, October 2007;
- The College of Law, *Review of the Roper Report*, May 2009 (“the McKinnon Report”);
- Dr John Nelson, *Best Practice Regulation Review*, October 2013;
- The Victorian Council of Legal Education, *Standards for Approving Practice Legal Training Courses and Providers*, November 2008 (“the Roper Report”); and
- Australian Professional Legal Education Council, *Competency Standards for Entry Level Lawyers*, November 2000 (updated February 2002).

In addition to these documents, Creative Consequences conducted its own review of the PLT framework in Australia, by way of theoretical research.

This Report sets out the findings of this engagement.

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INTRODUCTION

Practical Legal Training (“PLT”) courses have been offered for 40 years and at Graduate Diploma level (or higher) for almost 20 years in New South Wales, Queensland, the ACT, South Australia and Tasmania. In Victoria PLT courses have been offered at the Graduate Diploma level of award for almost ten years.

The College of Law and the Legal Practice Workshop at the Australian National University (“ANU Legal Practice Workshop”) are the primary national providers of PLT in Australia. The College of Law PLT program is fully accredited by the admitting authorities in the ACT, New South Wales, Queensland, South Australia, Victoria and Western Australia. It was the first professional legal training program to be established in NSW. The ANU Legal Practice Workshop allows for direct admission to practice in the Australian Capital Territory, New South Wales, Victoria, Queensland, Western Australia, Tasmania and the Northern Territory under corresponding legislation. In addition to these providers, there are also a number of State-based PLT programs.

In New South Wales PLT courses are also offered by the University of Technology Sydney and the University of Newcastle. PLT courses were offered by the University of Western Sydney and the University of Wollongong but they are no longer being offered.¹ In Queensland PLT courses are offered by the Queensland University of Technology and Bond University and a Traineeship Program is offered by the Leo Cussen Centre for Law. The University of Queensland and Griffith University used to provide PLT Programs but no longer do so.² In South Australia, the PLT course is offered by the University of Adelaide in conjunction with the Law Society of South Australia, and Flinders University. Flinders University do not however offer a stand-alone PLT Program, rather they offer PLT as part of the Bachelor’s Degree. Flinders were considering offering a stand-alone Program they called the “Graduate Diploma in Legal Practice” but they are not pursuing this avenue at present.³ In Tasmania the PLT course is offered by the University of Tasmania. In Victoria the Leo Cussen Centre for Law offers a PLT course as well as a Traineeship Program. Monash University did offer a Graduate Diploma in Legal Practice but they no longer do so.⁴ In Western Australia, the Leo Cussen Centre for Law offers an Article Clerks Training Program. The University of Notre Dame did offer a Graduate Diploma of Legal Practice but the Program is no longer offered.⁵ In the ACT, the PLT course is offered through the ANU Legal Practice Workshop. The Northern Territory does not offer any PLT Programs but has approved the College of Law’s Program as well as the ANU Legal Practice Workshop Program.

Despite the long history of PLT courses being offered in Australia there is little uniformity in provision or regulation, other than competency standards. There is no consistency in accreditation for PLT courses nor is there any consistency in quality control (i.e. monitoring, assessment or review). For example, quality control for PLT courses offered through Queensland University of Technology, University of Technology Sydney and the Australian National University, occur via the scrutiny of an internal Academic Board reporting to the

¹ Telephone calls to the Law Schools of the University of Western Sydney and the University of Wollongong on 30 July 2014.

² Telephone calls to the Law Schools of the University of Queensland and Griffith University on 30 July 2014.

³ Telephone call to Flinders University on 30 July 2014.

⁴ Telephone call to Monash University on 30 July 2014.

⁵ Telephone call to the University of Notre Dame on 30 July 2014.

University Council. Yet for the Leo Cussen Centre for Law and the College of Law, an arguably more rigorous State based registration and accreditation systems apply. This presents numerous problems, particularly for the College of Law, who, as a national provider of PLT courses seeks registration and accreditation by all of the State and Territory higher education authorities. Attempts have however been made to address this anomaly, in part with the introduction in 2000 of a set of competency standards, the *Competency Standards for Entry Level Lawyers* (“Competency Standards”) by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC)⁶. The creation of these national Competency Standards, as the section below discusses, indicates that uniformity in relation to PLT can be achieved.

The absence of uniformity in PLT stands in stark contrast to the move towards a national unified legal profession that has been occurring in Australia over the past few decades.⁷ Efforts to achieve uniformity and harmonisation have recently culminated in the introduction and passing of new legislation, formally known as the *Legal Profession Uniform Law Application Bill 2013* in both Victoria and NSW.⁸ According to the Bill’s Explanatory Memorandum the purpose of the proposed law is to repeal the existing legal profession legislation and replace it with a new “template legislation”, to be known as the *Legal Profession Uniform Law* (the Uniform Law). The Uniform Law is intended to apply to Victoria and NSW at this stage and eventually have application in multiple States and Territories of Australia.

The move towards uniformity signifies a philosophical change away from over-regulation and prescription to a new regime based on fewer regulators and principles-based legislation. The new regime indicates, for example, that the tolerance for multiple regulators and regulatory regimes is waning. This change of heart is particularly relevant and important for legal education providers in Australia such as those offering PLT.

The number of authorities involved in regulating PLT providers is numerous and complicated. These bodies include local admission boards; University-based Self Accreditation Boards/Councils; the LACC; TEQSA (the Tertiary Education Quality Standards Agency); CRICOS (the Commonwealth Register of Institutions and Courses for Overseas Students); AQF (the Australian Qualifications Framework); CALD (the Council of Australian Law

⁶ Australasian Professional Legal Education Council and the Law Admissions Consultative Committee, *Competency Standards for Entry Level Lawyers*, November 2000, updated February 2002.

⁷ In February 2009 the Council of Australian Governments (COAG) added legal profession reform to the work program for National Partnership Agreement for a Seamless National Economy. COAG’s reasoning for doing so was that they considered that whilst the Model Laws Project (whose task was to develop Models Law for each jurisdiction to adopt) was successful, there remained considerable scope for further reform of legal profession regulation. The Legal Profession Acts based on the Model Bill were not as sufficiently uniform or harmonised as they needed to be to support a seamless national legal services market and to facilitate Australia’s participation in the international legal services market. It was also felt that regulation of the legal profession was complex and variable, with up to 55 different regulators across the country.

In April 2009, COAG resolved that the measures be instituted to reform the regulation of the legal profession. These measures included (a) that legislation be drafted providing uniform laws relating to the legal profession across Australia; (b) that a specialist taskforce be appointed by the Attorney-General to make recommendations and prepare draft legislation; and, (c) that a consultative group be appointed by the Attorney General to advise and assist the Taskforce.

⁸ The Bill passed both Houses in Victoria without amendment on 13 March 2014 and received assent on 25 March 2014. The NSW Parliament introduced legislation applying the Legal Profession Uniform Law on 27 March 2014. The Bill passed both Houses without amendment on 13 May 2014 and received assent on 20 May 2014.

Deans) and DIISRTE (the Department of Industry, Innovation, Science, Research and Tertiary Education).

The effect of these multiple regulators is most apparent when one compares who regulates PLT in the different States and Territories in Australia. For example, in NSW a sub-committee of the Legal Profession Advisory Board (LPAB) known as the “Legal Qualifications Committee” regulates PLT providers. In Victoria the Council of Legal Education, determines the requirements for admission, approves PLT courses and providers and also approves law degrees. In Queensland the Legal Profession Advisory Board (LPAB) reviews and considers for approval all courses of academic study and PLT courses. In Western Australia the WA Legal Practice Board regulates PLT courses. In South Australia the Legal Practitioners Education and Admission Council (LPEAC), an independent body chaired by the Chief Justice, accredits courses. In Tasmania the Board of Legal Education monitors PLT courses and finally, in the Australian Capital Territory, the LPAB apparently regulates PLT. However it’s not just the question of “who” is the regulator that is complicated. The “what” and “how” of regulating PLT in Australia appears to also be convoluted.

This Report will illustrate these idiosyncrasies and, in particular, their effect on accreditation and quality control. In an environment where uniformity and the desire for national harmony is fast becoming the norm the disparate regulation of PLT stands in stark contrast.

Part A of this Report presents a historical overview of the work that has taken place towards harmonisation of PLT. This Part details the efforts of the APLEC and the LACC to develop a uniform system of regulation for PLT.

Part B of this Report sets out the regulatory framework in relation to PLT. This section commences by discussing the role and function of the APLEC, the LACC, the TEQSA, the CRICOS, the AQF, the CALD and the DIISRTE. A discussion of the regulatory regime in each State and Territory in Australia concerning the regulation of PLT follows. This Part addresses the powers and functions of the relevant body responsible for regulating PLT programs and providers as well as information provided about PLT approval, accreditation, monitoring and review.

Part C of this Report sets out information about PLT programs currently being offered in every jurisdiction in Australia. This Part provides details about the content of each PLT Program, the entry requirements for each PLT Program, the mode of each PLT Program, the assessment regime for each PLT Program and finally, the tuition fees for every PLT Program.

Part D of this Report sets out the authors observations about the current regulatory framework of PLT in Australia. The purpose of the observations is to elicit discussion about “appropriate” regulation of PLT.

Part E of the Report sets out the conclusion.

METHODOLOGY

This Report provides a theoretical discussion of the PLT framework in Australia. The authors have adopted a “literature review” type methodology. The material discussed in this paper has been aggregated from publications provided by the College of Law (referred to above) as well

as reference papers and articles sourced from the Internet and libraries. A large amount of information contained in this Report was also obtained from the websites of the various PLT providers and regulatory bodies. In some instances the PLT providers and relevant regulators were contacted by phone to obtain additional information.

The paper does not contain any qualitative or quantitative research. Further research of this nature may be required at a later stage but for the purposes of the present Report, neither qualitative nor quantitative research was considered necessary by the authors or the College of Law.

PART A - EFFORTS TO ACHIEVE UNIFORMITY IN PLT

The history of PLT development to achieve uniformity essentially commenced in 1993 with a request by the Standing Committees of Attorneys-General (SCAG) to the Law Council of Australia to forge a national agreement between jurisdictions offering PLT on the requisite elements of PLT. The Law Council appointed a committee to commence work in response to the request.⁹ In conjunction with the LACC, the Committee developed 12 practice topics to be prescribed in PLT training.¹⁰ The 12 topics, commonly referred to as the Priestly 12 were published in an LACC proposal in February 1994. The proposal also recommended, in lieu of PLT, a minimum requirement of two years' practical experience of which at least one year must be gained after admission.¹¹

In July 1994, the Law Council of Australia released a blueprint for uniform standards of admission and of PLT.¹² The blueprint endorsed the twelve practice topic areas suggested by the Committee.¹³ None of the admitting authorities in Australia however adopted the suggested uniform PLT requirements.

In late 1996, the Law Council of Australia established a National Advisory Committee for Legal Education and Professional Admission to revisit the issue of uniform admission requirements, and in particular, uniform vocational standards.

In July 1997, the APLEC released draft standards for pre-admission vocational training for consideration. The draft standards, which condensed the Priestly 12 to 9, were forwarded to both the LACC and the National Advisory Committee for consideration.¹⁴ The nine standards (referred to as APLEC 9), specified the skills, values and practical knowledge that each student ought to be able to demonstrate upon completion of a course of PLT. They were designed to foster minimum national competencies. The LACC report that the APLEC 9 was the first time outcomes were enunciated in relation to vocational training.¹⁵

According to Monahan and Liffe, some discussion at APLEC did take place about the integration of PLT (and the Standards) within the Bachelor of Laws. It was noted that PLT is “more effective when it is intensive and occurs just prior to the trainee entering professional

⁹ The formal title of the Committee was the Consultative Committee of State and Territorial Law Admitting Authorities: see Consultative Committee of State and Territorial Law Admitting Authorities, *Report on Uniform Practical Legal Training Requirements*, February 1994.

¹⁰ The twelve areas included as follows: Ethics and Professional Responsibility, Trust and Office Accounting, Work Management, Legal Writing and Drafting, Interviewing, Negotiation and Dispute Resolution, Legal Analysis and Research, Advocacy, Litigation, Property Practice, Wills and Estate Management and Commercial and Corporate Practice.

¹¹ *Ibid* p.1

¹² Law Council of Australia, *Blueprint for the Structure of the Legal Profession: A National Market for Legal Services*, July 1994.

¹³ *Id* at p.3.

¹⁴ Australian Professional Legal Education Council, *Standards for the Vocational Preparation of Australian Legal Practitioners*, APLEC, Sydney, 1997.

¹⁵ Law Admissions Consultative Committee, Background Paper on Admission Requirements, 21 October 2010, http://www.lpab.lawlink.nsw.gov.au/agdbasev7wr/lpab/documents/pdf/background_paper_on_admission_requirements_211010.pdf

practice or is integrated with professional or clinical experience.”¹⁶ According to APLEC, integration however could only occur on certain conditions.¹⁷ Firstly, the combined program must be of sufficient duration to allow it to fulfil the objectives of both the academic and vocational components. Secondly, students must complete relevant academic parts of the program before engaging in the practical vocationally specific parts of the program. Thirdly, staff providing vocational training must have the experience and qualifications recommended for staff in institutional vocational training courses; and, fourthly, both the academic and vocational aspects of the program must be adequately funded and resourced.¹⁸

In 1999 the LACC commenced a project in conjunction with the APLEC to try to produce a statement of competencies which brought together the Priestley 12 and the APLEC 9. In 2002, the APLEC published a recommended set of competency standards which all entry level lawyers should meet in order to be eligible to be admitted as a legal practitioner.¹⁹ The competency standards were formally referred to as the “Competency Standards for Entry Level Lawyers.” (“the 2002 Competency Standards”).

The 2002 Competency Standards included a preface and 15 standards in relation to Administrative Law Practice, Civil Litigation Practice; Commercial and Corporate Practice; Consumer Law Practice; Criminal Law Practice; Employment and Industrial Relations Practice; Ethics and Professional Responsibility; Family Law Practice; Lawyer’s Skills; Planning and Environmental Law Practice; Problem Solving; Property Law Practice; Trust and Office Accounting; Wills and Estates Practice and Work Management and Business Skills.

The preface was an essential component of the 2002 Competency Standards. It set out provisions in relation to the types of PLT training that would satisfy the Standards (i.e. completion of a PLT course or Articles of Clerkship)²⁰; the time during which PLT should be undertaken²¹; the academic standard of PLT²²; diversity in the ways in which PLT is provided²³; the requirement that PLT include both programmed training and workplace training²⁴; flexibility and innovation in delivering PLT²⁵; qualifications of PLT teachers and supervisors²⁶; content of PLT in relation to Legal Aid and pro bono work²⁷; content of PLT in relation to the use of I.T.²⁸; assessments²⁹; and, approval and monitoring³⁰.

¹⁶ Australian Professional Legal Education Council, Standards for the Vocational Preparation of Australian Legal Practitioners, APLEC, Sydney, 1997 at p.23 quoted by G. Monahan and B. Liffe, "Competency-Based Education And Training For Law Students" (2001) 3 University of Technology Sydney Law Review 181.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Australasian Professional Legal Education Council and the Law Admissions Consultative Committee, Competency Standards for Entry Level Lawyers, November 2000, updated February 2002.

²⁰ Australasian Professional Legal Education Council and the Law Admissions Consultative Committee, Competency Standards for Entry Level Lawyers, November 2000, updated February 2002 at paragraph (a).

²¹ Id at paragraph (b).

²² Id at paragraph (c).

²³ Id at paragraph (d).

²⁴ Id at paragraph (e).

²⁵ Id at paragraph (f).

²⁶ Id at paragraph (i).

²⁷ Id at paragraph (j).

²⁸ Ibid.

²⁹ Australasian Professional Legal Education Council and the Law Admissions Consultative Committee, Competency Standards for Entry Level Lawyers, November 2000, updated February 2002 at paragraph (k).

³⁰ Id at paragraph (l)(i) and (l)(ii).

The LACC recommended the Competency Standards to all of the Admitting Authorities in Australia in 2001. The only Authority to adopt the Competency Standards, during this period, was the NSW Legal Practitioners Admission Board. Notwithstanding initial reluctance by the Admitting Authorities the Competency Standards were eventually endorsed by all of them in 2002. Today the Competency Standards are incorporated into the legislative framework governing PLT in every jurisdiction in Australia (to be discussed below).³¹

In 2012, ten years after the eventual adoption of the Competency Standards, the LACC, noting that the practice of law had fundamentally changed, sought the assistance of the APLEC and other stakeholders to review the Standards. The APLEC commenced a review of the Standards, published a consultation document and invited comment.³² The APLEC's review culminated in the adoption of a new set of Competency Standards for Entry-Level Lawyers ("the 2015 Competency Standards").³³ These Standards come into effect on 1 January 2015.

The 2015 Competency Standards are noticeably different. Firstly, they no longer contain a Preface. The Preface is replaced by a section titled "Background", a section titled "Interpretation" and two sections devoted to specific topics - "Requirements for Applicants for Admission" and "Requirements for Each Form of PLT." Secondly, each section contains a number of sub-sections setting out descriptive information. Thirdly, the 2015 Competency Standards have added an additional Standard – "Banking and Finance."

Interestingly the 2015 Competency Standards provide less guidance for PLT providers about accreditation and approval than the 2002 version. As discussed above, for example, the 2002 Competency Standards provided that Admitting Authorities should approve and monitor PLT. The 2015 Competency Standards do not refer to approval or monitoring at all.

During the period the Competency Standards were being reviewed, the Council of Legal Education in Victoria developed and adopted their own set of standards for PLT courses and providers against which those providing PLT training in Victoria may be monitored and assessed.³⁴ These Standards, formally referred to as *Standards for PLT Courses and Providers* ("Victorian Standards") were also approved by the APLEC.

The Victorian Standards, are, by and large, built on work commissioned by the Council of Legal Education in Victoria. Mr Chris Roper AM was commissioned to prepare draft Standards to appraise and accredit PLT institutions and courses.³⁵ Mr Roper's proposed Standards

³¹ Legal Practitioners Act 1981 (SA) s 14C; Legal Practitioners Education and Admission Council Rules 2004 (SA) r 2; Legal Profession Act 2004 (NSW) s 24(b)(i); Legal Profession Act 2004 (Vic) s 2.3.2(1)(c); Supreme Court Admission Rules 2004 (QLD) ss 7-7A; Legal Profession Act 2006 (ACT) s 21(b)(i); Legal Profession Act 2007 (QLD) s 30(1)(c); Legal Profession Act 2007 (Tas) s 25(b)(i); Legal Profession (Admission) Rules 2008 (Vic); Legal Profession Act 2008 (NT) s 29(1)(c)(i); Legal Profession Act 2008 (WA) s 21(2)(c).

³² APLEC (2012), Review of the APLEC & LACC Competency Standards for Entry-Level lawyers: Discussion Paper prepared by the APLEC Executive.

³³ LACC, Competency Standards For Entry Level Lawyers, commencement date 1 January 2015, <http://www1.lawcouncil.asn.au/LACC/images/pdfs/LACCCompetencyStandardsforEntryLevelLawyers-Jan2015.pdf>

³⁴ Council of Legal Education in Victoria, Standards for PLT Courses and Providers, February 2013, <http://www1.lawcouncil.asn.au/LACC/images/pdfs/VictorianCouncilofLegalEducation-StandardsforPLTProvidersandCourses.pdf>

³⁵ C. Roper, Standards for Approving Practical Legal Training Courses and Providers, Report, November 2008.

focused on two areas – mode and capability. The proposed Standards set out how staff should teach; appropriate materials required for teaching; appropriate assessments; the use of online delivery; workplace experience; the length of the course; the financial status of the provider; accommodation and teaching facilities for the course; resources; support services; governance and management; financial control systems; teacher and training development programs and student admissions and support. Mr Roper’s Report additionally set out standards in relation to approving a provider such as the process for approval; conditions of approval; withdrawal of approval; the requirements to submit an annual report and, monitoring providers.³⁶

Mr Roper’s proposed standards outlined in his 2008 report were controversial. They were overly prescriptive and as the McKinnon Review stated would “impose unnecessary additional costs on students, increasing fees to unaffordable levels, leading to inequitable access, and potentially reducing enrolments.”³⁷ Concern about Mr Roper’s proposed Standards prompted the Council of Legal Education to substantially revise them. After revision the Standards were presented to both the APLEC and the LACC. According to the Law Council of Australia, the LACC commends the Victorian Standards to other Admitting Authorities who may wish to use the Standards to assess PLT providers and courses in their respective jurisdictions.³⁸ It is not clear however whether they are being used by any jurisdiction in Australia.³⁹

³⁶ Id at p.vi-xv.

³⁷ The College of Law, Review of the Roper Report, May 2009 at p. 4.

³⁸ Law Council of Australia, Proposals and Submissions, <http://www1.lawcouncil.asn.au/LACC/index.php/ct-menu-item-3/proposals-and-submissions>

³⁹ For example, the Standards do not appear on the website of the Council of Legal Education, despite being the Council’s document.

PART B: THE REGULATORY FRAMEWORK

State-based regulatory frameworks

New South Wales

The Legislative Regime

The *Legal Profession Act 2004 (NSW)* (NSW Act) sets out the criteria for eligibility for admission as a lawyer in New South Wales. Section 24(1) of the NSW Act provides that a person is eligible for admission as a lawyer in NSW if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.” A person may be exempted from compliance with this requirement by the Admission Board.⁴⁰

“Approved practical legal training requirements” is defined as legal training requirements that are approved, under the “admission rules”, for admission to the legal profession in NSW.

“Corresponding practical legal training requirements” ” is defined as legal training requirements that would qualify the person for admission to the legal profession in another jurisdiction if the Admission Board is satisfied that substantially the same minimum criteria apply for the approval of legal training requirements for admission in the other jurisdiction as apply in NSW.

The “admission rules” are defined in the NSW Act as “rules relating to the admission of local lawyers and associated matters made under Part 2.3 (Admission of local lawyers)”. The relevant admission rules are the *Legal Profession Admission Rules 2005* (“NSW Rules”).⁴¹

Rules 95 and 96 of the NSW Rules set out the requirements for admission in relation to attaining qualifications and completing PLT, respectively.

Rule 96(1) of the NSW Rules provides that the PLT requirement for admission is completion of a course of practical training or articles that is recognized in at least one Australian jurisdiction as providing sufficient practical training for admission as a lawyer by the Supreme Court of that jurisdiction; and, that includes evidence of the attainment of certain core and elective competencies.

Those competencies, set out in Rule 96(1)(b) include “Skills; Lawyers’ Skills; Problem Solving; Work Management and Business Skills; Trust and Office Accounting; Practice Areas; Civil Litigation Practice; Commercial and Corporate Practice; and, Property Law Practice. The elective competencies include one of the following: Administrative Law Practice; Criminal Law Practice; Family Law Practice and one of the following: Consumer Law Practice; Employment and Industrial Relations Practice; Planning and Environmental Law Practice;

⁴⁰ Section 24(4) of the NSW Act.

⁴¹ Legal Profession Admission Rules 2005,

<http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+886+2005+FIRST+0+N/>

Wills and Estates Practice; Values; and, Ethics and Professional Responsibility”. A synopsis of the competencies referred to is set out in the Sixth Schedule to the NSW Rules.⁴²

Rule 96(3) of the NSW Rules provides that the practical training courses conducted in New South Wales which are recognized as satisfying the requirement of sub-rule (1) are listed in the Fourth Schedule. The Fourth Schedule lists the following PLT providers as satisfying the requirements of Rule 96(1):

- The College of Law: The Practical Legal Training Program
- The University of Newcastle: Diploma of Legal Practice OR Graduate Diploma in Legal Practice
- The University of Wollongong: Professional Legal Training Course
- The University of Technology Sydney: Graduate Diploma in Legal Practice OR Graduate Certificate in Legal Practice OR Master of Law and Legal Practice OR Graduate Certificate in Professional Legal Practice
- The University of Western Sydney: Graduate Diploma in Legal Practice OR Master of Legal Practice (subject to completion of professional legal placement).⁴³

The Schedule notes that the University of Wollongong and the University of Western Sydney no longer offer Programs.⁴⁴

The Rules are made by the Legal Profession Admission Board under section 38 of the NSW Act.

Regulation of PLT Courses by the Relevant Authority

The accreditation of PLT courses is conducted by the Legal Profession Admission Board (“NSW LPAB”) but delegated to the Legal Qualifications Committee, a sub-committee of the NSW LPAB. The power to delegate is conferred by Rule 15 of the NSW Rules.⁴⁵

The Legal Qualifications Committee ordinarily comprises 15 members and one Secretary. Members as at 2014 include as follows:

The Honourable Justice Adamson
The Honourable Justice Robb
Ms Susan Leis
Mr Thomas Spohr
Mr Mark Warton
Ms Carolyn Penfold
Dr Gordon Elkington
Mr Gregory Ross⁴⁶

The Honourable Justice Beech-Jones
Mr John Fernon SC
Ms Elizabeth Picker
Ms Pam Suttor
Ms Jenny Eggleton
Professor Peter Radan
Mr Peter Underwood

⁴² Legal Profession Admission Rules 2005, Sixth Schedule Practical Legal Training, <http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+886+2005+FIRST+0+N/>

⁴³ Legal Profession Admission Rules 2005, Fourth Schedule, <http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+886+2005+FIRST+0+N/>

⁴⁴ Ibid.

⁴⁵ Legal Profession Admission Rules 2005, Part 3 Legal Qualifications Committee, <http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+886+2005+FIRST+0+N/>

⁴⁶ Legal Profession Admission Board, Members of the Legal Profession Admission Board and its Committees, http://www.lpab.lawlink.nsw.gov.au/lpab/legalprofession_publications.html,c=y

Information about the Legal Qualifications Committee, other than its membership is scant. The functions and purpose of the Legal Qualifications Committee are not set out in the NSW Act or the NSW Rules. Nor is the function and purpose of the Legal Qualifications Committee enunciated on the NSW LPAB's website. A perusal of LPAB Annual Reports however provides some information about the focus of the Legal Qualifications Committee.⁴⁷

According to the 2013 NSW LPAB Annual Report, the function of the Legal Qualifications Committee is to “superintend the qualification of candidates for admission, and to *advise the Board* in relation to the accreditation of academic and practical legal education training courses.” (Emphasis added). Within the Legal Qualifications Committee there are three sub-committees, the “Academic Exemptions Sub-Committee”, the “Practical Training Exemptions Sub-Committee”, and the “Accreditation Sub-Committee”⁴⁸.

The function of accrediting academic courses is delegated to the Accreditation Sub-Committee. This delegation is enshrined in legislation: Rule 44(2) of the NSW Rules.

Rule 44(3) of the NSW Rules sets out the function of the Accreditation Sub-Committee as follows:

“The Accreditation Sub-Committee shall, after considering the material referred to it under sub-rule (2), recommend to the Legal Qualifications Committee that the accreditation of the degree be confirmed or that it not be confirmed.”

Interestingly, there is no such formal delegation about the accreditation of practical legal training. Notwithstanding the absence of a formal delegation of accreditation, the Accreditation Sub-Committee have subsumed the role.

The basis upon which PLT is recommended for accreditation is very unclear. The authors of this Report have been unable to locate any guidelines, policies or principles regarding accreditation PLT. It may well be that such a document does exist, but if so, it is not readily available to the general public.

In the hope of finding any additional information about PLT and accreditation, the authors again looked to the Annual Reports of the NSW LPAB. Whilst there were very few references to accreditation and PLT, the authors learnt that the Committee had discussed aspects of PLT such as the proposed Standards for PLT Courses and Providers that were developed by the

⁴⁷ According to the 2013 Annual Report, during the reporting year the Legal Qualifications Committee met seven times. The Committee spent time during 2012/2013 made recommendations to the LPAB regarding a number of LACC proposals; provided advice about the practice of some Australian Law Schools to grant academic credit for courses completed overseas; and assessing the qualifications of several British and Irish applicants for admission. In addition to these tasks the Committee reviewed and provided comments to the LPAB on the National Competency Standards for Entry Level Lawyers and proposed Standards for PLT Courses and Providers that were developed by the Victorian Council of Legal Education: Legal Profession Admission Board Annual 2012-2013, at p.11-12, http://www.lpab.lawlink.nsw.gov.au/lpab/legalprofession_publications.html,c=y

⁴⁸ In 2013 the members of the Accreditation Sub-Committee were Mr Charles Cawley, Ms Jenny Eggleton and Ms Carolyn Penfold. The Secretary of the Accreditation Sub-Committee was Ms Louise Pritchard.

Victorian Council of Legal Education⁴⁹; and proposed changes to the College of Law PLT Program of increased coursework and a shorter duration of work experience.⁵⁰

The latter proposal relating to the College of Law concerned the introduction of an alternative option to its fifteen week work experience component. The alternate option comprised five weeks work experience plus five weeks full-time equivalent practical course work. The alternative was proposed to assist law graduates who have difficulties obtaining placements to satisfy the full work experience component of the program. The Legal Qualifications Committee recommended to the NSW LPAB that this issue should be addressed nationally. It considered there should be national standards and that if approved, it would likely lead to other PLT providers shortening their courses. The LPAB and other Australian Admitting Authorities eventually approved the proposal.⁵¹

Regulatory Requirements for PLT Providers

Rule 45B(1) of the NSW Rules states that the Director of each institution offering an approved course of practical training must notify the NSW LPAB of “(a) any material alteration which has been made to the curriculum of the course; (b) any material alteration which is proposed to be made to the curriculum of the course, and (c) his or her opinion as to whether the requirements for the successful completion of the course include evidence of the attainment of the competencies set out in rule 96 (1) (b) and the Sixth Schedule.” This information must be provided by the Director to the NSW LPAB before 30 June each year.

Rule 45B(2) provides that the NSW LPAB “shall, after considering the material provided by the institution under sub-rule (1), determine that the approval of the course be confirmed or that it not be confirmed.” Communication of the NSW LPAB’s decision must be forwarded to the institution no later than 30 September of the year in which notification was given under sub-rule (1).⁵² Rule 45B(4) provides that “if the Board has determined under sub-rule (2) that the approval of the course is not confirmed, the Board may withdraw the approval unless the curriculum or proposed curriculum is amended to the satisfaction of the Board.”

Victoria

The Legislative Regime

The *Legal Profession Act 2004 (Vic)* (VIC Act) sets out the criteria for eligibility for admission as a lawyer in Victoria. Section 2.3.2(1) of the VICT Act provides that a person is eligible for admission as a lawyer in Victoria if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has

⁴⁹ Such concerns centered around the dilution of courses and the substitution of PLT subjects for academic subjects. This concern led the Accreditation Committee to recommend to the LPAB in 2011 that certain law degrees not be accredited until those concerns were addressed. The duration of legal studies was also an issue of ongoing discussion: Legal Profession Admission Board, 2011-2012, at p. 10, http://www.lpab.lawlink.nsw.gov.au/lpab/legalprofession_publications.html,c=y

⁵⁰ Legal Profession Admission Board Annual Report 2010-2011, at p. 10-11, http://www.lpab.lawlink.nsw.gov.au/lpab/legalprofession_publications.html,c=y

⁵¹ Legal Profession Admission Board, Report of the Legal Qualifications Committee to the Legal Profession Admission Board 1 July 2010 – 30 June 2011, at p.4, http://www.lpab.lawlink.nsw.gov.au/lpab/legalprofession_publications.html,c=y

⁵² Rule 45B(3) of the NSW Rules.

satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.”

“Approved practical legal training requirements” is defined as legal training requirements that are approved, under the admission rules, for admission to the legal profession in Victoria.

“Corresponding practical legal training requirements” is defined as academic qualifications that would qualify the person for admission to the legal profession in another jurisdiction if the Board of Examiners is satisfied that substantially the same minimum criteria apply for the approval of academic qualifications for admission in the other jurisdiction as apply in Victoria.

The “admission rules” are defined as “rules relating to the admission of local lawyers and associated matters made under Division 5 of Part 2.3”. The relevant admission rules are the *Legal Profession Admission Rules 2008 (Vic)* (“VIC Rules”). A law graduate must complete either a course of practical training or a period of twelve months as a clerk under articles.

Rule 3.01 of the VIC Rules set out the requirements for admission in relation PLT. Rule 3.01(1) provides that practical legal training approved for admission to the legal profession in Victoria, is successfully achieved by completing either an approved PLT course conducted by an approved PLT provider, in accordance with Division 2 of the Rules; or supervised workplace training, in accordance with Division 3 of the Rules; and acquiring and demonstrating to the satisfaction of the Board of Examiners an appropriate understanding of and competence in each element of the skills, values and practice areas set out in the Competency Standards for Entry Level Lawyers; or otherwise determined by the Council after considering any relevant recommendation of the LACC.

Rule 3.02 of the VIC Rules sets out the approval regime for PLT providers. Rule 3.02(1) provides that “the Council may approve an institution as an approved PLT provider only if the Council is satisfied that the institution will competently conduct an approved PLT course.” Rule 3.02(2) provides that the Council may withdraw approval of a PLT provider or impose conditions on a PLT provider as it sees fit.

Rule 3.03 of the VIC Rules sets out provisions in relation to monitoring and review of approved PLT providers. Rule 3.03(1) provides that Council may monitor, and, from time to time review the performance of, and the resources available to, an approved PLT provider in providing an approved PLT course; and the content and conduct of an approved PLT course, or any subject in an approved PLT course, provided by the PLT provider. In fulfilling this function the Council may appoint a person to review a PLT provider and set the terms of reference for that review. Where such a review is conducted, the Council must provide the PLT provider with a report of the review. Rule 3.03(4) provides that a condition of approval of each approved PLT provider is that the costs are borne by the provider, unless the Council determines otherwise.

Rule 3.04(1) of the VIC Rules provides that Council may approve a course it considers will provide an appropriate understanding of, and competence in each element of the compulsory skills, values and practice areas set out in the Competency Standards. The Council can approve such a course is it is wholly or partly online.

Division 3 of the VIC Rules sets out the regime for approval and accreditation of supervised workplace training.

The relevant Council is the Council of Legal Education.

Regulation of PLT Courses by the Relevant Authority

As the VIC Rules state, the accreditation of PLT courses falls to the Council of Legal Education. So too does the role of monitoring and review. Pursuant to section 6.5.7(2) of the VIC Act, the Council has delegated PLT to the PLT Committee. Members of the PLT Committee include Professor Sanford Clark, Mr Hugh Murray, Professor Breen Creighton and Professor Adrian Evans.

The PLT Committee's responsibilities are to make recommendations to the Council on (a) applications by institutions in Victoria to be approved PLT providers under Rule 3.02; (b) applications for approval of PLT courses in Victoria under Rule 3.04; monitoring and reviewing approved PLT courses under Rule 3.03; and determination of applications for approval for overseas work experience.⁵³

According to the Council's website, the following PLT providers are approved PLT providers in respect of the following courses:

- Leo Cussen Institute - full time program
- Leo Cussen Institute - online program
- Monash University - full time program
- Monash University - LLM (Legal Practice)
- Monash University - online program
- College of Law (Victoria) - online program⁵⁴

In 2012, the Council conducted a major review of the PLT courses conducted by the Leo Cussen Centre for Law.⁵⁵ The terms of reference of the Review were wide. They included as follows:

“1. To examine and report generally on the PLT courses conducted by the Leo Cussen Centre for Law and, in so doing, to determine if those courses are being provided in accordance with the Standards for PLT Courses and Providers adopted by the Council (Standards).

2. Without limiting clause 1, to examine and report upon:

- (a) the extent to which the curriculum incorporates all required elements of, and complies with, the National Competency Standards;
- (b) the way in which, and extent to which, the syllabus and course materials are kept current;
- (c) the appropriateness of the present staff: student ratio, and of the mix of part-time and full-time teaching staff for each course;
- (d) whether adequate arrangements exist to ensure face-to-face contact or other adequate interaction between staff and students, particularly in the case of the on-line course;
- (e) how the understanding of students and their competence in each required element of the National PLT Competencies are assessed;

⁵³ Council of Legal Education Board of Examiners, About the Council, http://www.lawadmissions.vic.gov.au/about_the_council/

⁵⁴ Ibid.

⁵⁵ Council of Legal Education Board of Examiners, 2012 Review of the PLT courses conducted by the Leo Cussen Centre for Law http://www.lawadmissions.vic.gov.au/docs/Leo_Cussen_Centre_2012_Review.pdf

- (f) whether assessment methods, particularly in the case of the on-line course, are appropriately designed to minimise opportunities for cheating or plagiarism by students;
- (g) how workplace experience is integrated into the courses; and
3. To recommend to the PLT Committee whether or not the Leo Cussen Centre for Law and any courses it conducts should be re-approved.
 4. To suggest any conditions that should be attached to the Council's re-approval of the Leo Cussen Centre for Law or any course.
 5. To report on the appropriateness of the Standards as a mechanism for conducting future reviews of PLT Courses and Providers, and to suggest any alterations or additions to the Standards which the consultants consider to be necessary or desirable.
 6. In responding to item 6, to examine and report on any suggestions made to the consultants by the Leo Cussen Centre for Law for alterations of, or additions to, the Standards.
 7. To identify any instances where, in the consultants opinion, courses conducted by the Leo Cussen Centre for Law appear to fall short of the Standards.⁵⁶

The Review Panel made the following recommendations based on the review:

- “1. That the Leo Cussen Centre for Law onsite course, and the full-time and part-time online courses, be re-approved.
2. That the current Conditions for accreditation of the Leo Cussen Online Course be dispensed with. No other conditions are recommended.
3. The Panel recommends to both the Council and Leo Cussen that the issue of limited access to placement opportunities might be addressed by a marketing plan in which they jointly promote the opportunity for firms to participate in the Professional Placement Program, both as a contribution to the future of the legal profession, and as an opportunity to appraise suitable admission-ready recruits.
4. That the Council raise the issue of LLB graduate proficiency in skills such as Statutory Interpretation and Legal Research for further discussion at the LACC.
5. That Core Standard 2.3(d) be amended to read: A PLT course must introduce students to the nature of access to justice, and the role of lawyers in promoting such access, through mechanisms such as legal aid and pro bono systems.
6. That the requirement of satisfactory completion of a minimum of 90 hours of workplace training in all PLT courses be reinstated.
7. That Core Standard 2.9. be amended to clarify the minimum lengths of structured programming and workplace experience required for a PLT course, whether it is at Graduate Diploma level or is a non-award training course.
8. That an accredited PLT course which proposes making any material change to the curriculum of the course must advise the Council beforehand of any such changes indicating how they affect the balance between (a) the onsite and online (if any) delivery components of the courses; and/or (b) the structured course work and workplace training components.
Provided that such changes do not significantly alter that balance, the changes shall be approved as part of the accreditation of the course.
9. That a Standing Panel of potential reviewers, suitably qualified in a range of professional expertise including legal practice, vocational education, PLT provision, tertiary academic accreditation authorities, and ‘stakeholder’ concerns, be established in consultation with providers, and the other accreditation authorities if possible, from which a particular panel can be selected by the Council.
10. That future onsite visits be conducted while the courses are in operation; and that interviewees be randomly selected by the Panel and ensuring the confidentiality and anonymity of all interviewees’ responses.

⁵⁶ Ibid.

11. That future reviews of PLT providers include an invitation to the wider circle of legal profession and consumer stakeholders to make collective and/or individual submissions regarding perceived of the quality of the course, based on their observation of the skills, knowledge and attributes of its graduates.”⁵⁷

No information is provided as to whether the recommendations were implemented.

Regulatory Requirements for PLT Providers

As the previous paragraphs suggest, there is a considerable number of provisions in the VIC Rules relating to the regulatory requirements for PLT providers. The provisions are however not particularly helpful to approved or potential PLT providers. The Rules do not, for example, state how often a review may be conducted. Nor do they state the terms upon which a review may be conducted. The review of the Leo Cussen Centre for Law, as discussed above, provides some information about the review function of the Council of Legal Education, and in particular the terms of reference, but the review conducted on the Leo Cussen Centre for Law may not be the same for other providers.

Queensland

The Legislative Regime

The *Legal Profession Act 2007 (QLD)* (the QLD Act) sets out the criteria for eligibility for admission as a lawyer in Queensland. Section 30(1) of the QLD Act provides that a person is eligible for admission as a lawyer in Queensland if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.”

“Approved practical legal training requirements” is defined as “legal training requirements that are approved under the admission rules for admission to the legal profession under this Act.”

“Corresponding practical legal training requirements” is defined as “legal training requirements that would qualify the person for admission to the legal profession in another jurisdiction if the board is satisfied that substantially the same minimum criteria apply for the approval of legal training requirements for admission in the other jurisdiction as apply in this jurisdiction.”

The “admission rules” are defined in the QLD Act as “the rules under the *Supreme Court of Queensland Act 1991*, section 85, for admission to the legal profession under this Act and for associated matters.”

The relevant admission rules are the *Supreme Court Admission Rules 2004 (QLD)* (“QLD Rules”).

Rules 7 and 7A of the QLD Rules set out provisions relating to PLT. Rule 7(1) provides that “the requirements of a course approved by the Chief Justice and the board are approved practical legal training requirements for admission to the legal profession under the Legal

⁵⁷ Ibid.

Profession Act 2007.” Rule 7(2) provides that the course must be conducted in Australia. Rule 7(3) provides that “the course must require understanding and competence in the skills, values and practice areas set out in appendix B to the Law Admissions Consultative Committee Report at the level of proficiency set out in that appendix.” Appendix B is the National Competency Standards for Entry Level Lawyers.

Rule 7A of the QLD Rules provides that completion of supervised workplace experience is also “approved practical legal training requirements” for admission to the legal profession under the Legal Profession Act 2007. The supervised workplace experience requires an understanding of, and competence in, the skills, practice areas and values a person is required to achieve competence in under the preface to appendix B to the Law Admissions Consultative Committee Report in accordance with the performance criteria set out in that appendix.⁵⁸

The reference to the “board” is the Legal Practitioners Admission Board in Queensland (“LPAB QLD”).

Regulation of PLT Courses by the Relevant Authority

The LPAB QLD is responsible for making recommendations to the Supreme Court in respect of applications for admission to the legal profession in Queensland. The LPAB’s primary role is to consider the eligibility (academic qualifications and practical legal training) and suitability (good fame and character) of applications for admission. The LPAB is also responsible for approving academic and practical legal training courses offered by universities and educational institutes in Queensland in conjunction with the Chief Justice of Queensland. In relation to PLT, it is the Secretary to the LPAB that is responsible for reviewing all PLT programs, and making recommendations to the Board, as to the compliance of programs with the requirements of the Competency Standards, not a Committee.

The breadth and depth of a PLT review is unclear. The authors have attempted to locate information on the website of the QLD LPAB about the review process for PLT providers but have not been successful. Similarly, attempts to obtain general information about accreditation of PLT providers was also unsuccessful. It may well be that this information does exist, but if it does, it does not appear to be publicly available.

A telephone call to the LPAB confirmed the absence of such information.⁵⁹ According to the LPAB, there is nothing published about accreditation and review of PLT Programs. The LPAB advised however that “accreditation requirements are located in the Supreme Court Legal Practice Admission Rules 2004 Attachment 2”. That attachment is the 2002 Competency Standards for Entry Level Lawyers. That document does not discuss review, assessment or monitoring of PLT providers, however, the preface does but the preface is not enshrined in the Rules.

Regulatory Requirements for PLT Providers

Information about accreditation/approval for potential PLT providers appears to be scant. A search of relevant websites, such as the QLD LPAB and the Queensland Law Society amounted

⁵⁸ Rule 7A(2).

⁵⁹ Telephone call to the LPAB, 12 August 2014.

to very little. A telephone discussion with the QLD LPAB did however provide some guidance⁶⁰.

According to the LPAB potential PLT providers are requested by the QLD LPAB to draw up a plan in compliance with the Law Admissions Consultative Committee Report and present it to the QLD LPAB for approval. Once approved however, there is no ongoing monitoring or evaluation.

This situation is confirmed by Dr John Nelson in his 2013 Report on PLT. Dr Nelson found that in Queensland once a course has been approved by the QLD LPAB, there is no requirement for a provider to return to the LPAB each year or when changes are made to the course. There is also no prescribed period before course approvals expire. According to Dr Nelson, the College of Law Queensland course, for example, has been accredited for eight years but has never been reviewed.⁶¹

South Australia

The Legislative Regime

The *Legal Practitioners Act 1981 (SA)* (the SA Act) sets out the criteria for eligibility for admission as a lawyer in South Australia. To be eligible for admission to the Supreme Court of South Australia an applicant must satisfy the Board of Examiners that they are of good character and have met the admission requirements in the Supreme Court Rules and the Rules of the Legal Practitioners Education and Admission Council 2004 (“LPEAC Rules”).⁶² The LPEAC Rules, set out, inter alia, requirements for admission, the rights to practice following admission and practising certificate issue and renewal.

Rule 2.1 of the LPEAC Rules provides that the academic requirement for admission is the completion of a tertiary study of law in Australia completed over a minimum of three years full time (or the part-time equivalent) and which includes the Priestley 11 subjects. Rule 2.2 provides that the degree of Bachelor of Laws of the University of Adelaide and the degrees of Bachelor of Laws and Bachelor of Laws and Legal Practice of the Flinders University of South Australia and the degree of Bachelor of Laws of the University of South Australia are, sufficient academic courses for the purposes of Rule 2.1.

Rule 2.4(a) of the LPEAC Rules provide that the practical requirement for admission is completion of a course of study which in the opinion of the Council requires understanding and competence in the skills, values and practice areas set out in Appendix B. Appendix B is the National Competency Standards for Entry Level Lawyers. Rule 2.4(b) provides that the course of study leading to the grant of the Graduate Diploma in Legal Practice or the course of study leading to the degree of Bachelor of Laws and Legal Practice of Flinders University of South Australia are sufficient practical courses for the purposes of this rule so long as the Council forms and continues to hold that opinion that they provide the requisite understanding and competence in the skills, values and practice areas set out in the Competency Standards.

⁶⁰ Ibid.

⁶¹ Dr John Nelson, Best Practice Regulation Review, October 2013, at p. 31.

⁶² Section 15.

Rule 2.4(c) provides that the practical requirement for admission can also be met by the completion of at least one year's articles of clerkship, together with the completion of such supplementary course of study or other form of tuition or training which will be likely to achieve understanding and competence in the skills, values and practice areas set out in the Competency Standards for Entry Level Lawyers.

The LPEAC Rules are administered by the Legal Practitioners Education and Admission Council (LPEAC).

Regulation of PLT Courses by the Relevant Authority

The Legal Practitioners Education and Admission Council (LPEAC) is a statutory body whose function and purpose are set out in the SA Act.⁶³ The Chief Justice is the presiding member of LPEAC. With respect to PLT, LPEAC's stated function is to:

“keep the effectiveness of legal education and training courses and post-admission experience under review so far as is relevant to qualifications for legal practice.”⁶⁴

The authors have not been able to find any information as to how the LPEAC review the effectiveness of legal education and training courses and post-admission experience. The authors have been unable to locate any documents about this review function through any research. It may well be that such information exists, but if it does, it does not appear to be publicly available. Dr Nelson's Report contains some information about LPEAC and PLT. According to Dr Nelson's Report, LPEAC considers course accreditation on a five yearly cycle and approves all significant course changes.⁶⁵ This information has not, at this stage, been confirmed by the authors.

Regulatory Requirements for PLT Providers

The authors were unable to locate any published information about the regulatory requirements for providers of PLT in South Australia. It may well be that such information exists, but if it does, it does not appear to be publicly available.

The construct of the LPEAC Rules does however provide some guidance. As stated earlier, Rule 2.4(a) states that the practical requirement for admission is the completion of a course of study which provides the requisite understanding and competence in the skills, values and practice areas prescribed within the Competency Standards.

As discussed above, the Competency Standards set out relevant subjects and competencies. They may assist PLT providers in terms of content, but not in terms of mode. There is no guidance about how a PLT course should be delivered. Nor is there any guidance in South Australia about monitoring, approval, accreditation and review of PLT courses and providers.

⁶³ Part 2A, Division 1.

⁶⁴ Section 14C(1)(c).

⁶⁵ Dr John Nelson, Best Practice Regulation Review, October 2013, at p. 31.

Western Australia

The *Legal Profession Act 2008 (WA)* (“WA Act”) sets out the criteria for eligibility for admission as a lawyer in Western Australia. Section 21(2) of the WA Act provides that a person is eligible for admission as a lawyer in Western Australia if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.”

“Approved practical legal training requirements” is defined as legal training requirements that are approved, under the admission rules, for admission to the legal profession in WA.

“Corresponding practical legal training requirements” is defined as legal training requirements that would qualify the person for admission to the legal profession in another jurisdiction if the Board is satisfied that substantially the same minimum criteria apply for the approval of legal training requirements for admission in the other jurisdiction as apply in WA.

The relevant admission rules are the *Legal Profession (Admission) Rules 2009* (“WA Rules”).

Rule 7(2)(a) of the WA Rules provides that service for the required period⁶⁶ as an articled clerk under, and in accordance with, articles of clerkship made and registered under Part 3; and a practical legal training programme for articled clerks approved under rule 20⁶⁷ is approved as PLT requirements for admission. Rule 7.2(b) of the WA Rules provides that a practical legal training course approved under rule 8 is approved as PLT requirements for admission as is practical legal training approved under rule 9.

Rule 8 of the WA Rules provides as follows:

- “(1) For the purposes of rule 7(2)(a)(ii) the Board may approve a programme of practical legal training for articled clerks.
- (2) In deciding whether to grant an approval under subrule (1) the Board is to have regard to the Uniform Admission Rules.
- (3) A programme approved by the Board under subrule (1) may be conducted in whole or in part by the Board.”

Rule 9 of the WA Rules provides as follows:

- “(1) The Board may, on the application of an individual, approve practical legal training undertaken, or being or to be undertaken, by the individual for the purposes of rule 7(2)(c) in respect of that individual.
- (2) An application for approval under subrule (1) is to be made to the Board in accordance with rule 4.
- (3) In deciding whether to grant an approval under subrule (1) the Board is to have regard to the Uniform Admission Rules.”

⁶⁶ The required period means 12 months; or if the person has, after satisfying section 21(2)(b) of the Act, been engaged in employment determined by the Board to have provided sufficient professional training and experience to justify a shorter term of articles, 6 months: Rule 7(1)(a) and (b) of the WA Rules.

⁶⁷ Rule 20(1) provides that for the purposes of rule 7(2)(a)(ii) the Board may approve a programme of practical legal training for articled clerks. Rule 20(2) provides that in deciding whether to grant an approval under subrule (1) the Board is to have regard to the Uniform Admission Rules. Rule 20(3) provides that a programme approved by the Board under subrule (1) may be conducted in whole or in part by the Board.

The Board is the Legal Practice Board of Western Australia.

The Uniform Admission Rules refers to the uniform admission rules prepared from time to time by the Law Admissions Consultative Committee.

Regulation of PLT Courses by the Relevant Authority

The Legal Practice Board of Western Australia (LPB WA), pursuant to Rules 8 and 9 is the relevant authority for approving PLT providers. Similar to other jurisdictions, information about the role and function of the LPB WA vis-à-vis PLT is difficult to locate.

The authors did however manage to find a template form headed “Application for approval of PLT Course and Provider.”⁶⁸ This Form is referred to as “LPB Form A5 (LPA)”. Attached to the Form is a document entitled “Criteria for Approval of Practical Legal Training Course.” The information contained in this Form provides guidance about PLT accreditation.

According to Form 5, there are 6 criteria upon which a PLT Program will be approved. The 6 criteria include as follows:

“Criteria 1: Applications by an institution for approval of a PLT course (pursuant to Rule 8 of the Legal Profession (Admission) Rules 2009) will be assessed under the terms of Clauses 3 and 4 of the Uniform Admission Rules 2008 relating to “Practical Legal Training Requirement for Admission” and “Approving and Reviewing Courses and Institutions.”

“Criteria 2: Further criteria for PLT course approval.”

“Criteria 3: The criteria for the approval of PLT providers is that the provider is approved or registered under the statutory requirements of, the Higher Education Act 2004 (WA) [HEA] and the Higher Education Regulations 2005 (WA) [HER], or that the Board is satisfied that the provider meets equivalent requirements where applicable.”

“Criteria 4: Applications for approval pursuant to Rule 8 of the Legal Profession (Admission) Rules 2009 must be made on the approved form as published on the Board’s website.”

“Criteria 5: No fee will apply to the application for approval.”

“Criteria 6: Approval of PLT courses and providers will be periodically reviewed and the Committee will reserve the right to renew or withdraw approval, or impose or vary any condition on the approval of a course or provider.”⁶⁹

The Criteria were last revised, according to Form 5, on 1 July 2009.

The LPAB WA has delegated⁷⁰ the role of dealing with PLT to a Committee called the “Admissions and Registration Committee”.⁷¹ In 2012-2013 the Convenor of that Committee

⁶⁸ Legal Practice Board of Western Australia, LPB Form A5 - Application for approval of PLT course and provider, http://www.lpbwa.org.au/files/files/10_FormA5_ApplnForApprOfPLTCourse_Provider.pdf

⁶⁹ Id at p. 3-5.

⁷⁰ Delegation is permitted under the WA Act pursuant to section 547.

⁷¹ Legal Practice Board of Western Australia, 2012-2013 Annual Report, at p.23, http://public.lpbwa.org.au/files/files/201_2012_-_2013_Annual_Report_LPB.pdf

was Ms S Schlink. The Committee, according to the 2012-2013 Annual Report, is “responsible for the majority of functions and powers of the Legal Profession Act 2008 (Act) that regulate the admission of lawyers and the registration and practice of foreign lawyers.”⁷²

Regulatory Requirements for PLT Providers

Form 5 sets out the criteria which PLT providers must meet in obtaining approval for a PLT Program. Preceding the criteria, Form 5 sets out a number of questions that an applicant PLT provider must complete.⁷³

Section A of the application asks the applicant to provide details about them as a provider of PLT.⁷⁴ Section B asks the applicant to attach evidence that they are approved or registered under the statutory requirements of the Higher Education Act 2004 (WA) and the Higher Education Regulations 2005 (WA).⁷⁵ Section C asks the applicant to demonstrate by way of evidence that students who successfully complete their PLT course have acquired and demonstrated an appropriate understanding of and competence in each element of the skills, values and practice areas set out in the Competency Standards. Applicants are asked to provide a comprehensive program on the following:

- “the course structure;
- how each element of the skills, values and practice areas outlined in Schedule 2 of the UAR will be taught;
- how each element of the skills, values and practice areas outlined in Schedule 2 of the UAR will be assessed;
- what aspects of the course are specifically relevant to the legal environment in Western Australia, i.e. structured to address requirements of Western Australian courts and legislation; and,
- how each individual student will be assessed to ensure that they have acquired and demonstrated an appropriate understanding of the required skills, values and practice areas.”⁷⁶

In Section D applicants are asked to provide a statement addressing the following requirements:

- “PLT Course prerequisites;
- Details relating to the duration of the course and whether offered full-time or part-time;
- On-site attendance required;
- Examinations and assessments;
- Workplace experience requirements; and,
- Staffing arrangements, including information as to the legal qualifications of staff.”⁷⁷

Section E asks applicants to provide details about venue facilities; enrolment and registration procedures; administrative resources; student support arrangements; and, recordkeeping

⁷² Ibid.

⁷³ Legal Practice Board of Western Australia, LPB Form A5 - Application for approval of PLT course and provider, p.1-2, http://www.lpbwa.org.au/files/files/10_FormA5_ApplnForApprOfPLTCourse_Provider.pdf

⁷⁴ Id at p.1.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Id at p.2.

procedures.⁷⁸ Lastly, Section F requires the applicant to declare that the information provided in their application and the documents annexed are, to their knowledge, true and correct.

The guidance provided in Form 5 to applicant PLT providers is substantial. Research conducted on the guidance provided by the other jurisdictions suggests that WA is the only jurisdiction in Australia to provide such comprehensive guidance to PLT providers.

Tasmania

The *Legal Profession Act 2007 (TAS)* (“TAS Act”) sets out the criteria for eligibility for admission as a lawyer in Tasmania. Section 25 of the TAS Act provides that a person is eligible for admission as a lawyer in Tasmania if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.” A person may be exempted from compliance with this requirement by the Board of Legal Education.

“Approved practical legal training requirements” is defined as legal training requirements that are approved, under the Board of Legal Education rules, for admission to the legal profession in Tasmania.

“Corresponding practical legal training requirements” ” is defined as legal training requirements that would qualify the person for admission to the legal profession in another jurisdiction, if the Board of Legal Education is satisfied that substantially the same minimum criteria apply for the approval of legal training requirements for admission in the other jurisdiction as apply in Tasmania.

Subsection 25(3) of the TAS Act provides in relation to approved or corresponding PLT requirements “the Board of Legal Education may satisfy itself regarding the minimum criteria for the approval of academic qualifications, or legal training requirements, for admission in another jurisdiction by considering appropriate advice from an authority of the other jurisdiction that those criteria were established consistently with relevant agreed standards, and accordingly the Board of Legal Education need not examine (in detail or at all) the content of courses of legal study or legal training requirements prescribed in the other jurisdiction.”

The Board of Legal Education Rules are the *Legal Profession (Board of Legal Education) Rules 2010 (TAS)* (the TAS Rules”).

Part 3 (Rules 7-10) of the TAS Rules set out provisions in relation to PLT. Rule 8 relates to the commencement and duration of PLT. Rule 8(1A) provides that an applicant may commence PLT, where the PLT course is not integrated with the applicant's academic qualification in law, only after the applicant has completed an academic qualification in law leading to admission to the legal profession. An exception to this Rule then follows. Rule 8(1A) states that if the applicant has no more than 2 academic subjects to complete and neither of those subjects are the academic areas of knowledge referred to in Schedule 1⁷⁹; and the applicant is enrolled in those subjects whilst undertaking PLT and has received the prior permission of the Board of Legal Education to commence the practical legal training course, the applicant can do so.

⁷⁸ Ibid.

⁷⁹ Schedule 1 sets out 11 “academic areas of knowledge.” These areas are the Priestly 11.

Rule 8(1B) provides that despite sub-rule (1A), an applicant may commence an integrated program of academic study and practical legal training that requires the equivalent of 3 years' full-time academic study of law, apart from the time required to undertake the practical legal training components of the program; and has been recognised by the Board of Legal Education for the purposes of preparing students for admission to the legal profession.

Rule 8(2) provides that approved practical legal training must include both “programmed training” and “workplace experience.” “Programmed training” is defined as structured and supervised training activities, research and tasks with comprehensive assessment. “Workplace experience” is defined as supervised employment in a law or law-related work environment or equivalent unpaid engagement in such an environment.

Rule 8(2)(a) provides that where PLT is undertaken as a program of academic study at graduate diploma level, 90 hours must comprise workplace experience. Rule 8(2)(b) provides that where PLT is undertaken as a non-award training course, 450 hours must be programmed training; and 90 hours must be workplace experience. Rule 8(2)(c) provides that where PLT is undertaken as distance training or in electronic form, 450 hours must comprise of computing time.

Rule 9 sets out provisions in relation to approving PLT providers. Rule 9(1) provides that the Board of Legal Education may approve a PLT provider if it is satisfied that “the proposed practical legal training provider will competently conduct an approved practical legal training course.” Rule 9(2) provides that a course is “competently conducted” if it provides to its participants a satisfactory level of understanding and competence in the skills, values and practice areas set out in the Competency Standards. Rule 9(3) confers a power on the Board of Legal Education to write to a PLT provider and withdraw approval of that provider or impose or vary any conditions on the approval of the provider.

Rule 10 sets out provisions in relation to monitoring and reviews of approved PLT providers. Rule 10(1) provides that the Board of Legal Education may monitor and review the performance of, and the resources available to, an approved PLT provider as well as the content and conduct of the PLT course, or part of the course, provided by the approved PLT provider.

Rule 10(2) provides that the Board of Legal Education may, after consulting an approved PLT provider appoint one or more persons to conduct a review of their PLT course or a subject in the course. In doing so the Board may determine the terms of reference for any such review. Rule 10(3) provides that where a review is conducted the Board of Legal Education must provide the approved PLT provider with a copy of any report received by the Board of Legal Education as a result of a review. Rule 10(4) provides that the approved PLT provider must pay the reasonable costs incurred by the Board of Legal Education for monitoring, or for a review carried out on it under Rule 10. Where a review is undertaken, Rule 10(5) provides that the approved PLT provider under review must provide any information to the Board of Legal Education or its reviewer as the Board of Legal Education or its reviewer requires, for the purpose of monitoring or a review carried out under this rule.

Regulation of PLT Courses by the Relevant Authority

As the TAS Rules state, the accreditation of PLT courses falls to the Board of Legal Education. Its members are a Supreme Court Judge, UTAS academic staff, Law Society, the President of the Law Society, and others appointed under Section 605 of the TAS Act. The functions and

powers of the Board, set out in section 606 of the TAS Act, are, inter alia, to “determine the subjects which candidates for admission to the legal profession under Part 2.2 (Admission of local lawyers) must pass”; and “to approve courses of practical instruction on the duties of an Australian legal practitioner.” In order to undertake these functions the Board is entitled to make Rules relating to admission, academic qualifications and PLT, including accreditation.⁸⁰

Apart from the above information and the Rules set out above, the authors have not been able to locate any other material about the Board vis-à-vis accreditation, monitoring or review of PLT courses. The Board, it appears, does not have a website, or is information about the Board appear to be set out on any other website. There is no annual reporting requirement. The authors have thus not been able to find any documents setting out information or guidance for approved PLT providers or about monitoring or reviews. It may well be that this information exists, but if it does, it does not appear to be publicly available.

The only information that was located about accreditation was that the Board has approved one PLT program in Tasmania, the Tasmanian Legal Practice Course (discussed in Section B of this paper). This information was found in a publication by the Tasmanian Legal Practice Course.

Regulatory Requirements for PLT Providers

As the previous paragraphs suggest, there are a considerable number of provisions in the Rules relating to the regulatory requirements for PLT providers. The provisions are however not particularly helpful to approved or potential PLT providers. The Rules do not, for example, state how often a review may be conducted.

Australian Capital Territory

The *Legal Profession Act 2006 (ACT)* (“ACT Act”) sets out the criteria for eligibility for admission as a lawyer in the ACT. Section 21 of the ACT Act provides that a person is eligible for admission as a lawyer in the ACT if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.” A person may be exempted from compliance with this requirement by the Supreme Court.⁸¹

“Approved practical legal training requirements” is defined as “legal training requirements that are approved, under the admission rules, for admission to the legal profession in the ACT.”

“Corresponding practical legal training requirements” ” is defined as academic qualifications that would qualify the person for admission to the legal profession in another jurisdiction if the admissions board is satisfied that substantially the same minimum criteria apply for the approval of academic qualifications for admission in the other jurisdiction as apply in the ACT.

The admissions rules are the *Court Procedures Rules 2006 (ACT)* (“ACT Rules”).

⁸⁰ Section 608(2)(e).

⁸¹ Section 21(3).

The relevant Rules relating to PLT are found in Part 3.11 of the ACT Rules. Subdivision 3.11.2.5 of Part 3.11 sets out the Rules in relation to PLT providers and courses. Rule 3607E(1), which relates to the approval of PLT providers states that the Legal Workshop within the College of Law of the Australian National University is an approved provider, as is “an institution that the admissions board is satisfied will competently conduct an approved PLT course.” Rule 3670E(2)(a) provides that the Admissions Board may provide written notice to a PLT provider that their approval has been withdrawn. Notification of this sort must be provided 12 months before the notice is to take effect. Rule 3670E(2)(b) provides that if the Admissions Board wants to impose or vary any conditions on a PLT provider it must notify the provider 6 months prior to the conditions being imposed or varied, including any condition resulting from a review undertaken of the PLT provider.

The power to conduct a review of a PLT provider is found in Rule 3607F. The Rule provides that Admissions Board may monitor and review the performance of, and the resources available to, an approved PLT provider as well as the content and conduct of the PLT course, or part of the course, provided by the approved PLT provider. The Admissions Board may, after consulting an approved PLT provider appoint one or more persons to conduct a review of their PLT course or a subject in the course. In doing so the Board may determine the terms of reference for any such review. Where a review is conducted the Board must provide the approved PLT provider with a copy of any report received by the Board as a result of a review. The approved PLT provider must pay the reasonable costs incurred by the Board for monitoring, or for a review carried out on it. Where a review is undertaken, the approved PLT provider under review must provide any information to the Board or its reviewer as the Board or its reviewer requires, for the purpose of monitoring or a review carried out under this rule.

Rule 3607G provides that the Board may approve a course which the Board considers will demonstrate the Competency Standards for Entry Level Lawyers. The Board may approve a course which is to be conducted wholly or partly online.

Rule 3607H provides that where any changes are made to the PLT course, the director of the Program must notify the Board of any material change to the curriculum for the approved PLT course and any proposed material change to the curriculum for the approved PLT course as well as any opinion about whether successful completion of the approved PLT course requires evidence of the Competency Standards for Entry Level Lawyers.

The Board is the Legal Practitioners Admissions Board of the Australian Capital Territory.

Accreditation of PLT Courses

According to the Rules, as stated above, the relevant body responsible for PLT accreditation/approval, monitoring and review in the Australian Capital Territory is the Legal Practitioners Admissions Board of the Australian Capital Territory (“ACT LPAB”). The ACT Act contains some information about the composition of the ACT LPAB but not its function, powers or purpose.⁸²

Apart from the Rules set out above and the small amount of information in the legislation the authors have not been able to locate any other material about the ACT LPAB in relation to PLT. The Board, it appears, does not have a website. Information about the ACT LPAB does

⁸² Chapter 7.

not appear to be set out on any other website. There is no annual reporting requirement. The authors have thus not been able to find any documents setting out information or guidance for approved PLT providers about monitoring or reviews. It may well be that this information exists, but if it does, it does not appear to be publicly available.

The authors telephoned the ACT LPAB to inquire whether any such information exists. The authors were informed that no such information exists but the ACT LPAB is “in the process of assessing the ANU course at present.”⁸³

Regulatory Requirements for PLT Providers

As the previous paragraphs suggest, there is a considerable number of provisions in the Rules relating to the regulatory requirements for PLT providers. The provisions are however not particularly helpful to approved or potential PLT providers. The Rules do not, for example, state how often a review may be conducted, or the basis upon which a review is conducted.

Northern Territory

The *Legal Profession Act 2008 (NT)* (“NT Act”) sets out the criteria for eligibility for admission as a lawyer in the Northern Territory. Section 29 of the NT Act provides that a person is eligible for admission as a lawyer in the NT if the person is aged 18 years or over and has attained “approved academic qualifications”, or “corresponding academic qualifications”; and has satisfactorily completed “approved practical legal training requirements”, or “corresponding practical legal training requirements.” A person may be exempted from compliance with this requirement by the Admission Board.

The terms “approved practical legal training requirements”, or “corresponding practical legal training requirements” are not defined in the NT Act. However, “practical legal training” is defined as either, or a combination of both, of legal training by participation in course work and supervised legal training, whether involving articles of clerkship or otherwise.⁸⁴

The relevant Rules are the Legal Profession Admission Rules (NT) (“NT Rules”). Rule 5 of the NT Rules concerns PLT.

Rule 5(1) states that the approved practical legal training requirements for admission is the completion, at the level of competence required by the competency standards of a course approved by the Board; or of at least one year of articles; and if required under rule 28, a supplementary course approved by the Admission Board.

Rule 5(2)(a) and (b) provides that before approving a course the Admission Board must have regard to the Preface to the 2002 Competency Standards for Entry Level Lawyers and must be satisfied the course will provide the applicant with the PLT to enable the applicant to achieve the level of competence required by the competency standards.

Rule 5(2)(c) provides that before approving a course the Admission Board may take into account that a corresponding authority in another jurisdiction has recognised the particular

⁸³ Telephone call to the Secretary of the Legal Practitioners Admission Board, 12 August 2014.

⁸⁴ Section 4 of the NT Act.

course as one which will enable an applicant for admission in that jurisdiction to achieve the level of competence required by the competency standards.

Rule 5(3) provides that before approving a course the employer of an articulated clerk offers, the Board may require the clerk's employer or principal to provide the Board with the information necessary to satisfy itself as required by subrule (2)(b).

The Admissions Board is the Legal Practitioners Admission Board of the Northern Territory.

Regulation of PLT Courses by the Relevant Authority

According to the Rules, as stated above, the relevant body responsible for PLT accreditation and approval in the Northern Territory is the Legal Practitioners Admissions Board of the Northern Territory ("NT LPAB"). The NT Act contains some information about the composition of the NT LPAB but not its function, powers or purpose.⁸⁵

Apart from the Rules set out above and the small amount of information in the legislation the authors have not been able to locate any other material about the NT LPAB concerning PLT. The Board, it appears, does not have a website, nor does information about the Board appear to be set out on any other website. There is no annual reporting requirement. The authors have thus not been able to find any documents setting out information or guidance for approved PLT providers about monitoring or reviews. It may well be that this information exists, but if it does, it does not appear to be publicly available.

Regulatory Requirements for PLT Providers

As the previous paragraphs suggest, there is a considerable number of provisions in the Rules relating to the regulatory requirements for PLT providers. The provisions are however not particularly helpful to approved or potential PLT providers. The Rules do not, for example, state how often a review may be conducted.

Other relevant bodies involved in the regulation of PLT

In addition to the regulators discussed above there are also a number of other bodies directly and indirectly involved in the regulation of PLT. The APLEC and the LACC, referred to numerous times in this report, are not regulators per se but do have an influence on the regulation of PLT. This is largely because of the role the APLEC and the LACC play in relation to the development of the PLT framework. Both organisations have been instrumental in the development of the Competency Standards for example, and both are likely to be involved in any further development or activities in harmonising PLT. The Council of Australian Law Deans (CALD) is in a similar position. CALD plays no direct role in the regulation of PLT but actively contributes to PLT debates, particularly when the PLT providers are universities.

The Tertiary Education Quality Standards Agency (TESQA) is a direct regulator of PLT because of its role and function. TEQSA regulates and assures the quality of all higher education providers against the Higher Education Standards Framework. The Standards Framework comprises five domains: Provider Standards, Qualification Standards, Teaching

⁸⁵ Part 7.2 of the NT Act.

and Learning Standards, Information Standards and Research Standards.⁸⁶ The Provider Standards and Qualifications Standards are the Threshold Standards, which all providers must meet in order to enter and remain within Australia's higher education system. TEQSA undertakes both compliance assessments and quality assessments.⁸⁷ Compliance assessments involve assessing a particular provider's compliance against the Threshold Standards for registration as a higher education provider. The College of Law, for example, was audited by TESQA in May 2008.⁸⁸ The Australian National University was audited in 2007, however the Legal Practice Workshop was not audited or even mentioned in that audit.⁸⁹

Under section 41 of the TEQSA Act, a registered higher education provider can apply to TEQSA for authority to self-accredit one or more courses of study. TEQSA will assess applications against matters including the Threshold Standards, particularly the criteria for self-accrediting authority.⁹⁰

Universities that offer PLT programs as well as private providers are therefore directly regulated by TESQA. The Leo Cussen Centre for Law is, for example, registered by TESQA as a registered provider, but not a self-accredited provider.⁹¹ So too is the College of Law.⁹² The Australian National University is a registered provider as well as a self-accrediting authority. The Legal Practice Workshop does not appear on the Register as a separate tertiary institution as it is accredited by the ANU.

The Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) is another regulator of PLT. It regulates PLT programs who offer their programs to overseas students. Only education institutions, registered under the *Educational Service for Overseas Students Act 2008* ("ESOS Act") and listed on CRICOS can enrol overseas students studying in Australia on a student visa. These registered providers must have met the standards required by registering authorities such as TEQSA; Australian Skills Quality Authority (ASQA); the relevant state designated authorities; and the Department of Education under quality assurance frameworks and the additional requirements of the ESOS Act and the National Code.⁹³

The College of Law is, for example, listed on CRICOS as is the Leo Cussen Centre for Law and Australian National University. The Legal Practice Workshop is not listed on CRICOS as a separate tertiary institution as it is accredited by the ANU.

The Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) is also a regulator of PLT. DIISRTE administers the Higher Education Loan Program (HELP),

⁸⁶ Tertiary Education Quality and Standards Agency (TEQSA), The role and functions of TEQSA, <http://www.teqsa.gov.au/about>

⁸⁷ Ibid.

⁸⁸ Australian Universities Quality Agency, Report of an Audit of the College of Law, May 2008, http://teqsa.gov.au/sites/default/files/auditreport_col_2008.pdf

⁸⁹ Tertiary Education Quality and Standards Agency (TEQSA), Audit Report Archive, <http://teqsa.gov.au/audit-reports>

⁹⁰ Tertiary Education Quality and Standards Agency (TEQSA), Self-accrediting authority, <http://www.teqsa.gov.au/for-providers/self-accrediting-authority>

⁹¹ Tertiary Education Quality and Standards Agency (TEQSA), National Register, <http://www.teqsa.gov.au/national-register/provider/prv12155>

⁹² Tertiary Education Quality and Standards Agency (TEQSA), National Register, <http://www.teqsa.gov.au/national-register/provider/prv12048>

⁹³ Australian Education International, Provider Registration, <https://aei.gov.au/Regulatory-Information/Provider-Registration/Getting-Started/Pages/default.aspx>

a loan scheme provided by the Australian Government to assist higher education students to meet the tuition costs of their studies. FEE-HELP is the loan program that assists graduate students who are required to pay domestic tuition fees. It cannot be used for additional study costs such as accommodation or text books.

A number of PLT providers offer Fee-HELP and are therefore regulated by the DIISTRE. The College of Law for example, is an approved Higher Education Provider (HEP) under the *Higher Education Support Act 2003* and offers FEE-Help to students.⁹⁴

As this section has shown there are multiple bodies also involved in the regulation of PLT in addition to the state-based regulators discussed above. The impact of these multiple regulators is onerous for PLT providers. The current regulatory regime also raises issues about cross-regulation, particularly for PLT providers who offer a national program.

⁹⁴ The College of Law, What is FEE-HELP?, <http://www.collaw.edu.au/what-we-offer/law-students-and-graduates/fees-and-payment-options/payment-options/fee-help-loans/>

PART C: PLT MODES, PRESCRIPTIONS, PRE-REQUISITES & OTHER REQUIREMENTS

The College of Law

The College of Law PLT program is fully accredited by the admitting authorities in the ACT, New South Wales, Queensland, South Australia, Victoria and Western Australia. .

(a) Content: There are three components of the Program – a coursework component, a work experience component and a continuing professional education component. From the commencement of the Program students have up to four years to complete the three components.⁹⁵

There are six compulsory subjects and two electives in the coursework component. The compulsory subjects include as follows: Civil Litigation Practice, Commercial and Corporate Practice; Property Law Practice; Professional Skills; Professional Responsibility; and, Trust and Office Accounting. The elective subjects include Administrative Law Practice; Criminal Law Practice; Family Law Practice; Consumer Law Practice; Employment and Industrial Relations Practice; Planning and Environmental Law Practice; and, Wills and Estate Practice.⁹⁶

Activities undertaken in the coursework component include simulations, role play, individual problems based research, online forums, writing and drafting assignments and performance demonstrations.⁹⁷

The work experience component has two options – 75 days of work experience or 25 days of work experience plus the Clinical Experience Model. The Clinical Experience Model comprises 4 written papers and a workshop. In the first option (75 days) work experience can be completed before, after or during the coursework component. Some work experience as an undergraduate may count towards the experience.⁹⁸

The Continuing Professional Education component consists of two parts – 10 hours of continuing professional education seminars and a workbook and journal to be completed during the Program.⁹⁹

(b) Entry Requirements: Students who are currently enrolled in a Law degree may be able to commence the coursework component of the Program.

⁹⁵ The College of Law, Practical Legal Training Handbook 2014, at p.3, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

⁹⁶ The College of Law, Practical Legal Training Handbook 2014, at p. 4, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

⁹⁷ Ibid.

⁹⁸ The College of Law, Practical Legal Training Handbook 2014, at p. 5, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

⁹⁹ The College of Law, Practical Legal Training Handbook 2014, at p. 6, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

(c) Mode: The Program is offered full-time and part-time as an online course. The majority of the Program is taught online. The Program also includes two weeks of on-site attendance where students participate in workshops and group activities.¹⁰⁰

The College also allows students to undertake the on-site component in London.¹⁰¹

(d) Assessments: Assessments are practical, individually based and spaced through the program. There are no formal written exams.

(e) Fees: The fee for the Program is \$8,310.00 for domestic students and \$12,000 for international students.¹⁰² The fee includes tuition costs, all resource material and a hard copy set of Practice Papers.

The Legal Practice Workshop, Australian National University

ANU offers a Graduate Diploma in Legal Practice Program (“the GDLP”) which they say, “together with an LLB or JD allows for direct admission to practice in the Australian Capital Territory, New South Wales, Victoria, Queensland, Western Australia, Tasmania and the Northern Territory. Completion of the Program and an LLB or JD also allows reciprocal admission in South Australia”.¹⁰³

(a) Content: The GDLP comprises four components: “Becoming a Practitioner intensive”; “Professional Practice Core”; “Legal Practice Experience” and “Elective Coursework”¹⁰⁴.

The “Becoming a Practitioner intensive” is a five day face to face course that focuses on legal skills development. Subjects covered in this component include: advocacy; communication; problem solving; writing and drafting; interviewing and advising; negotiation; dispute resolution; legal analysis and research; and, management and planning.¹⁰⁵

The “Professional Practice Core” component requires students to work with fellow students in a 'virtual firm'. Students must complete four practice areas: Practice Management (including Accounts & Ethics); Property Law Practice; Civil Litigation Practice; and, Commercial Law Practice. The virtual firm has its own 'virtual office space' (VOS) in which students undertake simulated transactions in Property, Commercial Ethics and Civil Practice. Students must also deal with the firm's accounts, manage the firm's practice and work with supervisors who provides instruction and feedback. Students also work with several clients, a firm clerk, banks and other firms. A Practice Mentor is provided to mentor students through the Program by

¹⁰⁰ The College of Law, Practical Legal Training Handbook 2014, at p.8, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

¹⁰¹ The College of Law, Practical Legal Training Handbook 2014, at p.14, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

¹⁰² The College of Law, Practical Legal Training Handbook 2014, at p.7, <http://asp-au.secure-zone.net/v2/index.jsp?id=1162/1302/3653&lng=en>

¹⁰³ Australian National University, Graduate Diploma in Legal Practice, <http://law.anu.edu.au/legalworkshop/gdlp>

¹⁰⁴ Australian National University, Graduate Diploma in Legal Practice, Program Outline, <http://law.anu.edu.au/legalworkshop/gdlp/program-outline>

¹⁰⁵ Ibid.

helping them work collaboratively and harmoniously with firm members. This component takes place over an 18 week period.¹⁰⁶

The “Legal Practice Experience” requires students to undertake a 20, 40, 60 or 80 day placement in an approved legal environment. The length of time spent doing Practical Experience determines how many course electives students need to complete in the “Elective Coursework” component of the GLDP.¹⁰⁷

If a student does a 20 day placement, the student needs to complete 5 elective courses. If a student does a 40 day placement, the student needs to complete 4 elective courses. If a student does a 60 day placement, the student needs to complete 3 elective courses. If a student completes an 80 day placement, the student needs to complete 2 elective courses. Regardless of the length of the placement, students must complete at least one elective from Stream A and one elective from Stream B.¹⁰⁸ The elective subjects in Stream A are as follows: Administrative Law Practice, Family Law Practice; and, Criminal Law Practice. The elective subjects in Stream B are as follows: Consumer Law Practice; Employment and Industrial Relations Practice; Wills and Estates Practice; and, Planning and Environmental Law Practice. Government Law Practice is an additional elective in Stream C.

ANU Legal Workshop runs the Legal Aid Clinic at the ACT Legal Aid Office where students can undertake a 7 day placement in Canberra whilst being credited for 10 days of placement. ANU Legal Workshop has also partnered with the National Association of Community Legal Centres (NACLC), to match law graduates with publicly funded legal assistance services in Regional and Rural Australia. These services include community legal centres, legal aid offices, aboriginal legal services and family violence prevention legal services. NACLC is able to offer placements between 20 to 80 days.¹⁰⁹

Placements can be approved retrospectively. To be considered, placements must have been undertaken in the three years before an application for retrospective approval is submitted. Overseas placements can be approved, subject to some conditions.

(b) Entry Requirements: Students can apply to concurrently enrol in the GLDP when they are in their final year of an LLB or JD. Such students must have no more than two academic subjects to complete, and these must be elective courses. In order to enrol concurrently students must receive permission from the Admitting Authority in the state or territory where the student will seek admission. Some students enrolled in the ANU Master of Laws (LLM) program may be eligible for concurrent enrolment in the Program as well.

(c) Mode: The GDLP is primarily an online program that can be completed in five months or over a three year period. There is one face-to-face component, the Becoming a Practitioner intensive. The intensive is run in Sydney, Melbourne, Canberra, the Gold Coast, Perth, Toowoomba, Townsville, Wollongong, Adelaide, Brisbane and Darwin, throughout each year.

(d) Assessments: There are no exams. All assessments are subsumed in the components.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Australian National University, Graduate Diploma in Legal Practice, Legal Practice Experience, <http://law.anu.edu.au/legalworkshop/gdlp/legal-practice-experience>

¹⁰⁹ Ibid.

(e) **Fees:** The tuition fees for domestic students are: Becoming a Practitioner \$1,473; Professional Practice Core \$4,965; and, individual electives \$993 (each). The tuition fees for international students are: Becoming a Practitioner \$1,881; Professional Practice Core \$6,930; and, individual electives \$1,299 (each). The GLDP is a 'pay as you enrol' program. Invoices are generated based on the time you enrol, regardless of census dates or class start dates.

State-based PLT Providers

New South Wales

In addition to the College of Law PLT course and ANU's Legal Practice Workshop course, the following PLT courses are available in New South Wales:

University of Technology Sydney (UTS)

According to the UTS website, UTS was the first university to offer an accredited PLT program in Sydney, and remains the largest university provider.¹¹⁰

(a) **Content:** The UTS Program ("the Program") comprises academic core subjects and a practical experience work placement.

The core subjects include Legal and Professional Skills; Transactional Practice; Litigation & Estate Practice; and, Practical Experience (PE).¹¹¹ The subjects cover prescribed knowledge, skills and values set out in the Admission Rules and focus on whether or not a student is competent in the required knowledge, skills and values.

Every student undertaking the Practical Legal Training program is required to complete 16 weeks (80 days at a maximum of 35 hours per week, Monday to Friday) of practical experience with an approved Supervisor. UTS allows students to undertake a maximum of 10 weeks (50 days) of work experience in the 18 months prior to the commencement of studies in the semester in which students are actively enrolled in the subject Practical Experience. Students have 2.5 years from the semester that their enrolment in Practical Experience commences to complete all 16 weeks of their approved placement. Full time students (on- and off-campus) can accrue up to 14 hours of practical experience per week while undertaking the academic component of the course. Students must work on the weekdays and only 7 hours a day. Part-time students (on- and off-campus) can accrue up to 35 hours of practical experience per week while undertaking the academic component of the course. Students must work on the weekdays and only 7 hours a day.¹¹²

(b) **Entry Requirements:** The UTS Program is offered to undergraduates entirely within the stand-alone UTS Bachelor of Laws, in the final semester(s) of study if the PLT option is chosen or after completing a UTS combined law degree. In the latter option students are awarded Graduate Certificate in Professional Legal Practice. Postgraduate students after

¹¹⁰ University of Technology Sydney, Practical Legal Training (PLT), <http://www.uts.edu.au/future-students/law/essential-information/professional-recognition/practical-legal-training-plt>

¹¹¹ University of Technology Sydney, Core subjects, <http://handbook.uts.edu.au/directory/stm90792.html>

¹¹² University of Technology Sydney, Practical Experience, <http://www.uts.edu.au/future-students/law/essential-information/professional-recognition/practical-legal-training-plt-0>

completing the UTS Juris Doctor, complete the Graduate Certificate in Professional Legal Practice.

Applicants must have completed a UTS recognised bachelor's degree, or an equivalent or higher qualification, or submitted other evidence of general and professional qualifications that demonstrates potential to pursue graduate studies.

Applicants may also be eligible to commence their studies in PLT once they have completed all core law subjects and have no more than two electives, or 12 credit points of electives, remaining in their equivalent qualification. The equivalent qualification required is a bachelor's degree in law, the Juris Doctor, the LPAB Diploma in Law, or a law qualification from an overseas jurisdiction.

(c) Mode: UTS' PLT program is offered as a 6 month program for those students wanting to complete the program full time or as a 12 month program for those students wanting to complete the program part-time.¹¹³ UTS offers intakes during the summer, autumn and spring semesters. All of the subjects are offered every semester.¹¹⁴

UTS offers the Program either on-campus or off-campus. In the Summer Program UTS only offers an off-campus course. Students who are studying the Program off-campus are required to attend face-to-face instruction and assessment for the subjects, Legal & Professional Skills, and Litigation & Estate Practice.

(d) Assessments: The subjects are not assessed using pass/fail grades. Assessments are based on the tasks of an entry-level lawyer in general practice such as reviewing client files, letter and document drafting, court appearances, interviewing, negotiating, trust accounting and ethical problem-solving.

(e) Fees: The Tuition fee for 2014 for domestic students is \$466 per credit point. The complete course load is 24 credit points. In addition to tuition fees, students are required to pay a Services and Amenities Fee (SSAF). The purchase of textbooks and other course materials is additional.¹¹⁵

LLB (Practice) Program, University of Newcastle

In 2014 the University of Newcastle introduced a new PLT program for their students called the LLB (Practice) Program.¹¹⁶ The purpose of the Program is to expose students to real clients and their legal problems through the University of Newcastle Legal Centre (UNLC) and in externships.

The Program is designed to teach students substantive areas of law and the practice of law in an integrated and incremental model over the two year program. According to the Program outline, students are able to develop skills in interviewing, legal analysis and synthesis,

¹¹³ University of Technology Sydney, Graduate Certificate in Professional Legal Practice, <http://www.uts.edu.au/future-students/find-a-course/courses/c11232>

¹¹⁴ PRACTICAL LEGAL TRAINING (PLT) INFORMATION SESSION 2013
http://www.uts.edu.au/sites/default/files/PLT_Info_Session_Spring2013.pdf

¹¹⁵ Ibid.

¹¹⁶ Prior to 2014 students could undertake a Bachelor of Laws/Diploma of Legal Practice (the Professional Program).

research, drafting, decision making, negotiation and advocacy while at the same time displaying high standards of professionalism. The Program is also designed to provide problem based learning experiences to enhance the capacity to solve clients' legal problems and provide an intensive clinical placement to undertake in-depth client casework. The Program outline state that students are able to develop a deep awareness of the barriers clients face in accessing justice and provide opportunities to be exposed to the legal and social issues which provide a context for the practice of law.¹¹⁷

(a) Content: The Program comprises eight semester-long courses and two semester-long 'clinical' courses amounting to a 100 unit load (20 units more than the standard full-time load).

The Program also requires students to complete 360 hours of legal professional workplace experience. A minimum of 100 hours of placement is undertaken at the UNLC. As part of the placement program at the UNLC, students prepare and deliver seminars and workshops to community groups including newly arrived international students in its 'Street Law' project. Students participate in externships and external placement at law firms, government departments and agencies, Aboriginal Legal Service, Legal Aid and the Hunter Community Legal Centre.¹¹⁸

(b) Entry Requirements: The Program is only available for students at the University of Newcastle. The Program is undertaken during the final 2 years of the law degree. Graduates of the LLB (Practice) Program are eligible to be admitted to practice law without having to undertake any additional study or practical legal training or workplace experience.¹¹⁹

(c) Mode: The Program is taught from University House in the city and on the Newcastle campus (Callaghan).

(d) Assessments: Assessments are by way of practical tasks and include for example, a client interview, client reflection, a negotiation on parenting disputes and, reflections on core observations.¹²⁰

(e) Fees: The cost of the Program is absorbed in the LLB. The tuition fee for a LLB is \$19,880.00. The purchase of textbooks and other course materials is additional.

Victoria

In addition to the College of Law PLT course and ANU's Legal Practice Workshop course, the following PLT courses are available in Victoria:

Practical Training Course (Graduate Diploma in Legal Practice), Leo Cussen Centre for Law

¹¹⁷ University of Newcastle, LLB (Practice) Program, <http://www.newcastle.edu.au/about-uon/governance-and-leadership/faculties-and-schools/faculty-of-business-and-law/newcastle-law-school/academic-programs/llb-practice-program>

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ Telephone call to the Law School, University of Newcastle, 28 July 2014.

The Leo Cussen Practical Training Course (Graduate Diploma in Legal Practice) (“PTC”) has been training law graduates for admission to the legal profession for over 40 years.¹²¹ The mission of the course is “to continue to provide comprehensive and quality practical training to law graduates leading to their admission to the legal profession as Australian Lawyers.”¹²² This mission is achieved by the provision of an intensive course that combines broad-based professional training with a high degree of supervision in practical work, a high standard of teaching and an overlay of sound ethical standards

(a) Content: Students completing the course must complete 13 core subjects, 2 stream subjects, 3 electives and a three week work experience placement. The 18 subjects include as follows: Accounts; Advocacy; Lawyer’s Skills; Work Management and Business Skills; Problem Solving; Civil Litigation Practice; Commercial and Corporate Practice; Property Law Practice; Criminal Law Practice; Family Law Practice; Taxation; Wills and Estates Practice; and, Ethics and Professional Responsibility.¹²³

The stream subjects include as follows: Administrative Law Practice; Family Law; Consumer Law Practice; Employment and Industrial Relations Practice; and, Planning and Environmental Law Practice. The elective subjects include as follows: Advanced Interviewing; Analysis and Argument in Criminal Law; Bankruptcy; Children’s Court; Commercial Property; Company Practice Elective; Discrimination Law; Family Law Elective; Intellectual Property; Property Elective and Superannuation.¹²⁴

(b) Entry Requirements: To enrol applicants must have completed all the requirements of the LLB or equivalent from a law school of an approved Australian university (and be qualified to graduate).¹²⁵ Overseas Students on student visas are only eligible to apply for the Onsite course. Overseas Students on other forms of visas may be eligible to apply for the online course subject to the conditions of their visa.¹²⁶

(c) Mode: Students can undertake the course either full-time or part-time. The full time course is offered both online and onsite. It is 21 weeks. Full-time attendance is required from 9.00am to 5.00pm each day. The part time online course is 42 weeks. In the online course, students predominantly train online with a designated mentor and attend 16 days onsite.¹²⁷ Students are also required to work in a placement for three weeks.

There are two intakes per year: January or mid-year.¹²⁸

(d) Assessments: There are no exams. It is a “learn by doing” environment in which students “Do lawyers’ work. Run simulated files, appear at simulated court hearings, and conduct

¹²¹ Leo Cussen Centre for Law, Practical Training Course (Graduate Diploma in Legal Practice), http://www.leocussen.vic.edu.au/cb_pages/ptc.php

¹²² Ibid.

¹²³ Leo Cussen Centre for Law, Course Structure of the Practical Training Course (Graduate Diploma in Legal Practice), http://www.leocussen.vic.edu.au/cb_pages/ptc_course_structure.php

¹²⁴ Ibid.

¹²⁵ Leo Cussen Centre for Law, Important Information for 2014 Applicants, http://www.leocussen.vic.edu.au/cb_pages/ptc_important_information_for_applicants.php

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Leo Cussen Centre for Law, About the Practical Training Course (Graduate Diploma in Legal Practice), http://www.leocussen.vic.edu.au/cb_pages/ptc_about.php

negotiations and settlements.” The onsite course provides face-to-face intensive one-on-one mentor support and feedback.¹²⁹

(e) Fees: The fees applicable to specific categories of students are: onsite Overseas Students \$14,500.00; onsite Practical Training Course domestic students: \$9,250.00; online Practical Training Course domestic students: \$8,750.00; and, online Part Time Practical Training Course domestic students: \$8,750.00.¹³⁰

Traineeship Program, Leo Cussen Centre for Law

Leo Cussen Centre for Law provides face-to-face, guided and intensive Traineeship Programs to help firms and trainees meet the Supervised Workplace Training requirements.¹³¹

(a) Content: Eight mandatory subjects must be completed in the Trainee Program. These topics include as follows: Lawyer’s Skills; Problem Solving; Trust and Office Accounting; Work Management and Business Skills; Civil Litigation Practice; Property Law Practice; Ethics and Professional Responsibility; and, Commercial and Corporate Practice. Leo Cussen teaches all of the mandatory topics.¹³²

Of the above topics, Ethics and Professional Responsibility must be taught and assessed by an approved PLT provider such as Leo Cussen Centre for Law; and, Lawyer’s Skills and the Risk Management component of Work Management and Business Skills must be taught and assessed by an approved PLT provider such as Leo Cussen Centre for Law or another provider approved by the Board of Examiners.¹³³

Trainees must also complete elective subjects. Elective subjects taught by Leo Cussen include Administrative Law Practice; Criminal Law Practice; Family Law Practice; Consumer Law Practice; Employment and Industrial Relations Practice; Wills and Estates Practice; and, Planning and Environmental Law Practice.¹³⁴

(b) Entry Requirements: Applicants must be working at a firm in order to undertake the Program.

(c) Mode: The Program is taught on site. There is no online content. Training is delivered face to face and taught and assessed during topic delivery.¹³⁵

(d) Assessments: There are no exams.

(e) Fees: Tuition fees for the mandatory subjects are as follows: Lawyer’s Skills \$1420.00; Trust and Office Accounting \$775.00; Work Management and Business Skills \$595.00; Civil

¹²⁹ Leo Cussen Centre for Law, PTC FAQs, http://www.leocussen.vic.edu.au/cb_pages/ptc_faqs.php

¹³⁰ Leo Cussen Centre for Law, About the Practical Training Course (Graduate Diploma in Legal Practice), http://www.leocussen.vic.edu.au/cb_pages/ptc_about.php

¹³¹ Leo Cussen Centre for Law, Traineeship Programs (Supervised Workplace Training), http://www.leocussen.vic.edu.au/cb_pages/traineeship_programs.php

¹³² Leo Cussen Centre for Law, Traineeship Programs Faqs, http://www.leocussen.vic.edu.au/cb_pages/traineeship_faqs.php

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

Litigation Practice \$1005.00; Property Law Practice \$1005.00; Ethics and Professional Responsibility \$775.00; Commercial and Corporate Practice \$1005.00.¹³⁶

Queensland

In addition to the College of Law PLT course and ANU's Legal Practice Workshop course, the following PLT courses are available in Queensland:

Graduate Diploma in Legal Practice, Queensland University of Technology

(a) Content: The Graduate Diploma of Legal Practice consists of eight units totalling 96 credit points.¹³⁷ Students must complete all eight units. The units comprise Lawyers Skills,¹³⁸ Work Skills¹³⁹, Civil Litigation¹⁴⁰, Commercial¹⁴¹, Property¹⁴², Electives¹⁴³, Interaction¹⁴⁴ and Work Placement.

The Work Placement unit requires students to undertake four weeks experience in a law office. Student are required to complete a reflective journal in which they must record their experiences and reflections on those experiences during the 4 week placement.¹⁴⁵

(b) Entry Requirements: In order to enrol in the course applicants need to have completed a bachelor degree, higher award or equivalent study in law, which is approved for admission to the Australian legal profession or currently be studying for such as a degree, award or equivalent with no more than two units to complete by the date the course commences.¹⁴⁶

¹³⁶ Leo Cussen Centre for Law, Traineeship Programs,

http://www.leocussen.vic.edu.au/cb_pages/event_list.php?category_id=909

¹³⁷ Queensland University of Technology, Brisbane, Graduate Diploma in Legal Practice, Units,

<https://www.qut.edu.au/study/courses/graduate-diploma-in-legal-practice>

¹³⁸ This unit consists of "training in plain English writing and drafting; letter writing; document drafting; legal interviewing; public speaking; negotiation and other dispute resolution alternatives; court etiquette, procedures and advocacy": Ibid.

¹³⁹ This unit consists of "training in ethical understandings relevant to the practice of law and professional responsibility as it applies to legal practice; Solicitors' trust accounting and, file and risk management": Ibid.

¹⁴⁰ This unit consists of "training in exploring dispute resolution alternatives, advice letters, claims and responses, interlocutory or default proceedings, preparation for trial or brief to counsel and settlement and enforcement": Ibid.

¹⁴¹ This unit consists of "training in setting up private companies, acting for a buyer in the purchase of a business, and loans and securities relating to the sale and purchase of a business": Ibid.

¹⁴² This unit consists of "training in conveyancing, mortgages, leases and aspects of revenue law and land use legislation as they affect property transactions": Ibid.

¹⁴³ This unit consists of "training in either administrative law practice; criminal law practice or family law practice and training in either, employment and industrial relations practice; planning and environmental law practice; Wills and estates law practice or consumer law practice": Ibid.

¹⁴⁴ This unit consists of "training in the contexts of civil litigation and property": Ibid.

¹⁴⁵ Queensland University of Technology, Brisbane, Graduate Diploma in Legal Practice, Units,

<https://www.qut.edu.au/study/courses/graduate-diploma-in-legal-practice>

¹⁴⁶ Queensland University of Technology, Brisbane, Graduate Diploma in Legal Practice, Entry Requirements,

<https://www.qut.edu.au/study/courses/graduate-diploma-in-legal-practice>

(c) Mode: The Program is offered full-time on-campus and external (online), as well as part-time online. The part-time course consists of five attendance days with the remainder of the course online. International students are eligible for full-time on campus study only.¹⁴⁷

Applicants who are already working in a graduate law position in a private or government law office may be eligible to enrol in the part-time (in-practice) mode, and may also receive credit for the work placement unit.¹⁴⁸

(d) Assessments: There are no exams. Assessment is practical such as completing a Deed of Release or a letter of advice or advocacy in a mock court.¹⁴⁹

(e) Fees: In 2014 the cost of the Program is \$10,500 based on the 7 units that are compulsory. In 2015 the cost increases to \$11,025. In addition students must pay the Student Services and Amenities Fee (SSAF) as well as fees for textbook and course notes.¹⁵⁰

Graduate Diploma Legal Practice, Bond University

(a) Content: The on-campus (full-time) program consists of 1 full-time semester of Practical Legal Training; Practical Experience (75 days); and Continuing Practical Training (75 hours) undertaken concurrently with Practical Experience component.¹⁵¹

The Practical Legal Training program concentrates on the development of ‘lawyering’ skills such as legal research, analysis and problem solving, legal writing and drafting, interviewing and oral communication, advising, advocacy, dispute resolution and professional ethics and conduct. These skills are taught in a practical context in a simulated office environment.¹⁵²

The Practical Experience Component requires students to complete 75 days of work experience in an approved law office in Australia. The work experience can be undertaken in more than one law office and can be completed prior to or after the Practical Legal Training component.

The Continuing Practical Training part of the Program provides students with a further 75 hours of training relevant to the Practical Experience component and is completed online. It is undertaken concurrently with the Practical Experience component.¹⁵³

Bond's PLT program can also be undertaken online. The online program can be undertaken full-time or part-time, and consists of 1 full-time semester of Practical Legal Training or 2

¹⁴⁷ Queensland University of Technology, Brisbane, Graduate Diploma in Legal Practice, Details, <https://www.qut.edu.au/study/courses/graduate-diploma-in-legal-practice>

¹⁴⁸ Ibid.

¹⁴⁹ Telephone call to the Legal Practice Unit, Law School, University of Technology Queensland on Tuesday 5 August 2014.

¹⁵⁰ Queensland University of Technology, Brisbane, Graduate Diploma in Legal Practice, Costs and Scholarships, <https://www.qut.edu.au/study/courses/graduate-diploma-in-legal-practice>

¹⁵¹ Bond University, Graduate Diploma in Legal Practice (on-campus), Structure & Subjects, <http://bond.edu.au/study-at-bond/postgraduate-degrees/list/graduate-diploma-in-legal-practice/structure-and-subjects/index.htm?fos=&cl=>

¹⁵² Ibid.

¹⁵³ Ibid.

semesters (part-time); Practical Experience (75 days); and Continuing Practical Training (75 hours) undertaken concurrently with Practical Experience component.¹⁵⁴

(b) Entry Requirements: In order to undertake the on-campus and online Program applicants must have completed a Bachelor of Laws or Juris Doctor Program (or equivalent) at an approved institution.¹⁵⁵ The online Graduate Diploma in Legal Practice is not a CRICOS registered program and cannot be studied by international students holding a student visa.¹⁵⁶

(c) Mode: The Program is offered on-campus and online. The online Program can be completed full-time or part-time.

(d) Assessments: Information could not be obtained on the web or by phone about assessments.

(e) Fees: In 2014 the cost of the Program is \$17,032. The online Program is \$8,338.¹⁵⁷ In 2015 the cost increases to \$17,713. The online Program will cost \$8,672 in 2015.¹⁵⁸

Traineeship Program, Leo Cussen Centre for Law

Leo Cussen customises programs for Qld trainees in firms and legal practices, particularly National firms requiring ‘programmed’ or ‘supplementary training’ under the *Queensland Supreme Court (Admission) Rules 2004*.¹⁵⁹ These programs have been approved by the Chief Justice and the Legal Practitioners Admissions Board (Qld).¹⁶⁰

(a) Content: Eight mandatory subjects must be completed in the Traineeship Program. These topics include as follows: Lawyer’s Skills; Problem Solving; Trust and Office Accounting; Work Management and Business Skills; Civil Litigation Practice; Property Law Practice; Ethics and Professional Responsibility; and, Commercial and Corporate Practice.¹⁶¹ Leo Cussen teaches all of the mandatory topics.

Trainees must also complete two elective subjects. Elective subjects taught by Leo Cussen include Administrative Law Practice; Criminal Law Practice; Family Law Practice; Consumer Law Practice; Employment and Industrial Relations Practice; Wills and Estates Practice; and, Planning and Environmental Law Practice.

¹⁵⁴ Bond University, Graduate Diploma in Legal Practice (online), Structure & Subjects, <http://bond.edu.au/study-at-bond/postgraduate-degrees/list/graduate-diploma-in-legal-practice-online/structure-and-subjects/index.htm?fos=Law&cl=Your Degree>

¹⁵⁵ Bond University, Graduate Diploma in Legal Practice (on-campus), Entry Requirements, <http://bond.edu.au/study-at-bond/postgraduate-degrees/list/graduate-diploma-in-legal-practice/entry-requirements/index.htm?fos=&cl=>

¹⁵⁶ Bond University, Graduate Diploma in Legal Practice (online), Entry Requirements, <http://bond.edu.au/study-at-bond/postgraduate-degrees/list/graduate-diploma-in-legal-practice-online/entry-requirements/index.htm?fos=Law&cl=Your Degree>

¹⁵⁷ Bond University, Schedule of Fees, http://bond.edu.au/prod_ext/groups/public/@pub-sa-gen/documents/genericwebdocument/bd3_027433.pdf

¹⁵⁸ Bond University, 2015 Schedule of Fees, http://bond.edu.au/prod_ext/groups/public/@pub-sa-gen/documents/genericwebdocument/bd3_031212.pdf

¹⁵⁹ Leo Cussen Centre for Law, Traineeship Programs (Qld), http://www.leocussen.vic.edu.au/cb_pages/traineeship_programs_qld.php

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

(b) Entry Requirements: Applicants must be trainees in Queensland in legal practices.

(c) Mode: The Program is taught on site. There is no online content.

(d) Assessments: There are no exams.

(e) Fees: Not disclosed.

South Australia

In addition to the College of Law PLT course, the following PLT courses are available in South Australia:

Graduate Diploma Legal Practice, University of Adelaide & Law Society of South Australia

(a) Content: The Program commences with an evening induction session and then comprises 5 compulsory core courses and 2 electives.¹⁶² Compulsory courses include Foundations of the Program¹⁶³, Civil Litigation Practice¹⁶⁴, Commercial and Corporate Practice¹⁶⁵, Property Law Practice¹⁶⁶ and Professional Obligations¹⁶⁷. Elective courses include Criminal Law Practice, Family Law Practice, Employment and Industrial Relations Practice, Planning and Environmental Law Practice and Wills and Estates Practice.

The first core course 'Foundations' includes seminars and lectures run over a 4 week period and must be completed before commencing any other courses. All other courses are run over a two week period. After completing the 5 compulsory courses students must attend a Risk

¹⁶² The University of Adelaide, Study Plans, http://www.adelaide.edu.au/degree-finder/gdip_gdlegalpr.html#studyplan

¹⁶³ This course “introduces the knowledge and skills needed to complete the Program and become a competent legal practitioner. Topics include: Interviewing and Advising, Legal Writing, Legal Drafting, Practical Legal Research, Negotiation, Alternative Dispute Resolution, and Advocacy. As part of the Advocacy component, students make submissions to, and obtain feedback from senior members of the legal profession at the District Court. The course is offered in partnership with South Australian practitioners, courts and agencies”: <https://cp.adelaide.edu.au/courses/details.asp?year=2014&course=106782+1+3405+LAS>

¹⁶⁴ This course “aims to provide an understanding of civil litigation. Topics include: Initiating a Claim and Pleadings; Interlocutory Applications; Disclosure; Gathering and Presenting Evidence; and Settlement and Enforcement. The course is offered in partnership with South Australian practitioners”: <https://cp.adelaide.edu.au/courses/details.asp?year=2014&course=106797+1+3410+1>

¹⁶⁵ This course “aims to provide an understanding of commercial and corporate legal practice. Topics include Creating Commercial Structures, Franchising, Commercial Transactions, Loans and Securities, Insolvency Administration and Taxation. The course is offered in partnership with South Australian practitioners”: <https://cp.adelaide.edu.au/courses/details.asp?year=2014&course=106844+1+3410+LAS>

¹⁶⁶ This course “aims is to provide a sufficient understanding of property law to enable students to provide basic advice to a client and to conduct standard property transactions such as, but not limited to, the sale and purchase of land, contract preparation, conveyancing, mortgages and leases. This course is delivered in partnership with South Australian practitioners and agencies”: <https://cp.adelaide.edu.au/courses/details.asp?year=2014&course=106845+1+3410+1>

¹⁶⁷ This course provide “an understanding of the professional obligations of a legal practitioner. The topics include Legal Costs, Ethics and Regulation, Trusts and Office Accounting”: <https://cp.adelaide.edu.au/courses/details.asp?year=2014&course=106846+1+3405+S03>

Management Seminar. Students must also attend 10 hours of Continuing Professional Development (CPD) seminars.¹⁶⁸

The Program also includes a six week Legal Practice Placement. Students can complete five out of six weeks of their placement as a Judge's Associate or judicial tribunal member; the remaining week must be completed in a legal office to enable completion of all tasks in the Placement Handbook.¹⁶⁹

(b) Entry Requirements: The Program may be commenced concurrently with undergraduate studies (subject to conditions).

(c) Mode: The Program can be completed in 6 months or take up to 3 years. There are 2 intakes January and July.¹⁷⁰

Lectures are held on campus and students are encouraged to attend, however they are also recorded and available online. Seminars have compulsory attendance but are scheduled at a range of times during the day, evening and weekend.¹⁷¹

(d) Assessments: There are no exams. Assessment tasks vary slightly from course to course but include a combination of the following: multiple choice questions, practical legal research assessment, demonstration of advocacy skills, online quizzes, practical interviewing and advising tasks, participation in discussion boards, drafting letters of advice, drafting, and completion of relevant forms. All assessments are available online and are focused on practical 'real-world' legal situations.¹⁷²

(e) Fees: The tuition fee for domestic students is \$8,250. The tuition fee for an international student is \$14,000.¹⁷³

Bachelor of Laws and Legal Practice & Bachelor of Laws and Legal Practice (Honours) **Flinders University**

The Bachelor of Laws and Legal Practice integrates the required practical legal training needed to gain admission as a solicitor or barrister within a law degree. This means that students can become qualified to practise without having to pay upfront fees for the final part of training.¹⁷⁴

(a) Content: The Bachelor of Laws and Legal Practice contains a number of compulsory topics that are required to enter legal practice. Flinders integrates legal skills components that form

¹⁶⁸ The University of Adelaide, Program Information, <http://www.law.adelaide.edu.au/study/practical-legal-training/>

¹⁶⁹¹⁶⁹ The University of Adelaide, PLT FAQ, <http://www.law.adelaide.edu.au/study/practical-legal-training/faq/>

¹⁷⁰ Ibid.

¹⁷¹ The University of Adelaide, Practical Legal Training, <http://www.law.adelaide.edu.au/study/practical-legal-training/>

¹⁷² Ibid.

¹⁷³ The University of Adelaide, Graduate Diploma in Legal Practice, http://www.adelaide.edu.au/degree-finder/2015/gdlp_gdlegalpr.html

¹⁷⁴ Flinders University, Bachelor of Laws and Legal Practice, <http://www.flinders.edu.au/courses/undergrad/blawlap/>

the foundation of a professional training program within some of the compulsory topics. These include interviewing, oral advocacy, negotiating and drafting documents.¹⁷⁵

To qualify for The Bachelor of Laws and Legal Practice (Honours), a student must complete 144 units, comprising 90 units of compulsory topics, 22.5 units of legal practice core topics, 22.5 units of option topics and a 9-unit dissertation topic.¹⁷⁶ The compulsory topics include as follows: Legal Research and Writing [Research I, Writing I]; Criminal Law and Legal Method [Statutory Interpretation I]; Introduction to Public Law [Group Work]; Contract; Professional Skills and Ethics [Ethics I]; Issues in Criminal Law; Torts 1; Advanced Contract [Writing II]; Torts 2 [Interviewing] ; The Constitution and the Australian Federation [International/Comparative I] ; Administrative Law 1: Judicial Review [Statutory Interpretation II]; Property, Equity and Trusts; The Constitution and the Australian People [Indigenous / Social Justice I]; The History of Legal Ideas [Research II]; Administrative Law: Merits Review; Corporate Law 1 [Drafting] ; Corporate Law 2 [Ethics II]; Civil Litigation; Real Property Law; Evidence.

PLT subjects include Practical Legal Training - Civil Litigation Practice; Practical Legal Training - Legal Practice Management [Research III]; Practical Legal Training - Transactional Legal Practice; and Practical Legal Training - Criminal Practice and Advocacy.

At the end of the Bachelor of Laws and Legal Practice students can choose to graduate earlier with a Bachelor of Laws if they do not wish to complete the legal practice training component of the program. Those wanting to enter legal practice spend most of their last year taking professional training topics including a 225- hour placement in a legal office.¹⁷⁷

(b) Entry Requirements: Domestic and International applicants must hold a recognised undergraduate degree or equivalent qualification from an approved tertiary institution. Admission is by quota and is normally based on academic merit as determined by assessment of an applicant's qualifications. This course is generally not intended for applicants who have already graduated with a Law degree.

Students can gain alternative entry into the Bachelor of Laws and Legal Practice at Flinders through their one-year Bachelor of Justice and Society (Law Pathway).

(c) Mode: The Degree is 4 years full-time or part-time equivalent. Flinders offers two admissions cycles each year for undergraduate courses in February and I July.¹⁷⁸

(d) Assessments: Varies for each subject.¹⁷⁹

¹⁷⁵ Flinders University, 2015 Law and Justice, at page 9,
http://www.flinders.edu.au/courses_and_programs_files/documents/brochures2015/UCB_LawJustice_web.pdf

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Flinders University, 2015 Law and Justice, at page 11,
http://www.flinders.edu.au/courses_and_programs_files/documents/brochures2015/UCB_LawJustice_web.pdf

¹⁷⁹ Flinders University, Bachelor of Laws and Legal Practice,
<http://www.flinders.edu.au/courses/rules/undergrad/blawlpq.cfm>

(e) **Fees:** The Annual fee for the Degree for domestic students in 2015 is \$10,264.¹⁸⁰

Western Australia

In addition to the College of Law PLT course and ANU's Legal Practice Workshop course, the following PLT courses are available in Victoria:

Article Clerks Training Program, Leo Cussen Centre for Law

Leo Cussen is the only provider authorised by the Western Australia Legal Practice Board to deliver the Articled Clerks Training Program.¹⁸¹

(a) **Content:** Article Clerks must complete eight compulsory subjects. The compulsory topics include as follows: Lawyer's Skills; Problem Solving; Work Management and Business Skills (including Risk Management); Civil Litigation; Commercial and Corporate Practice; Property Law; Ethics and Professional Responsibility; and, Trust and Office Accounting. Elective Topics include Administrative Law and Employment and Industrial Relations.¹⁸²

Articled Clerks do not have to complete the Administrative Law elective if their principal has undertaken to train them in the administrative law, criminal law or family law competency standards. Nor do Articled Clerks have to complete the Employment and Industrial Relations elective if their principal has undertaken to train them in the employment and industrial relations; consumer law; planning and environment law; or wills and estates law competencies.

(b) **Entry Requirements:** The program is for articled clerks in Western Australia completing their twelve months articles of clerkship with a law firm or other organisation.

(c) **Mode:** Subjects are taught face-to-face.

(d) **Assessments:** There are no exams.

(e) **Fees:** The fee for the compulsory course (eight subjects) is \$5,330.00. The fee for each elective subject is \$915.00.¹⁸³

Tasmania

In addition to the ANU's Legal Practice Workshop course, the following PLT courses are available in Tasmania:

Tasmanian Legal Practice Course, Centre for Legal Studies, University of Tasmania

¹⁸⁰ Flinders University, Bachelor of Laws and Legal Practice,

<http://www.flinders.edu.au/courses/undergrad/blawlap/>

¹⁸¹ Leo Cussen Centre for Law, Western Australian Articled Clerks' Training Program,

http://www.leocussen.vic.edu.au/cb_pages/traineeship_articles_wa.php

¹⁸² Leo Cussen Centre for Law, 2015 Course Timetable,

http://www.leocussen.vic.edu.au/cb_pages/traineeship_wa_timetable.php

¹⁸³ Leo Cussen Centre for Law, Western Australian Articled Clerks,

http://www.leocussen.vic.edu.au/cb_pages/event_list.php?category_id=953

The Tasmanian Legal Practice Course (“TLPC”) is a six month professional and practical training program offered at the standard of Graduate Diploma.¹⁸⁴ The objective of the Program is to “enable trainees to acquire and demonstrate an appropriate understanding of, and competence in, each element of the skills, values and practice areas set out in the National Professional Legal Training Competency Standards for Entry Level Lawyers.” The coordinators and instructors at the Program are Judges, Magistrates, practising lawyers and other professionals whose services are arranged and provided by Centre for Legal Studies Ltd.

(a) Content: The Program comprises seven compulsory courses.¹⁸⁵ These courses include as follows: Civil Litigation Practice - Supreme Court Practice and Advocacy (Incorporating Tribunal Practice, Workers Compensation, and Industrial Relations Practice)¹⁸⁶; Criminal Law Practice – Magistrates’ Court Practice and Advocacy¹⁸⁷; Commercial and Corporate Practice¹⁸⁸; Property Law Practice (Incorporating Conveyancing Practice)¹⁸⁹; Trust & Office Accounting¹⁹⁰; Family Law Practice¹⁹¹; and, Ethics and Professional Responsibility¹⁹².

¹⁸⁴ University of Tasmania, Tasmania Legal Practice Course, http://www.utas.edu.au/_data/assets/pdf_file/0016/302119/TLPC-Brochure.pdf

¹⁸⁵ Ibid.

¹⁸⁶ This course “has a strong advocacy component with trainees appearing in the Supreme Court before Judges on a fortnightly basis. Each trainee drafts and files pleadings in response to a mock exercise they have been issued with by the Court and then attends Court to argue applications and make submissions on behalf of his or her client. In addition, trainees are given lectures and participate in workshops to progress two litigation files”: <http://www.utas.edu.au/courses/law/units/lca101-civil-litigation-practice-supreme-court-practice-and-advocacy>

¹⁸⁷ This unit “is organised in to three modules: familiarisation with the Court, Applications and Submissions (practice and advocacy) and conducted defended criminal proceedings. Throughout the duration of the Course a series of ten exercises are distributed to trainees in the form of a factual scenario, set of instructions and relevant documentation. Trainees are required to act for their client on the information they are provided with. This includes filing relevant documentation with the Magistrates’ Court and appearing in the Court to argue their clients application”: <http://www.utas.edu.au/courses/law/units/lca102-magistrates-court-practice-and-advocacy>

¹⁸⁸ This module is “concerned with the general areas of law comprising Commercial Practice as well as the role, and duties of a commercial practitioner. Trainees are given a series of seminars and workshops addressing business structures generally and in particular companies, partnerships and trusts”: <http://www.utas.edu.au/courses/law/units/lca103-commercial-practice>

¹⁸⁹ The unit is “concerned with the transfer of interests in real estate, and business and other assets, and will be primarily transaction based. There is a series of formal introductory lectures, which will cover the following areas: The searches, enquires and work to be undertaken by the solicitors for the parties prior to the formation of a contract for the sale and purchase of the subject matter; the drafting and execution of the contract documentation and the various ways in which the contract is brought into existence; the searches, enquiries and work to be undertaken by the solicitors for the parties after the contract has been brought into existence and prior to its completion (settlement); the completion of the contract, and the work to be undertaken by the solicitors for the parties after the completion of the contract”: <http://www.utas.edu.au/courses/law/units/lca104-property-law-practice>

¹⁹⁰ This module is “concerned with the principles governing, trust and general accounting in legal practice as well as the keeping of account records according to law and good practice to the standard expected of an employed solicitor”: <http://www.utas.edu.au/courses/law/units/lca105-trust-and-office-accounts>

¹⁹¹ In this unit “trainees gain an understanding of the practice and procedure in the Family Court and the Federal Magistrates’ Court as well as an understanding of the role of the State Courts in dealing with matters arising from the breakdown of relationships”: <http://www.utas.edu.au/courses/law/units/lca106-family-law-practice>

¹⁹² This unit is “divided into five modules: lawyers’ skills, which includes interviewing clients, advocacy, writing letters, drafting other documents and negotiating settlements; competency, ethics and professional responsibility, which includes acting ethically, discharging the legal duties and obligations of legal practitioners, complying with professional conduct rules, complying with fiduciary duties and avoiding conflicts of interest;

In weeks 16 and 17 of the Program each trainee spends two weeks (90 hours) in a private legal firm or government department, or other organisation employing legal practitioners. This is a compulsory component of the Program. Trainees may either complete 90 hours of workplace training during their work experience fortnight or by combining their hours of work experience with volunteer or paid work at a workplace which employs legal practitioners. During the work experience fortnight, trainees attend the Magistrates' Court for one day to observe proceedings with the assistance and guidance of a Magistrate. Trainees can undertake work experience outside Tasmania. Any trainee who wishes to do so must discuss that with the Course Director.

(b) Entry Requirements: Applicants must have a Law Degree from UTAS or another approved University and have passed prescribed subjects which are set out in the TAS Rules.¹⁹³ The Program is quota restricted.

(c) Mode: The Course is 24-26-week full-time course conducted by the Centre for Legal Studies in Hobart. The course runs from February to July each year. It is taught on campus. Attendance at all lectures, workshops and practical sessions during each week of each semester is compulsory. Trainees must sign an Attendance Register at the commencement and conclusion of each day.¹⁹⁴

(d) Assessments: There are no exams, only assignments which are both oral and written. No assessment involves the awarding of "marks", in percentage terms, or otherwise.

(e) Fees: The 2015 fee for domestic students is based on individual unit selections. The fee for Civil Litigation Practice; Criminal Law Practice; Commercial and Corporate Practice; Property Law Practice; Trust & Office Accounting; and, Family Law Practice is \$1,486.00 each. The fee for Ethics and Professional Responsibility is \$2,972.00.¹⁹⁵

Australian Capital Territory

The College of Law PLT course and ANU's Legal Practice Workshop course are offered in the Australian Capital Territory. Both courses are discussed above.

Northern Territory

There are no PLT programmes offered in the Northern Territory. Northern Territory students will typically complete the programmes offered by the College of Law or the Australian National University, which satisfy the Northern Territory admission requirements.

problem solving skills, which includes analysing facts and identifying issues, analysing law, providing legal advice and generating solutions and strategies; work management and business skills, which includes managing personal time, managing risk, managing files, keeping client informed and working co-operatively; and, workplace experience": <http://www.utas.edu.au/courses/law/units/lca107-professional-responsibilities-and-ethics>

¹⁹³ University of Tasmania, Graduate Diploma of Legal Practice, Entry, <http://www.utas.edu.au/courses/law/courses/l6b-graduate-diploma-of-legal-practice>

¹⁹⁴ University of Tasmania, Tasmania Legal Practice Course, http://www.utas.edu.au/data/assets/pdf_file/0016/302119/TLPC-Brochure.pdf

¹⁹⁵ University of Tasmania, Course Structure, Schedule, <http://www.utas.edu.au/courses/law/courses/l6b-graduate-diploma-of-legal-practice>

PART D: OBSERVATIONS

The purpose of this Project was to research the structures, content and approach of the regulation and delivery of PLT courses and providers in Australia. This section of the Report details the author's observations about PLT regulation in Australia.

The first observation to be made concerns the diversity of regulatory approaches. This paper has identified 15 regulators in Australia directly involved in the regulation of PLT (not including the professional associations). Each of these regulators appear to have a different focus in terms of their regulatory requirements and each administer a regulatory regime that differs considerably from one regulator to the next. Most concerning is that in a number of cases the role and function of the regulator in relation to PLT is not entirely clear. Whilst the legislation in every State and Territory in Australia contain provisions in relation to PLT (normally found in the Admissions Rules), it appears that interpretation of the provisions is applied differently by the regulators in every jurisdiction. This is particularly true in relation to monitoring and review.

For example, New South Wales seem to be the only jurisdiction with a regular and stringent monitoring and review framework. As discussed above, the NSW LPAB requires PLT providers each year to notify the LPAB of "(a) any material alteration which has been made to the curriculum of the course; (b) any material alteration which is proposed to be made to the curriculum of the course, and (c) his or her opinion as to whether the requirements for the successful completion of the course include evidence of the attainment of the competencies set out in rule 96 (1) (b) and the Sixth Schedule."¹⁹⁶ This information must be provided by the Director to the LPAB before 30 June each year. The LPAB, after considering this material can "determine that the approval of the course be confirmed or that it not be confirmed." No other jurisdiction in Australia requires this level of reporting.

In the Australian Capital Territory, where any changes are made to the PLT course, the director of the Program must notify the Board of any material change to the curriculum for the approved PLT course and any proposed material change to the curriculum for the approved PLT course as well as any opinion about whether successful completion of the approved PLT course requires evidence of the Competency Standards for Entry Level Lawyers.¹⁹⁷ The ACT differs from NSW in that in the ACT the onus is placed on providers to report, whereas in NSW providers must report regularly every 12 months.

In addition, the legislative framework in the Australian Capital Territory also grants power to the LPAB ACT to conduct a review of a PLT provider. The Admissions Board may monitor and review the performance of, and the resources available to, an approved PLT provider as well as the content and conduct of the PLT course, or part of the course, provided by the approved PLT provider. The Admissions Board may, after consulting an approved PLT provider appoint one or more persons to conduct a review of their PLT course or a subject in the course. In doing so the Board may determine the terms of reference for any such review. The approved PLT provider must pay the reasonable costs incurred by the Board for monitoring, or for a review carried out on it. The Rules however do not provide any information about how often such a review should take place or the basis on which a review may be conducted. Nor is this information provided in any other documents or policies that the

¹⁹⁶ Rule 45B(1) of the NSW Rules.

¹⁹⁷ Rule 3607Hof the ACT Rules.

authors could locate on review or monitoring. In addition the authors have not been able to obtain any information as to whether any reviews have actually occurred in the ACT.

Victoria has a similar regime in relation to the ACT in relation to review. As discussed above, in Victoria Rule 3.03(1) provides that Council of Legal Education may monitor, and, from time to time review the performance of, and the resources available to, an approved PLT provider in providing an approved PLT course. The Council of Legal Education can also review the content and conduct of an approved PLT course, or any subject in an approved PLT course, provided by the PLT provider. In fulfilling this function the Council of Legal Education may appoint a person to review a PLT provider and set the terms of reference for that review. Rule 3.04(1) of the VIC Rules provides that Council may approve a course it considers will provide an appropriate understanding of, and competence in each element of the compulsory skills, values and practice areas set out in the Competency Standards.

Whilst it is commendable that this framework exists, in the authors view, it lacks focus and content. The Rules in Victoria do not state how often such a review should take place. Nor do the Rules provide any information upon the basis on which a review may be conducted. Nor is this information provided in any other documents or policies. In fact a search of the Council of Legal Education's website on the monitoring and review framework resulted in very little. The only information the authors could locate, as discussed above, was a review conducted by the Council of Education on the Leo Cussen Centre for Law. That review set out the terms of reference for the review and could therefore be said to be a guide about the basis on which Victoria may review PLT providers. The only other document that could be said to relate to monitoring and review is the newly published Standards for PLT Courses and Providers. However, the Standards do not articulate statements about monitoring and review, rather they serve as a guide to PLT providers that if they are reviewed, the review may focus on issues contained in the Standards. This regulatory framework, as a result, in the authors view, is ad hoc and therefore inconsistent.

The ACT and Victoria are not however the only jurisdiction with this type of framework in relation to monitoring and review of PLT. A similar legislative framework applies in Tasmania.

As discussed above, in Tasmania the Board of Legal Education may review the performance of, and the resources available to, an approved PLT provider in providing an approved PLT course. The Council of Legal Education can also review the content and conduct of an approved PLT course, or any subject in an approved PLT course, provided by the PLT provider.¹⁹⁸ In fulfilling this function the Council of Legal Education may appoint a person to review a PLT provider and set the terms of reference for that review. The approved PLT provider must pay the reasonable costs incurred by the Board for monitoring, or for a review carried out on it. Like Victoria and the ACT however, the Rules in Tasmania do not provide any information about how often such a review should take place or the basis on which a review may be conducted. Nor is this information provided in any other documents or policies that the authors could locate on review or monitoring. In addition the authors have not been able to obtain any information as to whether any reviews have actually occurred.

In Western Australia there are no legislative provisions in relation to monitoring and review at all. The Western Australian Rules only discuss initial approval of a PLT course. The Rules

¹⁹⁸ Rule 10 of the TAS Rules.

provide that approval of a course can only be granted by the Legal Practice Board.¹⁹⁹ So once a PLT course has been approved, there is no legislative obligation to monitor or review the course or the provider.

The situation is similar in Queensland. In Queensland there are no legislative provisions in relation to monitoring and review. The Queensland Rules only discuss initial approval of a PLT course. The Rules provide that approval of a course can only be granted by the Chief Justice and the LPAB QLD.²⁰⁰ So once a PLT course has been approved, there is no legislative obligation to monitor or review the course or the provider. Notwithstanding this, the Secretary of the LPAB QLD, according to the LPAB's website has the responsibility of reviewing all PLT Programs. The basis upon which such a review is conducted, how it is conducted and when it is conducted is however unclear. In addition the authors have not been able to obtain any information as to whether any reviews have actually occurred.

Similarly, in South Australia there are no legislative provisions in relation to monitoring and review. Notwithstanding this, one of LPEAC's stated functions is to "keep the effectiveness of legal education and training courses and post-admission experience under review so far as is relevant to qualifications for legal practice."²⁰¹ As discussed above, the authors have been unable to find out any information about how this review function is administered by LPEAC. In addition the authors have not been able to obtain any information as to whether any review have actually occurred. The absence of a review and minoring function is also found in the Northern Territory.

The fact that a number of jurisdictions have no formalised regulatory frameworks for reviewing and monitoring PLT is astounding, particularly since review and monitoring of PLT is addressed in the Preface to the 2002 Competency Standards.²⁰² The number of regulators and diversity in approaches signals an acute need for uniformity in regulation, similar to that which is currently being undertaken in legal profession legislation.

The second observation to be made concerns transparency. As the content of this Report reveals, the authors have had considerable difficulty obtaining information from the regulators about aspects relating to how they regulate PLT providers and courses. This difficulty was most evident in relation to the approval, monitoring and review functions of the regulators. The authors had to conduct extensive research to find out how these regulatory functions are conducted. As the authors mention above, it may well be that such information exists but if it does then it does not appear to be readily available to the general public.

The authors were surprised to note that several regulators did not even have their own website. The LPAB in the Australian Capital Territory does not have its own website. Nor does the LPAB in the Northern Territory, the LPAB in Queensland, the LPEAC in South Australia or the Board of Legal Education in Tasmania.

The authors were also surprised to see that some regulators published annual reports and some did not. The LPAB in NSW published comprehensive annual reports detailing the work of their Committees including the Legal Qualifications Committee. The LPB in Western Australia also

¹⁹⁹ Rules 8 and 9 of the WA Rules.

²⁰⁰ See Rules 7 and 7A of the Qld Rules.

²⁰¹ Section 14C(1)(c) of the SA Act.

²⁰² Interestingly, there is no Preface to the latest version of the Competency Standards that are to commence on 1 January 2015.

publishes annual reports. The LPEAC in South Australia published their annual reports buried in the Annual Reports of the Courts Administration Authority. The Council of Legal Education in Victoria does not publish an annual report. Nor does the LPAB in the Northern Territory, the LPAB in Queensland, the LPAB in the Australian Capital Territory, and the Board of Legal Education in Tasmania.

The absence of such information must make it extremely difficult for providers to obtain clarity on what they are actually required to comply with. This is particularly true for PLT providers that offer courses in multiple jurisdictions, like the College of Law, who is a national provider. It must be extremely challenging to comply with the myriad different requirements. It must also be difficult for the profession and consumers of legal services to determine the effectiveness of PLT courses if there is no effective framework for assessment.

The third observation relates to the capacity of the regulators to regulate PLT courses and providers. The authors are concerned that some of the regulators may lack capacity to regulate. This concern arises from the first and second observations about the inconsistency of approaches to regulating PLT providers, the absence of any formal frameworks in relation to monitoring and review, the lack of evidence that the regulators are conducting such reviews and monitoring, and finally, the problems associated with obtaining information.

The fourth observation concerns the practice of listing accredited PLT providers. In some cases the approved providers are listed in legislation, in other cases they are listed on the website of the regulator and in other cases they are not listed at all. As discussed above, Schedule 4 of the NSW Rules names the PLT providers that have satisfied the requirements of Rule 96(1). That is, the stated providers provide sufficient practical training for admission as a lawyer by the Supreme Court of NSW. The approved providers in South Australia are stated in the Admissions Rules in South Australia, in an actual rule, not a Schedule. The approved providers of PLT in Victoria are listed on the website of the Council of Legal Education. In Queensland and Western Australia the regulators do not provide a list of any approved PLT providers and such a list is not found in legislation either. In Tasmania, a publication by the PLT provider itself stated that they had been approved as a PLT provider by the Board of Legal Education.

This situation is further complicated by claims by PLT providers about their course. For example, ANU, on their website, makes the following statement:

“Provided you meet all requirements as laid out by the relevant admission authorities, completion of the GDLP, together with an LLB or JD allows for direct admission to practice in the Australian Capital Territory, New South Wales, Victoria, Queensland Western Australia, Tasmania and the Northern Territory, and reciprocal admission in South Australia.”²⁰³

The statement is interesting because the Program at ANU is not listed as being approved in a number of jurisdictions. This anomaly must be difficult for both providers of PLT and consumers of PLT.

The fifth observation to be made relates to the Competency Standards. It is concerning that so much time was spent by the APLEC and the LACC as well as relevant stakeholders in

²⁰³ Australian National University, Graduate Diploma in Legal Practice, <http://law.anu.edu.au/legalworkshop/gdlp>

developing and revising the Competency Standards yet there appears to be no assessment conducted of their impact or whether they are complied with.

As discussed above, the Competency Standards have over the years been adopted and incorporated into the legislative instruments concerning PLT in all of the States and Territories in Australia. This is to be commended as are the Competency Standards themselves. The adoption of these Standards nationally was momentous. However, mere adoption of a set of Competency Standards is not enough. The authors are concerned, that there appears to have been very little, if any, research conducted to test the efficacy of the Standards or more importantly, whether PLT providers are complying with the Competency Standards.

PART E: CONCLUSION

PLT is an essential pathway to successful legal practice. Nowhere is this fact more clearly stated than in the Preface to 2002 Competency Standards. As the Preface to the 2002 Competency Standards states:

“It is in the interests of clients and the public that entry-level lawyers should only be admitted to practise – and subsequently licensed and held out to the public as legal practitioners – if they have acquired threshold competence to practise by completing appropriate academic and practical training. Before they are admitted to practise they must have the knowledge, values, attitudes and skills required to practise law competently.”²⁰⁴

One of the greatest challenges faced by newly admitted lawyers today is being able to apply what they have learned at law school in practice. The problem arises because the traditional model of teaching law is strictly formalist and doctrinal. Historically legal education was little more than the imparting of information in the form of legal principles, rules and propositions to be committed to memory for examination purposes. Most students learning in Australian law schools, for example, is facilitated through lectures and tutorials, and is assessed through examinations and essay-style assignments. This ‘doctrinal’ approach to education concentrates on imparting information about substantive law through the examination and analysis of legal principles in both common law and statute usually via lectures and sometimes tutorials. The vast majority of content is purely substantive and concerns the examination of cases, principles and statutes and the legal theory and methods used to interpret cases, principles and statutes.

This approach was formalised, in Australia, by the “Priestly 11.” Although the 11 areas continue to be taught at law school today, the Priestly 11 has been consistently questioned as to its applicability to the changing nature of the legal profession.

Twenty-first century Australian legal graduates are entering a more complex and structurally different professional environment from that of their predecessors. Globalisation and technological change has had a profound effect on the legal services marketplace as has the introduction of new business structures. The changing legal marketplace requires law graduates have a new range of skills to deal with issues that did not previously arise in the legal marketplace. Lawyers today tend not to stick to a purely legal role. They sit on boards; they are brought in-house; they go work in business teams; they become entrepreneurs; they join start-ups as parts of founding teams.

²⁰⁴ Australasian Professional Legal Education Council and the Law Admissions Consultative Committee, Competency Standards for Entry Level Lawyers, November 2000, updated February 2002.

While the diversity of roles performed by today's legal practitioners make it difficult to provide an educative framework which allows them to hit the ground running in all areas of legal specialisation, the PLT program presents a sound basis for general practice and an understanding of what it means in practical terms to be a lawyer in today's marketplace.

Much work has been done in Australia over many years in developing the Competency Standards for PLT. These Standards appropriately set a benchmark for the content of PLT courses. The next step is now harmonisation of the regulatory framework throughout Australia and assessing whether the Competency Standards are actually being met by all of the providers.

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The University of Notre Dame, <http://www.nd.edu.au/>

University of Tasmania, <http://www.utas.edu.au/>

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Attachment C











Extract:PLT Course Audit, Australia











PLT Course Audit, Australia











Key Metrics Matrix

Preliminary Note: This document contains information in relation to courses offered by Australia's 10 PLT Providers. The information is primarily based on publicly available data on institutions' internet sites as at mid December 2014. It represents a snapshot in time and is subject to change. Information in some categories was not publicly available for all 10 PLT Providers.

Course Information











	College of Law	ANU	UTS	Uni of Newcastle	QUT	Bond University	Leo Cussen Institute	Uni of Adelaide /Law Soc	Flinders Uni	UTAS
										
States where Accredited	NSW, VIC, QLD, WA, SA, NT (pending), NZ	ACT	NSW	NSW	QLD	QLD	VIC	SA	SA	TAS
States where Courses Conducted	NSW, ACT, VIC, QLD, WA, SA, NT (pending), UK, NZ	NSW, ACT, VIC, QLD, WA, SA, TAS, NT	NSW	NSW	QLD	QLD	VIC	SA	SA	TAS
Qualification	GDLP Graduate Diploma of Legal Practice	50% of MLP or exit early with GDLP Masters of Laws (Legal Practice)	GCPLP (unless part of your single UTS LLB - post 2012) Graduate Cert Prof Legal Practice	JD/GDLP LLB (Hons)/DLP Diploma of Legal Practice <i>embedded</i>	GDLP	GDLP	GDLP	GDLP	LLB/LP Bachelor of Laws and Legal Practice <i>embedded</i>	GDLP

	College of Law 	ANU 	UTS 	Uni of Newcastle 	QUT 	Bond University 	Leo Cussen Institute 	Uni of Adelaide /Law Soc 	Flinders Uni 	UTAS 
Mode of Teaching	<u>PLT</u> Online (FT/PT) Online Evening (PT)	<u>PLT</u> Online (flexible)	<u>PLT</u> Online (FT/PT)	<u>PLT</u> -	<u>PLT</u> Online* (FT/PT) *domestic students only	<u>PLT</u> Online (FT/PT)	<u>PLT</u> Online (FT/PT)	<u>PLT</u> -	<u>PLT</u> -	<u>PLT</u> -
	On campus (FT)	-	On campus (FT/PT)	On campus (FT/PT) <i>embedded</i>	On campus (FT)	On campus (FT)	On campus (FT)	On campus (FT) FTF lect. optional and also avail. online	On campus (FT) <i>embedded</i>	On campus (FT/PT)
	Incl. skills & elective w/shops.	Incl. skills w/shops and EL w/shops (Crim. Pract.).	Incl. skills & core w/shops.		Incl. skills & elective w/shops.		Incl. skills w/shops.	Incl. compulsory seminars.	Incl. skills w/shops and skills training in LLB.	
	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	incl. <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>	plus <u>Work Exp.</u>
	plus <u>CPD Online</u>					plus <u>CPD Online</u>		plus <u>CPD</u>		
Group Learning /Assess.	Groupwork in skills and EL workshops only. No group assessment.	<u>PPC</u> Groupwork and group assessment in firms. <u>EL</u> Mostly individual work.	Group learning. No group assessment.	-	All individual work except skills w/shop.	-	<u>Core</u> Groupwork in firms. <u>EL</u> Individual work.	Group learning. No group assessment.	Groupwork taught in LLB Constitutional Law subject.	-

	College of Law 	ANU 	UTS 	Uni of Newcastle 	QUT 	Bond University 	Leo Cussen 	Uni of Adelaide 	Flinders Uni 	UTAS 
Time Commitment										
PLT Coursework	<u>PLT</u> FT: 75 days (15wks - 525 hrs. – 35hrs/wk.) PT: 150 days (30wks - 525hrs- 17.5hrs/wk.)	<u>PLT</u> FT: 105 days (6mths min BAP 1wk + PPC 18wks + EL = 21wks min) <i>(MLP: 1yr min 6yrs max.)</i>	<u>PLT</u> FT: 75 days 1 semester (15wks)** PT: 150 days 2 semesters (30wks)**	<u>PLT</u> <i>Embedded*</i> FT: 75 days 440 units – 1 semester (15wks)* ** PT: 150 days 440 units FT equivalent – 2 semesters (30wks)**	<u>PLT</u> FT: 120 days 24 wks. (6mths) PT: 190 days 38 wks	<u>PLT</u> FT: 75 days 1 semester (15wks) PT: 150 days 2 semesters (30wks)	<u>PLT</u> FT: 105 days 21wks PT: 245 days 49wks (calendar yr. less WE)	<u>PLT</u> FT: 105 days 21wks (Mid Jan-late May) PT: 3yrs max <i>(LLB/LP 4 yrs. If LLB only – 3.5yrs)</i>	<u>PLT</u> <i>Embedded</i> FT: 75 days 6 mths (15wks)** PT: 2 yrs. max.	
	Incl. skills and EL w/shops: 2 wks. (1wk ACT QLD)	Incl. skills and EL w/shop BAP: 5 days EL w/shop (Crim Pract.): 5 days	Incl. skills w/shops in core: 5 days max. EL optional w/shops <i>embedded</i> : Litigation, Estate Practice and Transact. Pract.: 2 x 3hrs per subject	-	Incl. skills w/shop: 1 wk. EL w/shops: Skype	Incl. 3 wks. FTF 'learning intensive'.	Incl. skills w/shop: 16 days for online course.	Incl. onsite core course seminars - 12 days (or Foundations 4wks) or 24 evenings.	Incl. skills w/shops: LPM 4 days/semester TLP 13 days/semester EL: Crim. & Adv. 40hrs (13 x 3hr w/shops)	-
Work Experience (WE)	<u>Work Exp. (WE).</u> 75 days or 25 days + CEM	<u>Work Exp.</u> 80 days 2EL 60 days 3EL 40 days 4EL 20 days 5EL <i>Concurrent PLT/WE allowed.</i>	<u>Work Exp.</u> 80 days (16 wks.) <i>Concurrent PLT/WE allowed to max 14hrs/wk.</i>	<u>Work Exp.</u> 45 days (360hrs @ 8hrs/day)	<u>Work Exp.</u> 20 days (4wks)	<u>Work Exp.</u> 75 days <i>Max. 55 day credit for past WE.</i>	<u>Work Exp.</u> 15 days (3wks) NB. 5 EL	<u>Work Exp.</u> 30 days (225hrs-6wks at 7.5hrs/day).	<u>Work Exp.</u> 30 days (6wks – 225hrs)	<u>Work Exp.</u> 10 days (90hrs – 2wks @9hrs/day)
Continuing Professional Development (CPD)	<u>CPD Online</u> 10hrs <i>Concurrent.</i>	-	Nil	-	-	<u>CPD Online</u> 75 hrs <i>Concurrent with WE.</i>	-	<u>CPD</u> 10hrs	-	-

*Uni of Newcastle. Min 5yr combined law, 3yr grad law + GDLP/DLP. **Assumed 1 semester is approx. 15wks. Number of weeks not confirmed with uni.

Cost

	College of Law	ANU	UTS	Uni of Newcastle	QUT	Bond Uni.	Leo Cussen Institute	Uni of Adelaide /Law Soc	Flinders Uni	UTAS
										
Fees Domestic	\$8,560- \$9,850	\$9,252- \$12,528	\$8,388 - \$11,184 plus SSAF	<i>Embedded</i> LLB (Hons)/DLP JD/GDLP: \$71,323	\$11,025 plus SSAF* *maximum SSAF for 2014 is \$281	\$8,672 (Online FT & PT) - \$17,713 (On campus FT) HIGHEST	\$8,950- \$9,450	\$8,232 LOWEST 10 Hours compulsory CPD – provided free by Law Society.	\$10,080 (<i>Anecdotal</i> MJ) - website says no extra cost on LLB for PLT.	\$11,888
Fees International	\$12,360- \$13,290 LOWEST	\$24,864	\$15,772 plus SSAF	See above. Courses also offered to int. stds.	\$22,575 plus SSAF	\$17,903 (CCRICOS)	\$14,500	\$14,160	\$25,300 (<i>Anecdotal</i> MJ) HIGHEST	\$17,344 (<i>Anecdotal MJ</i>)
Financial Assistance	FEE-HELP	FEE-HELP Scholarship: indigenous, academic, equity Financial assistance WE: Regional & Remote Work Placements	FEE-HELP	As per JD and LLB(Hons). Scholarship for JD int. students on-campus.	FEE-HELP Scholarship: equity and other.	FEE-HELP 10% Alumni discount.	FEE-HELP AUSTUDY	FEE-HELP	-	Commonwealth Supported Place (CSP) i.e. Fees HECS based.

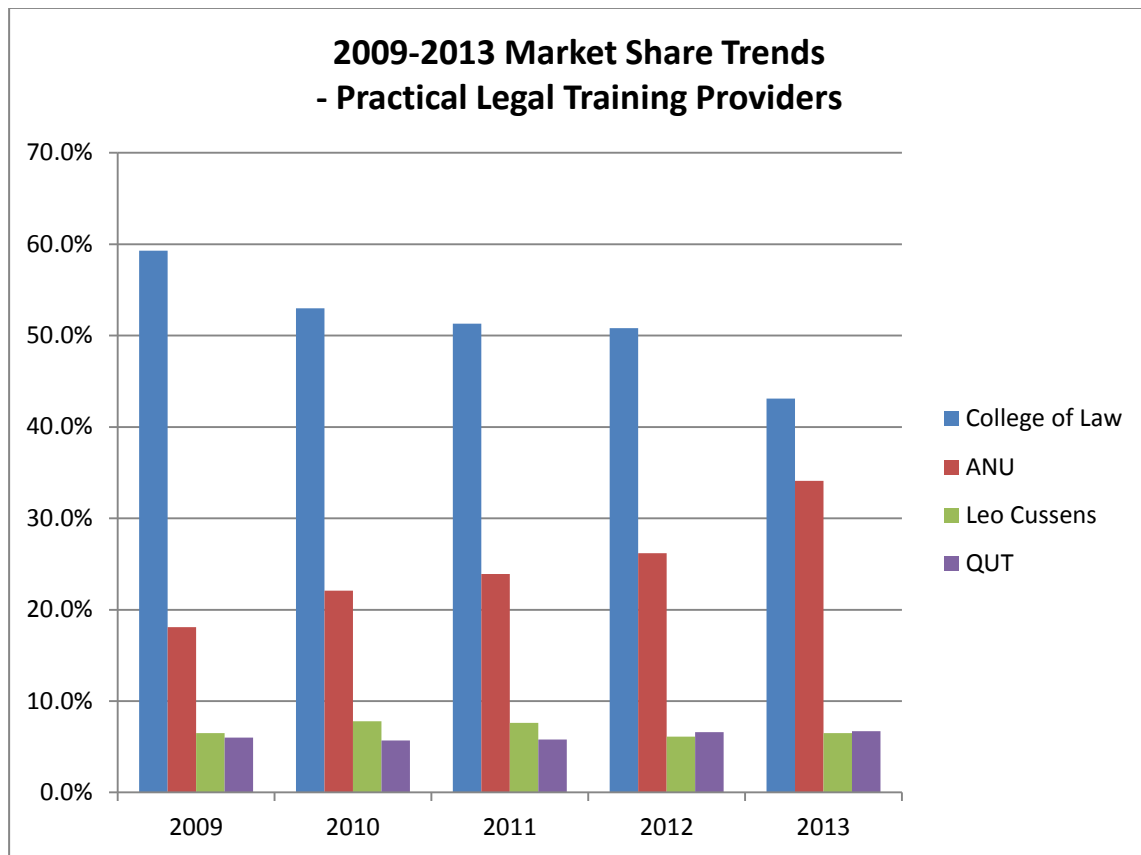
Acronyms

- BAP: Becoming a Practitioner – ANU Skills Workshop
- CEM: Clinical Experience Module – College WE Option
- CPD: Continuing Professional Development
- DLP: Diploma in Legal Practice
- EL: Elective
- FT: Full Time
- FTF: Face To Face
- GDLP: Graduate Diploma in Legal Practice
- LPE: Legal Practice Experience – ANU Work Experience
- LPM: Legal Practice Management
- MLP: Masters Legal Practice
- NCS: National Competency Standards
- PLT: Practical Legal Training
- PPC: Professional Practice Core – ANU Core subjects
- PT: Part Time
- TLP: Transactional Legal Practice
- WE: Workplace Experience

Attachment D

2009-2013 Market Share Trends

Attachment D – 2009-2013 Market Share Trends – PLT Providers



Source: Department of Education and Training (formerly DEEWR) July 2014

Attachment E

2012 Report on Supervised Workplace Training

Supervised Workplace Training

**An analysis of the design and implementation
of SWT schemes in Australia**

Dr John Nelson

August, 2012

1. Introduction

I have been engaged by the College of Law as an external consultant to conduct a review of the concept of Supervised Workplace Training (SWT) as a method for entry-level lawyers to gain the competencies and skills needed to qualify for admission to legal practice, as an alternative to Practical Legal Training.

The plan is that the College will table this paper for information and discussion at the APLEC Conference scheduled for November 2012.

The only fully developed SWT schemes currently in place are those in Victoria and Queensland. In these States the concept has been adopted and developed by the admission boards following consultation with the Law Institute of Victoria and the Queensland Law Society. The Queensland and Victorian schemes commenced operation in 2005 and 2008 respectively.

This project has been mainly precipitated by the publication to the whole Victorian profession of a paper dated 9 May 2012 written by Richard Besley, the CEO of the Victoria Council of Legal Education (CoLE) Board of Examiners, entitled *Supervised Workplace Training – a Report*¹ (the Besley Report) (**Attachment A**). This report is an account of an audit conducted into the operation of SWT in Victoria during the year 2011. It also draws general conclusions on the effectiveness and acceptance within the profession of the Victorian SWT scheme and makes some observations about PLT courses. It is understood that this report has been submitted to and accepted by the Board of Examiners.

The starting point for any such analysis must be an understanding of the requirements of the National Competency Standards for Entry Level Lawyers (the Competency Standards) (**Attachment B**). This paper briefly revisits the background to the introduction of SWT as a replacement for articles in Victoria. There is also a summary of the acknowledged weaknesses of unstructured articles² as the sole method of pre-admission training, leading to their abolition by all States and Territories. This is followed by an examination of how the concept of SWT was developed in Victoria and whether the scheme as designed is valid and capable of satisfying the Competency Standards requirements. This paper then looks at the issues raised by the CoLE Board of Examiners' report about how SWT has been operating in Victoria. A similar approach is taken to SWT via Supervised Traineeships in Queensland.

To obtain a broader perspective of comparable approaches to reliance placed upon workplace training to demonstrate competence, there is a brief discussion of the position in England and Wales, where legal education and training relating to the provision of legal services is currently being extensively reviewed³. The Western Australia articles of clerkship training scheme is also briefly examined. A survey of the main features of pre-admission training (in this case, prior to entry to the professional association) for a comparable professional group, the accounting profession in Australia, is also provided.

Finally, it should be noted that the conclusions drawn from this analysis are not based directly upon empirical data. Designing a research project and surveying samples of students who have completed either SWT or PLT (and their supervisors/employers) about their fitness for practice would be the most reliable way of testing the effectiveness of each

¹ This report is now available via the CoLE Board of Examiners' website at <http://lawadmission.vic.gov.au>.

² "Unstructured articles" is used throughout this paper to refer to the traditional form of articles of clerkship in place prior to the introduction of PLT courses and SWT schemes.

³ Refer to the website of the Legal Education and Training Review (<http://letr.org.uk/>) for details of the aims, scope and progress of this wide-ranging and ongoing review in England and Wales.

alternative method. However, such a resource-intensive undertaking was outside the scope of this project.

2. Terms of reference

The following Terms of Reference were given to me as the consultant conducting this review:

1. To investigate the design of Supervised Workplace Training and Supervised Traineeships schemes in the context of the national regulation of post-degree pre-admission practical legal training in Australia, including:
 - a) regulatory frameworks;
 - b) learning prescriptions;
 - c) assessment and evaluation;
 - d) learning environment; and
 - e) quality assurance.
2. To assess the extent to which the design of these schemes complies with the National Competency Standards and identify improvements, if any, which might strengthen compliance.
3. To review the recent report, *Supervised Workplace Training – a Report* by the CEO of the Victoria Council of Legal Education Board of Examiners, and to evaluate its implications for the design, administration and overall operation of the scheme in Victoria.
4. To compare and contrast the Victorian Supervised Workplace Training scheme with the Queensland Supervised Traineeships scheme.
5. To compare and contrast other similar schemes which integrate workplace training into their qualifying schemes in the legal and other relevant professions.
6. To make observations and recommendations as to the implications for the College's PLT curriculum and the broader Australian PLT sector.

3. National competency standards

The Competency Standards, issued jointly by APLEC and LACC in 2000, were written as a prescription of the observable competencies in defined practice areas, skills and values to be demonstrated by applicants to qualify them for admission. They set forth in some detail the elements and matching performance criteria determined for each of these areas.

Since 2002 all Australian jurisdictions have incorporated the Competency Standards into their admission standards. Hence, they are a common national yardstick against which all the alternative approaches to pre-admission practical training are measured. All PLT programs and SWT schemes on offer throughout Australia must demonstrate compliance with the requirements of the Competency Standards to be accepted by the admission boards as providing a practical legal training qualification for entry to the profession.

Several important issues arise from the description of the required components for that training as proposed by LACC in the preface to the Competency Standards⁴.

⁴ Competency Standards, p.2

Level of training

Paragraph (c) states that “at whatever stage an applicant undertakes practical legal training, that training should be provided at a level equivalent to post-graduate training.”

There could be some doubt as to what *post-graduate* means in this context. Does it refer to the need for the training to be at a post-graduate level in terms of curriculum standards, teaching, assessment and learning outcomes? Alternatively, some might also argue that it refers merely to sequence, in the sense that the training must follow and build upon the undergraduate law experience.

It is submitted that the words “provided at a level equivalent to post-graduate training” must have been intended to convey the first meaning. This definition poses no problem for the PLT courses, all of which have been accredited at post-graduate level, mostly leading to the award of a Graduate Diploma. However, it is difficult to envisage how it can be established that the design of the SWT schemes guarantees training in the workplace equivalent to a post-graduate standard.

Definition of training

Paragraph (e) of the preface to the Competency Standards requires that the training comprise

“both programmed training and workplace experience. It requires an allocation of tuition hours and resources to curriculum which are appropriate as an equivalent of:

1. a program of academic study at graduate diploma level which incorporates at least 90 hours of workplace training; or
2. 12 months (1800 work hours) of closely supervised full time indenture as an articled clerk incorporating at least 90 hours of programmed training; or
3. a non-award training course of at least 6 months (900 hours) in which at least 450 hours is programmed training and at least 90 hours is workplace experience⁵.”

All PLT programs are intended to fall into category 1. Presumably, all SWT schemes have been designed to qualify for inclusion in category 2, although, as indenture as an articled clerk is no longer possible, pre-admission lawyers undertaking these schemes are now designated as trainees.

Two issues arise from this definition, which have consequences for how SWT schemes should be designed:

1. the *workplace experience* must be “closely supervised”; and
2. the *programmed training* must be “structured and supervised training activities, research and tasks with comprehensive assessment”⁶.

Assessment of competence

In addition to the need for comprehensive assessment of programmed training referred to above, paragraph (h) of the preface to the Competency Standards reinforces the importance of assessment of the workplace experience by stipulating that “an applicant’s competence in each Practice Area should be assessed in a way which allows the applicant also to demonstrate competence in relevant Skills and Values, at the same time.”⁷

⁵ Competency Standards, p.2

⁶ Competency Standards, p.2

⁷ Competency Standards, p.3

The question arises whether the two SWT schemes under consideration are capable of ensuring that an assessment of the acquisition of competence by all trainees does in fact occur in the workforce. Both schemes have been designed to place sole reliance upon assessment by individual employers and/or supervisors where they have provided the workplace training. However, is it safe to presume that every supervisor/employer possesses the capacity to make a valid judgment on whether an individual trainee has or has not demonstrated a level of competency? This problem is compounded by the fact that under both SWT schemes the sole mechanism in place to determine whether trainee compliance with the Competency Standards has been reached is the certification of that same employer and/or supervisor.

Current review of the Competency Standards

The Competency Standards are now in the process of being reviewed by APLEC and LACC ten years after their initial national adoption. A discussion paper has been drafted and distributed to all institutions for comment. It is submitted that the points raised above should be taken into consideration in the drafting of the next version of the Competency Standards.

4. Background to the introduction of SWT in Victoria

The decision to abolish articles in Victoria was preceded by a Review of Legal Education Services conducted by Ms Susan Campbell with the assistance of an Advisory Committee. Following the completion of a consultation process, the report⁸ of the Review, commonly referred to as the Campbell Report, was published in 2006.

The Campbell Report recommended that the then system of articles should be abolished but concluded nonetheless that good quality workplace experience was still the best method for equipping a person for legal practice. It recommended the adoption of a new system of traineeships⁹ based on a then recently introduced Queensland model which made an attempt to incorporate a reliable method of assuring consistency of standards and outcomes.

Interestingly, one of the terms of reference (2) for the Review required “an examination of the efficacy and accessibility of current pre-admission training programmes” to be carried out. It was to give particular consideration to several options, including “whether there is merit in abolishing articles altogether and replacing it with practical legal training”. However, the Review failed to present any detailed evaluation of the strengths and weaknesses of articles, perhaps because the making of this recommendation was assumed or the decision to abolish them had already been taken. Instead, the Review mainly focused on presenting an overview of the practical legal training requirements for admission in all other Australian jurisdictions and several comparable international jurisdictions, including England and Wales.

This is a surprising approach, because it would be reasonable to conclude that the all-important design principle which would be applied to develop a sound Supervised Workplace Training scheme to replace articles would be the identification and avoidance of the problems and pitfalls that articles had presented.

The Campbell Report is one in a long line of reviews and reports over the past 40 years in various common law jurisdictions on the effectiveness of articles of clerkship as the sole

⁸ Campbell, S (2006), **Review of legal education report: pre-admission and continuing legal education**, Department of Justice, Melbourne.

⁹ See recommendation 1 in the summary of recommendations at p.9 of the Campbell Report.

method of preparing law graduates for admission¹⁰. These reviews have identified the principal defects of articles as including unevenness, uncertainty and the systemic failure to account for outcomes and guarantee fitness for practice.

The most comprehensive examination and evaluation of articles to be found in the Australian literature was carried out by John de Groot¹¹ in 1995. In a section of his book entitled “A litany of inadequacies”, he identifies and analyses the problems associated with articles under the following eight headings:

1. limitations and difficulties of on-the-job training
2. uneven and uncertain quality of training
3. economic influences on effectiveness
4. the effect of the type of firm/legal setting
5. problems with lawyers as teachers
6. social cost of the risk of harming clients through student mistakes
7. no clear responsibilities for the effectiveness of the system
8. absence of student assessment of competence

Given the existence of these serious shortcomings under the previous articles system, this paper now turns to the question of whether the design of the SWT scheme operating in Victoria since 2008 has succeeded in addressing and avoiding the problems experienced with unstructured articles, while not compounding the situation by creating new problems. In this light, the recently published Besley Report is welcome because it is the only systematic attempt to gather data about the functioning of SWT. It has provided the first insights into how the scheme has in fact been working, although its scope is confined to only one year of the scheme’s four-year lifespan.

5. Design and operation of the Victorian SWT scheme

The rules governing SWT in Victoria are contained in Division 3 of Part 3 of the Legal Profession (Admission) Rules. The procedures to be observed are detailed on the CoLE Board of Examiners website¹².

General description of the scheme

Supervised Workplace Training is described as a 12-month period of supervised training under an eligible supervisor during which the trainee must acquire an appropriate understanding of and competence in a number of practice areas. These training requirements are set out in Schedule 3 of the Rules, which prescribe some 220 performance criteria. Most of these competencies can be completed through either internal or external training.

There are two exceptions to the means of acquiring competence via training in the workplace:

¹⁰ For example, in England and Wales the **Report of the Committee on Legal Education** (“the Ormrod Report”), 1971; in NSW the **Survey of Training received by Articled Clerks in New South Wales** (“the Trew Report”), 1966; in WA the **Development of a Practical Legal Training Course in Western Australia** (the “Eckert Report”), 1994; in Ontario, Canada, **The Teaching Term of the Bar Admission Course: a Critical Assessment and Proposal for Change** (the “Spence Report”), 1988.

¹¹ De Groot, J K, **Producing a competent lawyer: alternatives available**, Centre for Legal Education: Sydney, pp.35-58.

¹² <http://lawadmission.vic.gov.au>

- Ethics and Professional Responsibility, which must be completed through an approved PLT provider; and
- Lawyers Skills plus the Risk Management element of Work Management and Business Skills, which must be completed either through an approved PLT provider or another provider approved by the Board (which of course can be the employer).

The training plan

The trainee and supervisor must complete, sign and submit to the Board for its approval within one month of commencing SWT an executed training plan in the prescribed form, together with an employer's affidavit verifying the SWT and a supervisor's affidavit in relation to eligibility to be a supervisor.

The training workbook

A workbook must be maintained which records the trainee's completion of each task which demonstrates competence in each element. The information recorded should include the date the task was completed, a description of the task and a reference to the client file which enables verification of the trainee's work.

The supervisor or other responsible person is required to sight and sign off that record on a regular basis. At the conclusion of the traineeship, the supervisor should check off the entries in the file against the required competencies to ensure that all elements have been completed.

Requirements for SWT trainees applying for admission

The filing requirements specific to those who have undertaken SWT are:

1. an affidavit by the applicant's Employer under traineeship in the prescribed form (Schedule 6); and
2. an affidavit or affidavits by the applicant's Supervisor(s) under traineeship in the prescribed form (Schedule 7), to which, in accordance with the Board's policy, the following certified copies must be annexed:
 - a certificate of the completion of compulsory Elements (Ethics and Professional Responsibility; Lawyer's Skills; and the Risk Management element of Work Management and Business Skills)
 - any other Elements undertaken with an approved practical legal training provider.
3. At the time of filing final documents, SWT trainees must produce a record of completion of the tasks which demonstrate competency in each Element of the training plan signed off regularly by supervisors or another responsible person.

In both their affidavits, the employer and the supervisor certify as follows: "I consider the applicant to be a fit and proper person to be admitted to the legal profession in Victoria."

Additional requirements

Where the Board has granted approval to provide a course of instruction in elements such as Lawyer's Skills and Risk Management component of Work Management and Business Skills, an affidavit confirming the course of instruction must be filed when undertaking¹³ a new trainee under Supervised Workplace Training.

Where the Board has granted approval to provide a course of instruction in an Alternative Practice Area, an affidavit confirming the course of instruction must be filed when undertaking a new trainee under Supervised Workplace Training.

¹³ Presumably, "undertaking a new trainee" means engaging a trainee under SWT.

Information and resources available

The Board's website also makes available online two sets of guidelines with information for trainees and for supervisors. A number of policies have been developed for procedural clarity, which also appear on the website:

1. Five practice directions dealing with:
 - persons eligible to be a supervisor
 - part-time supervised workplace training
 - application for approval as training provider
 - supervised workplace training: the prescribed competencies
 - supervised workplace training: approval to continue internal training
2. Three notices dealing with:
 - abridgement of period of supervised workplace training
 - supervised workplace training (Board of Examiners)
 - supervised workplace training: changing of supervisor and trainee
3. Four forms
 - a form for the SWT trainee's workbook
 - a form of training plan
 - an affidavit verifying supervised workplace training
 - the prescribed forms for the Employer's and Supervisor's affidavits

It is apparent that the Board has given close attention to providing information to trainees and supervisors/employers alike to assist them to understand and comply with the scheme, as well as to facilitate ease of administration. The practice directions and notices are also evidence of the pains taken to identify issues as they have arisen and to respond to them by developing relevant policies and procedures.

Administrative involvement by the Board

However, the detailed requirements found necessary to make it workable are also reflective of a practical legal training scheme which is complicated to administer and bureaucratic by its very nature.

It appears that the Board has administrative tasks to perform at at least six stages:

1. provide specific advice to individual trainees and employers and supervisors on how the scheme works and their responsibilities under it;
2. approve the filed training plans, together with the employer's and supervisor's affidavits. However, there is no evidence of the criteria applied to decide whether or not a plan is satisfactory and what happens if it is unsatisfactory;
3. deal with employers' applications to substitute alternative areas of practice for the prescribed Optional Areas;
4. deal with employers' applications to provide training in Lawyers Skills and/or the Risk Management component of Work Management and Business Skills;
5. check and approve all completed workbooks and employers' and supervisors' affidavits filed by applicants for admission;
6. oversee the general administration of the scheme and plan and carry out periodic compliance audits.

I submit that it is reasonable to speculate whether, were the numbers electing SWT to expand substantially beyond the 20 percent of the candidates admitted to practice in 2011 mentioned in the Besley Report, the Board may not possess the resources in time and financial means to administer it.

6. Issues of concern arising from the design of the Victorian SWT scheme

Even without any inquiry into how the scheme has in fact worked in practice over the past four years, here are ten areas of concern arising from the design of the scheme as detailed on the Board's website. These include:

1. *Employer understanding:* What guarantee is there that each individual employer and supervisor will take the trouble to understand how the scheme works and provide appropriate workplace training opportunities to enable the trainee to gain competence in all the practice and skills areas?
2. *External training:* Is there a risk that employers whose practices do not cover some of the practice and skills areas will not be prepared to send their trainees to approved external training and pay for them?
3. *Employer training competency:* Without experience in curriculum, teaching methods and assessment, can the employer and/or supervisor be relied upon to deliver appropriate training in the workplace?
4. *Reliability of employer certification:* Can the certification by the employer and supervisor, together with the workbook completed by the trainee, be safely relied upon by the Board as the sole evidence of the acquisition of knowledge and competence?
5. *Built-in inconsistency:* Since every trainee's workplace experience must be different, will there be an inconsistency in learning outcomes?
6. *Reliability of workbook:* Will trainees conscientiously and accurately complete their workbooks and have them frequently inspected and approved by their employers?
7. *Conflicted employer:* Will employers be placed in a conflicted situation if trainees produce incomplete or inaccurate workbooks at the end of the 12 months SWT period?
8. *Scheme bureaucratic:* Is the scheme too complicated and bureaucratic to be workable?
9. *Insufficient resources:* Can the SWT scheme be properly monitored and administered without an increase in staffing and financial resources, especially if it becomes more popular with pre-admission graduates than at present?
10. *No fee income:* There is no requirement at the moment for fees to be paid to the Board to cover its administrative and monitoring/auditing functions. Is this sustainable in the longer term and will this lack of income restrict the Board capacity to exert tight control over the scheme's operation?

In the absence of anything other than anecdotal evidence as to how the SWT had been working over the past four years, it has been impossible to answer these questions. Fortunately, the recent Besley Report has now provided us with a picture, albeit an incomplete one, of how the scheme has been operating.

7. The Besley Report

The Report is quite short for an audit of what is a substantial training scheme, being only seven pages in length. In the introductory background section the author, Richard Besley, comments that:

A key objective of the SWT is to ensure that all applicants for admission have attained appropriate competence in the prescribed PLT areas. This report describes the measures which the Board has put in place to ensure that this objective is achieved. It also discusses emerging themes in the evolution of the scheme which have been revealed in discussion with employers. (p.1)

The author acknowledges that the regulation of SWT is more resource intensive than the regulation of PLT courses and that it requires the regulator to adopt a more hands-on approach (p.2). This of course has important consequences in relation to the adequacy of the staffing and financial resources at the Board's disposal.

It appears that, whereas the first years of SWT were occupied with visiting employers regularly to provide information, obtain feedback and monitor compliance, 2011 was the first year in which a systematic audit process was attempted. This consisted of 52 on-site visits timed for close to the end of the traineeships, to conduct:

- interviews of trainees and supervisors, and
- inspections of records, presumably with a focus on the trainees' workbooks.

The body of the Report describes the outcomes of the audit process under the following headings:

- record keeping
- internal and external training
- Board approval of courses of instruction in Lawyers Skills and Risk Management
- optional areas of the PLT Competencies
- audit outcomes
- emerging themes
- conclusion

A close study of the report of the audit as it was conducted reveals a number of problems with the way the scheme has been conceived and is being implemented, many of which are fundamental to its capacity to achieve its objectives. These points are listed as questions and/or comments and grouped under the nine headings below:

The conduct of the audit

Based on my professional experience of the audit and quality assurance of educational programs and student outcomes, I have formed the opinion that there are significant technical deficiencies in the way the audit has been conducted and reported. My concerns are reflected in the questions posed below:

1. Where are the terms of reference for the audit? What are the criteria for the audit? Who prepared and signed off on the audit plan? Who decided which firms/students are to be audited and on what grounds? These are important issues, as they are the starting points for the audit process and the measures of whether the audit has achieved its objectives.

2. Are the auditors sufficiently independent from the practices and procedures they are auditing to ensure the integrity and objectiveness of the process? It might be argued that auditors auditing the approvals they have themselves given are in a conflicted situation and disqualified as auditors. For example, A/Prof Lansdell is involved in granting Board approvals to employers who have applied to provide training in Lawyer's Skills and/or Risk Management and in monitoring that training through on-site visits, while also being one of the two auditors.
3. Why were the on-site visits timed for close to the end of the traineeships? Had they been made at an earlier stage, then they would have served as an opportunity to provide feedback and address problems. Leaving them so late must often have resulted in "the horse having already bolted".
4. The first audit was conducted only after the scheme had already been in operation for three years. Why were there no audits in relation to the cohorts who had been admitted in 2009 and 2010? If the first three years had been occupied in providing information about the scheme to employers, there appears to have been no appropriate lead in time to get all structures properly in place before SWT commenced.
5. What is the ratio of the 52 audits conducted to the total number of students being trained under the scheme? Are they selected randomly? What is the relationship between the sample drawn and the characteristics of the employing firm, such as its size and location and the type of practice? The Report is silent on these important matters.

Teaching and assessment issues

6. The scheme as designed is premised upon individual employers and supervisors possessing the capacity to teach and to assess competence. Can this be safely presumed when practitioners are already so time poor? In this regard the Board's role is limited to providing advice to individual trainees and employers and supervisors on how the scheme works and their responsibilities under it. It does not purport to provide training for employers and supervisors on the finer points of how to teach and assess their trainees and perhaps this should be required before the training contact is entered into.
7. What training skills does the employer/supervisor possess to be able to identify gaps and take remedial action, for example to set and assess a research task to determine whether a Competency had been reached (p.5). [Incidentally, this is the only mention in the whole Report of "assessment".] Leaving it until an audit to identify whether an employee/supervisor has an appropriate process in place to identify gaps and take remedial action is far too late.
8. Another important area which the scheme overlooks is a statement of the standard of the work expected of the trainee as the evidence of the satisfaction of each of the competencies. This is left to the judgment of the individual employer and supervisor and there are bound to be considerable differences of opinion as to what constitutes satisfactory and non-satisfactory performance.
9. Can an employer and supervisor be expected to provide a valid personal certification of a trainee's competence across a large range of practice and skills areas, covering all the elements and the performance criteria in the Competency Standards, without a formal assessment process, which most employers and supervisors will be neither competent nor willing to set or to mark? In this situation, there is a reasonable risk that certification might degenerate into a "box ticking exercise".

Trainee workbook issues

10. Upon whom does the onus or responsibility lie for the accuracy of the submitted workbook? Does this reside with the trainee or the supervisor or both? The trainees are obliged to maintain their own workbooks and have their supervisor sign off, which presumably means vouch for their accuracy of the entries, on a “regular basis”, but this is not defined. It may be reasonably surmised that, the longer it is left for the supervisor to sign off, the more likely it is that a global view will be taken by the supervisor of the trainee’s overall performance rather than address the separate elements in the practice areas and skills.
11. The Report states (p.3) that the Board regards “the “diligent completion of the workbook as the key evidence a trainee relies upon to demonstrate that the trainee requirements have been met.” However, there is no mention of the need for accuracy.
12. The recommended form of the workbook is in no more sophisticated than a tasks list, without a specification of the standard to be displayed by the trainee or evidence that the task was appropriately completed.
13. What are the consequences of producing sub-standard or inaccurate workbooks? The Report states that “small numbers of applicants have presented sub-standard workbooks, which they have been required to rectify.” (p.3) How many were involved? Dealing with this defect by simply requiring changes to the workbook will often be insufficient. Further evidence may be required of the satisfactory coverage of all the Competency Standards which, if not available, will require the specification of further training to cover the gaps.

Certification of competence issues

14. This is a pivotal issue if the SWT scheme is to work properly as designed. In effect, the Board of Examiners has delegated to employers/supervisors the responsibility for certifying to it the competence of their trainees and thereby their fitness for admission to practice. This is a very weighty responsibility to be placed on their shoulders if they are to discharge it accurately and conscientiously.
15. However, it seems probable that some employers/supervisors will not have the time or inclination to give these detailed matters appropriate time and attention and will be inclined to certify perfunctorily. Many will find themselves in a conflict situation because to fail to give their certification at the end of the traineeships will reflect adversely upon them personally and the amount and quality of the training they have provided, particularly if the trainee were to complain to the Board. It would also entail an extension in the period of the traineeship, which may not be in the employer’s own interests. In these circumstances, what employer is not going to sign off on the workbook?

Alternatives to the Optional Areas of the PLT Competencies

16. The Report states that expressions of employer dissatisfaction with the current Optional Areas of the PLT Competencies had been received by the Board based on the fact that a large number of employers did not practise in one or more of those areas. As a result, these employers were obliged to send their trainees to external training in one or more of the Optional Areas. It is submitted that the inability to provide workplace training in areas in which the employer’s firm does not practise is one of the fundamental weaknesses in the design of the SWT schemes.
17. As a consequence, a policy was developed by Board of Examiners whereby, upon the application of individual employers, it would approve training in alternative areas outside the ambit of the National Competency Standards. The Report lists the six main

alternative optional practice areas to be provided by employers, which have been most frequently approved by the Board.

18. This policy is contrary to the philosophy underpinning the Competency Standards adopted by all admission boards in 2002 in order to establish a common nationally agreed standards prescription. Furthermore, there is no authority to be found in the Competency Standards under which the Board is empowered to grant these dispensations nor does it appear that it consulted LACC or the PLT providers in Victoria before adopting this policy.
19. There is no evidence in the Report on how extensive this practice is and how many approvals have been granted as a percentage of the number of employers involved in the scheme. It is unlikely to be the exception to the rule because the possibility of having alternative practice areas substituted is promoted to employers and trainees on the Board website and in both sets of guidelines. There is also no indication of the grounds that need to be established by employers to support their application and the evidence required.

Adoption/take-up issues

20. The report states that “the take-up of SWT among mid-tier and smaller firms and government employers has been strong. Most top tier firms have opted to put their graduates through a PLT course...” (p.5) However, it is self-evident that these smaller firms are just the section of the profession that may not have the appropriate infrastructures in place in HR and in training resources, including Learning and Development Managers, to make SWT work properly.
21. There is an acknowledgement that the firm’s obligations under SWT are (or should be?) more onerous than under old articles (p.7) and that that small legal practices without dedicated HR departments sometimes appear to be at a disadvantage in relation to managing the administrative aspects of SWT (p.6). This is an admission that, without appropriate internal support and training resources, the type of firms which elect for SWT are likely to struggle, thereby putting at risk successful outcomes for their trainees.
22. “The firm moved to SWT so that its graduates could focus on their work within the firm during the first critical year.” (p.6) Would not this revelation sound alarm bells to a regulator by the disclosure that work is more important for the firm than the education and training of its trainees?

Inconsistency of trainee outcomes

23. One of the major weaknesses of unstructured articles was the uneven and uncertain quality of the training provided. However, inconsistency in training still exists under SWT. The Report claims that, in relation to the threshold practical skills for admission, a minimum standard can be demonstrated and verified (p.4). However, in the absence of a common method of validly assessing the knowledge and skills acquired by all trainees prior to admission, how can this claim be justified when there are bound to be inconsistencies in the training they have each received in the workplace?

Claims unsupported by evidence presented

24. The Report contains a considerable number of general conclusions, which seem to be mainly impressionistic and not related to the evidence presented in the Report. Some examples are:
 - “SWT is a flexible framework within which the pursuit of excellence can flourish.” (p.7) What is the basis for this statement? Nowhere in the Report is it stated that the pursuit of excellence was the purpose of SWT.

- “The audit process has demonstrated that *high*¹⁴ standards are being maintained by employers undertaking SWT. Supervisors and trainees are diligent about ensuring that training is provided...” (p.5) What is the standard that is in fact required to be demonstrated? In the next sentence, the reference is to the demonstration of “*adequate training*” (p.5), whereas elsewhere there is a claim that SWT is a means by which “a *minimum* standard can be demonstrated and verified.” (p.7).
- “Most employers who have tried SWT have continued to use it.” (p.6) No evidence is presented to support this sweeping statement.
- “The vast majority of trainees have been maintaining detailed workbooks which demonstrate thorough coverage of the training requirements. Small numbers of applicants have presented substandard workbooks...” (p.3) What are the precise numbers which justify this unsupported assertion?
- “SWT is operating well in Victoria. Feedback from both employers and trainees indicates a high level of satisfaction with the scheme.” (p.7) What is the basis for this statement? What criteria have been applied in order to substantiate this statement? Employers’ and trainees’ satisfaction with the scheme, while of some relevance, is surely not the most important consideration.
- “There is strong support within the Victorian Legal Profession for retaining workplace training as an option for practical preparation for admission....The feedback received from employers and trainees is consistently supportive of SWT.” (p.5) But this is not a sample of the whole profession, only the sub-set which has already decided that SWT works better for them than PLT. There may also be other factors influencing this support, unrelated to the merits of the alternatives, such as an employer unwillingness to pay the PLT course fees or to have an employee absent for extended periods of time or possibly distracted by their PLT course obligations while at work.

General issues

25. The Report acknowledges that SWT imposes more demands on the employer and the supervisor than were ever required under unstructured articles. Indeed, it concedes that “providing this training is an onerous task which only a limited number of employers are prepared to undertake.” (p.7) In my opinion, this observation should precipitate a close examination by the Board as to whether the scheme is being abused by some employers who are neglecting their training obligations.
26. One interesting conclusion in the Report is that “the Board’s audit process indicates that employers who are not prepared to provide quality training are not engaging graduates under SWT because of the accountabilities which are enforced.” (p.7) It is interesting to speculate what the major firms who have elected to use PLT to train their employees would think of this conclusion.

In conclusion, the Besley Report has provided a very illuminating picture of the design and operation of the Victorian Supervised Workplace Training scheme over the four years it has been in place. The intention to offer to law graduates the choice of preparing themselves for admission via a supervised workplace experience in a law firm as an alternative to enrolling in a PLT course is a very laudable one and a worthy aspiration. It is founded upon the belief that good quality workplace experience is still the best method for equipping a person for legal practice. This is an understandable point of view in a State which belatedly and somewhat reluctantly dispensed with the familiarity of articles.

However, as revealed in the analysis above, there is good reason to conclude that the Victorian SWT scheme is flawed in its design and its implementation. While extremely well-

¹⁴ Emphasis added.

intentioned, it is nonetheless a compromise solution and a patchwork response to the decision to abandon articles taken as recently as 2007.

This analysis reveals that the scheme has failed to address many of the acknowledged shortcomings of unstructured articles, as listed at page 6 of this report, while creating new problems. Moreover, the 2011 audit, as described in the Besley Report, appears to confirm the validity of the issues of concern and questions arising from the structure of the scheme as designed and referred to at page 9.

In these circumstances, the Besley Report may well have given to the CoLE Board of Examiners and to the profession as a whole an unjustified assurance of the success of the design and operation of its SWT scheme, when it is submitted that this analysis has demonstrated that it is in fact failing to meet its objectives in important respects.

Finally, it is widely recognised that the CoLE Board of Examiners has been vigilant in the discharge of its responsibilities in imposing a regime of rigorous standards under the Legal Profession (Admission) Rules for approving, monitoring and reviewing PLT providers and their courses¹⁵. However, it is submitted that the Besley Report demonstrates that the Supervised Workplace Training scheme, the design and operation of which is under the Board's direct control, does not provide evidence of the application of the same rigour.

8. Supervised Traineeships in Queensland

The supervised workplace training scheme operating in Queensland since 2005, known as Supervised Traineeships, is substantially identical to the Victorian SWT scheme. This is hardly surprising given that the latter was modelled on the former.

However, the level of takeup experienced in Queensland over the past seven years has been considerably less. Whereas the Besley Report¹⁶ states that 20 percent of candidates admitted to practice in 2011 completed SWT, it appears that the Queensland scheme has had considerably less impact. [footnote to be inserted here once Ann-Maree has obtained the stats from the practice board.]

It also appears that the Queensland Legal Practitioners Admission Board has never attempted to conduct an audit of the operation of its Supervised Traineeships scheme, followed by the publication of an audit report akin to the Besley Report on SWT in Victoria. Hence, it is difficult to know what, if any, efforts have been made by the Board to monitor the scheme as required under its governing rules in Part 2A of the Supreme Court Admission Rules.

In almost all material respects these Rules make substantially the same provisions as those contained in the Victoria Legal Profession (Admission) Rules 2004, including a 12 month duration for the traineeship, apart from the following five differing requirements:

1. Each trainee is required to complete only 90 hours of "approved programmed training", that training to be completed with a PLT provider and to include training in Ethics.
2. The principal of a law practice or person in charge of a law office must maintain a traineeship register including the name of each trainee and the trainee's current supervisor.

¹⁵ As evidence of this point, it took the step of commissioning a consultant to design a standards regime for PLT providers. See Roper, C (2008), **Standards for Approving Practical Legal Training Courses and Providers Report**, Victoria Council of Legal Education.

¹⁶ p.7

3. In deciding for the purposes of the traineeship plan upon the skills, practice areas and values to be satisfied through supervised training, the law practice or office needs to be satisfied that the supervisor (or successive supervisors) will, at the conclusion of the traineeship, be able to assess the trainee for each of the elements of those skills, practice areas and values according to the performance criteria specified in the LACC appendix (i.e. the Competency Standards).
4. Trainees are recommended to maintain a traineeship diary (a sample is provided) of their supervised training for the purpose of demonstrating the elements of skills, practice areas and values that they have satisfied and to assist their supervisors to provide statements on these matters. However, the supervisor is not obliged to check and sign off on these diaries which do not need to be lodged with the application for admission.
5. The evidence required for admission purposes takes the form of a supervisor's statement and is not verified by affidavit. This states that "The trainee satisfied the skills, practice areas, and values indicated in the following table according to the performance criteria outlined in appendix B to the Law Admissions Consultative Committee Report, as set out in attachment 2 to the Supreme Court (Admission) Rules 2004". As in Victoria, the supervisor is called upon to make an assessment whether or not the trainee has satisfied the performance criteria but is not required to certify fitness for practice as required under the Victorian SWT scheme.

I submit that these five requirements which differ from the Victorian scheme do not make the Queensland Supervised Traineeships scheme distinguishable in any material way. Therefore, in my opinion, it incorporates exactly the same flaws in its design and implementation, compounded by a failure to properly monitor and audit its operation over its seven year lifespan. In conclusion, the ten defects listed in section 6 of this report¹⁷ with respect to the Victorian SWT scheme¹⁸ all apply to Supervised Traineeships in Queensland. Furthermore, because there appears to be little regard to oversight and quality control, the problems are in fact probably worse, leading to an unsubstantiated and dangerous impression, unsupported by the evidence gathered in an audit process, that the scheme is meeting its objectives with respect to establishing the fitness for practice of the candidates admitted under it.

9. A comparison of the approaches to the use of workplace experience to certify fitness for practice in other jurisdictions and professions

For this comparative overview I have chosen to examine, as samples within the legal profession of the integration of workplace training, the models adopted in the practical legal training regimes operating in England and Wales and in Western Australia. For approaches taken in other relevant professions, I have selected the accounting profession and reviewed the design features of the Chartered Accountants Program and the CPA Program.

In all four cases, supervised workplace training plays an important role in enabling the graduate to acquire the competencies needed to qualify for admission to practice, or, in the instance of the accounting profession, to gain admission to membership of the professional associations. However, these four schemes have not been designed to place exclusive reliance upon the workplace experience combined with certification by the employer of competence in the core practice and skills areas.

¹⁷ At p.9

¹⁸ Apart from the lack of income because a small fee is in fact charged.

The legal profession

In England and Wales¹⁹, the regulatory body, the Solicitors Regulation Authority (SRA)²⁰ requires law graduates to: (1) complete the Legal Practice Course to help develop the skills needed to work in a law firm; (2) work as a trainee solicitor in a law firm or other authorised organisation under a training contract; and (3) complete the Professional Skills Course. The training contract duration is two years but the SRA does not prescribe that workplace experience must be acquired in nominated practice and skills areas. Furthermore, the employer is not required to certify competence and fitness for practice resulting from any workplace training.

In Western Australia²¹ law graduates have the option of completing either (1) 12 months articles of clerkship (to be registered with the Legal Practice Board) and the four weeks Articled Clerks Training Program²² offered by the Leo Cussen Institute or, alternatively, (2) the College of Law's PLT course. However, employers of articled clerks are only obliged to confirm the duration of the articles and not to certify the competencies gained by their articled clerks in the areas of practice and skills, which are acquired through the Articled Clerks Training Program.

The accounting profession

The Chartered Accounting Program²³ is a five subject Graduate Diploma course, together with a strong practical experience component consisting of:

- 3 years full-time experience in a relevant accounting role in a ICAA accredited organisation;
- mentoring by a Chartered Accountant; and
- demonstrating competency via the required levels of technical and non-technical competency outlined in a Candidate Practical Experience Activity Log.

The activity log, which is also designed to contain the evidence captured to support the levels of competency required for each area, is completed by the candidate under the guidance of the mentor. However, the mentor is not obliged to certify to the ICAA that the candidate has obtained competency in each of the areas.

The CPA Program²⁴ comprises 14 "education segments", across a foundation level and a professional level, plus a fully integrated practical experience requirement. The last is recommended to be undertaken by enrolling with a mentor or working for a Recommended Employer Partner during the completion of the professional level. Yet again, neither the mentor nor the partner has a role in certifying to CPA Australia the competence of the candidate.

The important point to be made with respect to all these four qualifying schemes is that, although great importance has been placed upon the workplace experience, which, apart from the Western Australian legal profession, is of a much longer duration than under SWT, this mentored workplace experience has been designed to supplement and extend but not replace the formal education component. It is not designed to substitute employer certification of competence, as is the case under SWT, for formal study of the core practice and skills areas plus of rigorous assessment of the learning outcomes. In each case the provision of this learning is the province of a course of study pitched at a postgraduate level with consistently high standards and with built-in quality assurance mechanisms.

¹⁹ See the Law Society of England and Wales website at www.lawsociety.org.uk

²⁰ See the SRA website at www.sra.org.uk

²¹ See the Legal Practice Board of Western Australia website at www.lpbwa.org.au

²² See the Leo Cussen Institute website at www.leocussen.vic.edu.au

²³ See the Institute of Chartered Accountants Australia website at www.charteredaccountants.com.au

²⁴ See the CPA Australia website www.cpaustralia.com.au

10. Conclusions, observations and recommendations

This has been my first encounter with the SWT schemes which have been operating for some years in Victoria and Queensland. I am confident that this lack of preconceptions coupled with my 20 years' experience of educational audit and quality assurance mechanisms have equipped me with the capacity to take an independent and impartial point of view in the conduct of this analysis. I have been both surprised and concerned what has been revealed.

Even prior to the Victoria CoLE Board of Examiners' 2011 audit, there were matters for concern revealed by the documentation in the way these schemes had been designed, which I have identified at page 9 of this report. I submit that the Besley Report, rather than dispelling these concerns, has in fact reinforced them, while at the same time adding new ones. These same issues arise from the design of the Queensland Supervised Traineeships scheme. This has happened despite the good intentions of those involved in the design and implementation of both schemes and, with respect to Victoria, in the audit process. Both have fallen short in redressing the principal defects of articles, namely their unevenness, uncertainty and failure to account for outcomes and to guarantee fitness for practice. In addition, the Besley Report has also given questionable assurance to the profession in Victoria and to the wider public of the scheme's rigour and high standards in preparing law graduates for practice.

In my opinion, it is reasonable to surmise that SWT has stemmed from a persistent nostalgia within the profession for articles of clerkship, based on the lingering but now discredited belief that somehow good quality workplace experience is the best method for equipping a person for legal practice. This desire to retain some vestige of articles at all costs has resulted in the creation of a hybrid PLT program: a scheme with workplace "training" without a fully developed and clearly articulated curriculum, with inconsistent and inadequate delivery methods and with no formal assessment processes, incorporating some formal study and assessment by approved providers but limited to only three skills/practice areas.

Of course, the findings contained in this report have important consequences for the current review of the National Competency Standards. I recommend to those in the team drafting the new version of the Standards that they should challenge the continuance of the SWT schemes, as presently operating, as a practical legal training alternative available for candidates for admission to the PLT courses.

The fact that the CoLE Board of Examiners has unilaterally and without consultation with the rest of the PLT community ignored the Competency Standards and established a practice of approving variations to the optional practice areas and advertised the fact should raise alarms bells. I recommend to the College that, if these optional areas are no longer considered important 12 years after the Competency Standards were originally agreed, it should consider whether it should adopt the same practice by following this lead of departing from the optional practice areas. Currently, it appears that Victorian SWT trainees, and their employers, have an unfair advantage over College students, who would be justified in complaining about this inequitable treatment. Other PLT providers, which have scrupulously abided by the rules, may feel similarly aggrieved. After all, the playing field, not only for students but also for all PLT providers and SWT schemes, needs to be an even one for all players.

In conclusion, I submit that these failings in the design and implementation of the two SWT schemes go to the core of the maintenance of consistent national standards in qualifying graduates for admission to the legal profession. In this argument is accepted, I recommend that this report, with the College's endorsement, should first be submitted to APLEC for deliberation and, if its recommendations are accepted, to be delivered by APLEC to LACC for its consideration with a view to appropriate action being taken.

A handwritten signature in black ink, appearing to read "John Nelson", enclosed in a thin black rectangular border. The signature is written in a cursive style with a horizontal line underneath the name.

DR JOHN NELSON

Attachments

- A** Besley, R (May, 2012), **Supervised Workplace Training – a Report**, Council of Legal Education Board of Examiners, Melbourne.
- B** Australian Professional Legal Education Council & Law Admission Consultative Committee (2000), **Competency Standards for Entry Level Lawyers**

Attachment F

**Draft Rules: Treatment of PLT
Courses v SLT**

Attachment F – Comparison of Treatment of PLT Course v Supervised Traineeship

**Draft Admission Rules
Comparison of treatment of PLT Course v Supervised Traineeship**

Requirement	PLT course	Ref	Supervised training	Ref
PLT prerequisite	Acquiring and demonstrating the competency standards	5(1)	Acquiring and demonstrating the competency standards	5(1)
Prerequisite satisfied by:	PLT course conducted by a PLT provider accredited by the Board	5(2)(a)	Training under a training plan that the Board determines adequately provides for trainee to acquire and demonstrate the competency standards	5(2)(b)
			A judge can be the supervisor of a trainee – how would a trainee cover all the competency standards when supervised by a judge?	Sch 3 Cl 2(2)
			A trainee must meet the requirements of Rule 5(1) but there is no mechanism prescribed for how the trainee will demonstrate the competencies, or how their achievement of the competency standards will be assessed (apart from Ethics, Lawyers Skills and Risk Management).	Sch 3 Cl 6(1)(b) Cl 6(1)(c)
			The trainee is required to keep a work diary but there is no mechanism for this to be reviewed or assessed.	Sch 3 Cl 6 (2)
			Sch 3 Clause 9(b) does not make grammatical sense – is it intended to say “how the parties will ensure”?	Sch 3 Cl 9(b)
			The emphasis in the training plan appears to be on matters other than the competency standards	Sch 3 Cl 9(e)
			At the time of approving the training plan, the Board must be satisfied that the employer is <i>able</i> to provide the training but there is no provision for monitoring or evaluating the training	Sch 3 Cl 11(a)
Accreditation or reaccreditation	PLT providers subject to accreditation and reaccreditation by the Board on nationally referenced criteria and conditions may be imposed	6(1)(2)(3)	Board approves a training plan for each trainee, but - no requirement that criteria or conditions be same as those applying to PLT providers; and no provision for monitoring of training plans	Sch 3 Cl 11

Requirement	PLT course	Ref	Supervised training	Ref
Recognition in other jurisdictions	Any PLT provider that is recognised in an Australian jurisdiction is deemed to be accredited by the Board	6(4)	Is the employer of a trainee a 'PLT provider' and therefore deemed accredited in other States?	
Withdrawal of accreditation	Board may withdraw accreditation, impose or vary any condition by notice in writing	6(7)	Board may terminate a training plan	Sch 3 CI 12
Cost of accreditation or reaccreditation	Borne by the PLT provider	6(8)	No similar provision	
Monitoring and reviewing	Board must monitor and may periodically review accredited PLT providers on nationally referenced criteria and terms of reference determined by the Board	7(1)(2)(3)	No similar provision	
			Employer of trainee must implement the training plan but no provision for monitoring of this by the Board	Sch 3 CI 4(1)
Cost of review	PLT provider must provide information at its own cost	7(4)	No similar provision	

Attachment G

1992 NSW Definition of Work Experience

Attachment G

Extract from Journal of Professional Legal Education Volume 10 – No. 2, Item 7

7. THE PROPOSED NEW PRACTICAL EXPERIENCE REQUIREMENT

The Blueprint contains a set of Practical Experience Rules. The following is an outline of the principal aspects of those rules.

The term 'Professional Program' refers to the whole program of practical training and practical experience, which together (in whatever combination), make up the process of preparation for practice, in addition to academic training.

The term 'practical experience' is used to describe the period of work, and is the term used in the Law Society resolution.

The term 'articles' was not chosen even though it could be said that it might reinforce the notion that the relationship between employer and employee was a special one requiring supervision on behalf of the principal. It is the term used in Britain and Canada, but it was felt that it had connotations from the past which might confuse the new proposed arrangement of a period of professional training comprising both institutional practical training and practical experience.

The practical experience element, which has always been regarded as an essential part of the training process, is to be relocated prior to admission. Practical experience should not, however, stand alone but with practical training be part of a whole process of preparation for practice.

The relationship must be not just that of employer-employee but also of a principal with supervisory responsibilities and a legal associate (Bowen Report 1979: para 8.7.2).

It is not proposed that practical experience be introduced in order to provide basic practical training. That shall continue to be the responsibility of the profession's own training body, the College of Law. However, it is proposed that the 'experience of work and of the work environment' element, which was once part of articles, be re-emphasised and restored as a requirement prior to admission.

Accordingly it is not proposed that primary responsibility for **training** be returned to principals. The situation which made articles unsatisfactory as a form of **training** remains. This has been recently expressed in Canada as 'the inability of the Law Society to promote quality education in what has been essentially an unsupervised setting' (Law Society of Upper Canada 1990:1).

Practical experience shall not be confined to private legal practice, provided that other work places are able to provide a sufficient range of the basic elements of the experience described in para 4.6 above. However the Law Society resolution does require that the experience be 'the application of legal knowledge ... to the delivery of legal services'.

Attachment H

**Extract from Ernst & Young Report
dated 10 December 2014**

**An Economic Analysis of the Australian Legal
Education Services Sector, with a Focus on Practical
Training**

10th December 2014

Reliance Restricted



**Building a better
working world**

Reliance Restricted

10th December 2014

Neville Carter
Group Chief Executive Officer
The College of Law
2 Chandos Street
St Leonards NSW 2065

CC: Niall Henderson

Dear Neville,

Project: An Economic Analysis of the Australian Legal Education Services Sector, with a Focus on Practical Training

In accordance with your instructions, we have performed the work set out in our engagement agreement (dated 14th November 2014).

The scope and nature of our work, including the basis and limitations, are detailed in the Engagement Agreement.

In accordance with your instructions our report has focused on the "Practical Training" sub-sector of the Australian Legal Education Services sector.

Date of our report

Our work commenced on 17th November 2014 and concluded on 10th December 2014. Information provided subsequent to this date has not been considered in this report.

Purpose of our report and restrictions on its use

This report was prepared on the specific instructions of The College of Law to assist you in understanding the market related to the provision of post-graduate legal education courses. You understand that this study relied heavily on and is limited by publicly available information, as well as data.

Any information we provide to you is for your benefit only and may be used in the same way as work performed and information produced internally, although we understand the output of this study may be leveraged in discussions with various stakeholders, including regulators in the education sector. However, you take sole responsibility for any material you provide to any other parties.

Yours faithfully,



Jeremy Barker

Partner

Ernst & Young

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Legal Education Services Market

1. Executive Summary
2. Market Overview
3. Insights into Practical Training

Executive Summary

The legal education services market provides for the needs of approximately 8,300 intending solicitors completing their initial legal qualifications and further legal studies for an estimated 63,700 practising solicitors in Australia. There are four key components: Initial Academic Qualifications programs (typically in the form of a legal degree), followed by Practical Training (required for admission to practice), Professional Development (often required to maintain practising certificates) and potentially Masters Programs and other Specialist Programs. The training of a solicitor is heavily front-loaded: Many solicitors will have completed 65% of their lifetime training by their 6th year into the legal services sector, with the remaining 35% spread out across the rest of an up to 50-year career. Historically about 50% of solicitors have left the industry by their 12th year.

It is estimated that this market generates between \$480m and \$570m in annual revenues, 60% of which is derived from Initial Academic Qualifications. The remaining market is split broadly three ways between Practical Training, Professional Development and Masters Programs. All the sub-sectors experienced positive growth of 6 to 16% compound annual growth rate (CAGR) between 2010 and 2013, leading to an overall market expansion of ~9% CAGR. This is supported by both underlying volume growth of between 2% and 7% CAGR and fee increases of between 3% and 7% CAGR in the same time period.

Practical Training in particular leads the growth with an impressive 16% CAGR. This growth is driven by positive momentum across three key drivers – fees have increased, more students have graduated with a law degree and more of them have opted for admission. Interestingly, these changes occurred against a backdrop of an uncertain economy and an increasingly competitive job market within legal services. Due to these challenges, more students have tried to differentiate themselves by combining law into their academic training in other discipline areas and by seeking admission to keep career options open. Fees have risen in part to account for the rising cost of delivery and have appeared to be fairly inelastic. Moving forward, it is likely that the Practical Training sub-sector will continue to experience growth in the near future, although fee increases may start to moderate.

There are nine active Practical Training providers in the market. Two key national players (The College of Law and Australian National University) generate an estimated 77% of sector revenues, with Leo Cussen participating across a few states accounting for 6% of sector revenue, and other much smaller state-based players making up the rest of the market. The College of Law (TCOL) specialises in legal education but does not provide Initial Academic Qualifications Programs. Australian National University (ANU) on the other hand has an end-to-end offering (apart from Specialist Programs). The College of Law has a customised offering in the major states, including local accreditation, course content and physical campuses. ANU has a national approach delivered primarily through online coaching complemented with limited face-to-face interaction. Leo Cussen has a strong focus on Practical Training and Professional Development in Victoria, Western Australia and Queensland. The other players are predominantly state-based University players who offer Practical Training as an extension of their legal programs.

While many of these players have grown with the market, ANU has captured most of the recent growth. Between 2010 and 2013, it has seen its Practical Training volume and revenues more than double, and increased its market share by 13 percentage points, from 23% to 36%. This has been at the expense of most other players who have seen their market shares decline, in particular The College of Law which has lost an estimated 9 percentage points from 50% to 41% over the same period.

As a result, ANU has emerged as an important player in the market, rivalling the size of the market leader (The College of Law) in a short span of time. The market opportunity is less compelling for the smaller University players, some of which have left the market, with recent exits including Griffith University and University of Western Sydney. There have been no new entrants, likely because of the small market that is already saturated with established and reputable players and the initial investment in time and financial resources required.

Moving forward, this sub-sector may undergo further changes as universities continue to adjust to on-going cuts in university funding and the proposed (though not yet passed) University Pricing Deregulation.

Overview of the Legal Education Services Market

Intending solicitors typically undertake a range of qualifications and training programs, some mandatory and some voluntary, before and during their career in the legal services sector. The legal education services market caters to this need, and provides courses ranging from the Initial Academic Qualifications, Practical Training required for admission, Masters Programs and through to other Professional Development and Specialist Programs.

Training Path for a Solicitor

Every year, there are approximately 8,300 fresh graduates with University LLB, Juris Doctor or LPAB law degrees of which approximately 75% (i.e., 6,250) will enrol into Practical Training courses in order to be admitted to legal practice. Many Practical Training programs lead to the award of a Graduate Diploma in Legal Practice. Practical Training courses include Practical Legal Training (PLT) available nationally, Supervised Workplace Training (SWT) in Victoria, an Articled Training Program (ATP) in Western Australia and a Trainee Admission Program (TAP) in Queensland.

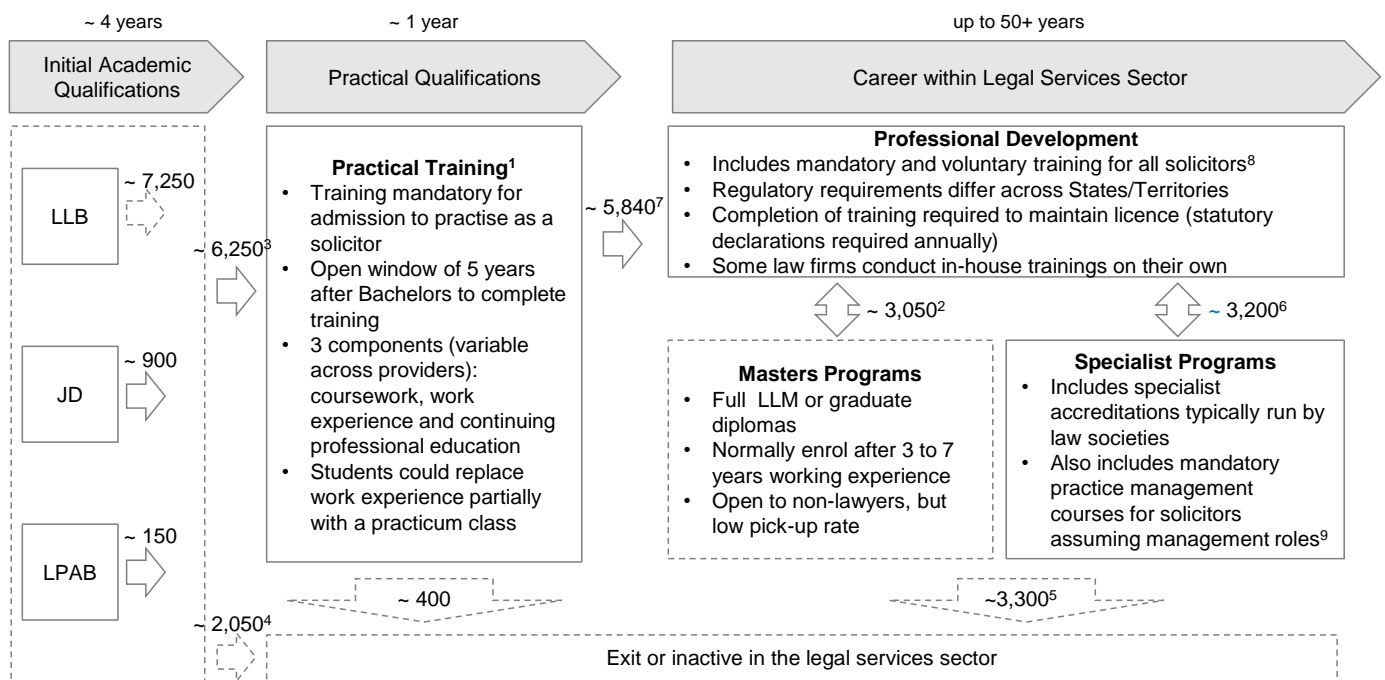
Around 5,800 solicitors are admitted to legal practice every year. To maintain their practising certificates, most solicitors are expected to complete mandatory professional development training annually, with the exception of those with certificates issued in ACT and Tasmania. Mandatory training target units are set by the relevant regulators and vary across different states and jurisdictions.

Apart from the mandatory training, many solicitors also participate voluntarily in industry conferences and seminars. A solicitor may, at some point, enrol and complete other courses, including Masters Programs and Specialist Programs. Specialist Programs include specialist accreditations that are encouraged for a solicitor looking to specialise in a legal discipline, as well as legal practice management courses which are mandatory for solicitors who first assume management roles per Condition 3 of their Practising Certificates. These management roles include partners, legal practitioner directors, sole practitioners and solicitors on the record for a corporation or government department.

Chart 1 outlines the main training programs intending solicitors undertake before and throughout their careers.

Chart 1: Estimated Participants per Year, 2013 View

Source: Source: Department of Education; EY Analysis; 2011 Law Society National Profile; IBISWorld; Law Society of New South Wales; Interviews with legal education providers; Various state registry bodies



Notes to graphic

1. Includes Practical Legal Training (PLT), Supervised Workplace Training (SWT), TAP (Trainee Admission Program) and ATP (Articled Training Program);
2. Based on estimated number of graduates from Masters Programs;
3. Estimated enrolment in 2013;
4. Number of fresh graduates not enrolled in Practical Training within the same year (2013);
5. Number of solicitors estimated to grow by 4% yearly from a base of ~63,700 in 2013;

Overview of the Legal Education Services Market

6. Given ~55% of solicitors are partners or sole practitioners, assumed that an equal percentage of each admitted cohort will likely become partners each year. According to the Law Society of NSW, an average of 70 solicitors was accredited in 2012 and 2013. This represents 0.27% of solicitors in NSW (~26,400 in 2013). This ratio is applied to the pool of 63,700 solicitors in Australia to derive an estimate of 170 specialist accreditations a year in Australia;
7. Number of admissions in 2013 as supplied by the various state registry bodies (~ 1,390 in VIC, 475 in WA, 2,204 in NSW, 370 in ACT, 977 in QLD, 40 in NT, 76 in TAS and 307 in SA);
8. Private practice, government or corporate solicitors. The market consists of the formal component where solicitors pay fees to attend professional trainings and the informal component where solicitors attend free seminars, in-house training and other private discussions. Masters Programs are also counted towards fulfilment of mandatory training requirements;
9. Partner, legal practitioner director, sole practitioner or solicitor on the record for a corporation/government department

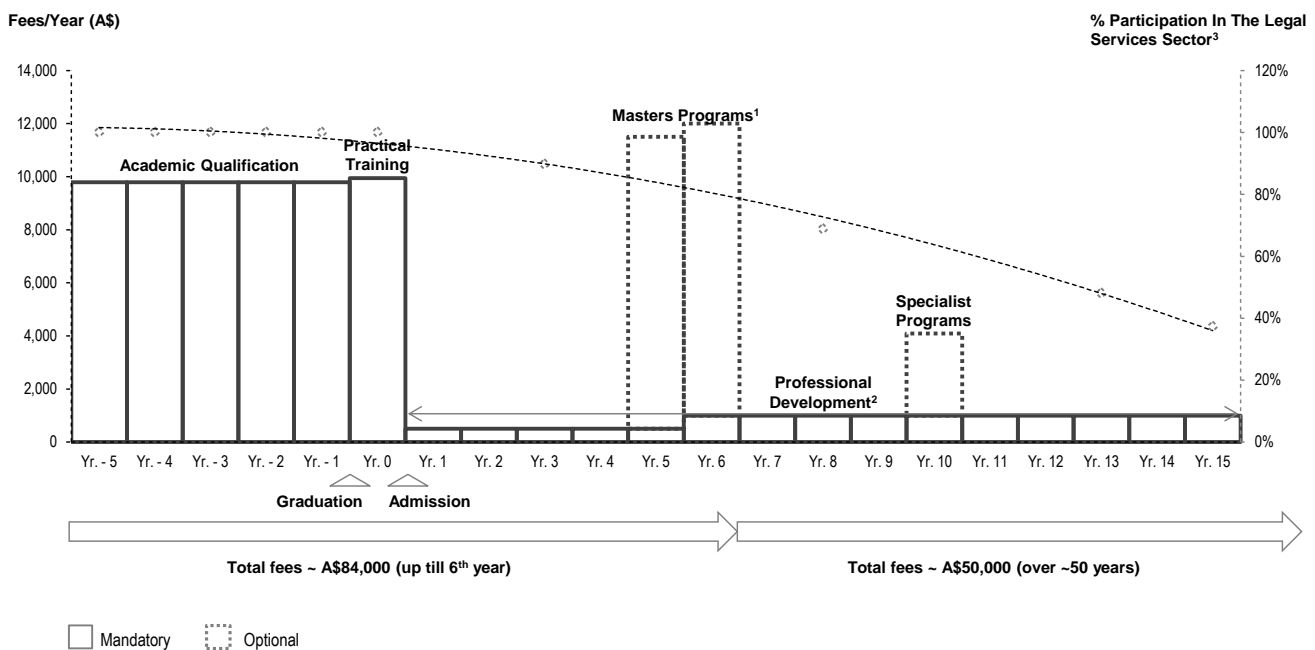
It is interesting to note that for every 5,800 freshly admitted solicitors, an approximately equal number have chosen each year either not to enter (about 2,450 fresh graduates), or to exit the legal services sector altogether (about 3,300 practising solicitors).

Distribution of Training Load

The training for solicitors is heavily front-loaded, with an estimated 65% of life-time training delivered before a solicitor's 6th year in the industry, and the remaining 35% distributed across the rest of their career. About 50% of solicitors have typically left the industry by their 12th year, after completing the bulk of their training. See Chart 2.

Chart 2: Legal Training Throughout a Solicitor's Career (Typical Path)

Source: Department of Education; EY Analysis; 2011 Law Society National Profile; Interviews with legal education providers



Notes to graphic

1. Many, but not all, solicitors who pursue Masters Degrees opt to do so around the 5th year of their careers
2. Many senior solicitors with more than five years of experience participate in at least one industry conference a year which costs about \$1,000 per day. Junior solicitors on the other hand tend to attend in-house trainings
3. Estimated from the profile of solicitors in Australia in 2011, according to the number of years of admission.

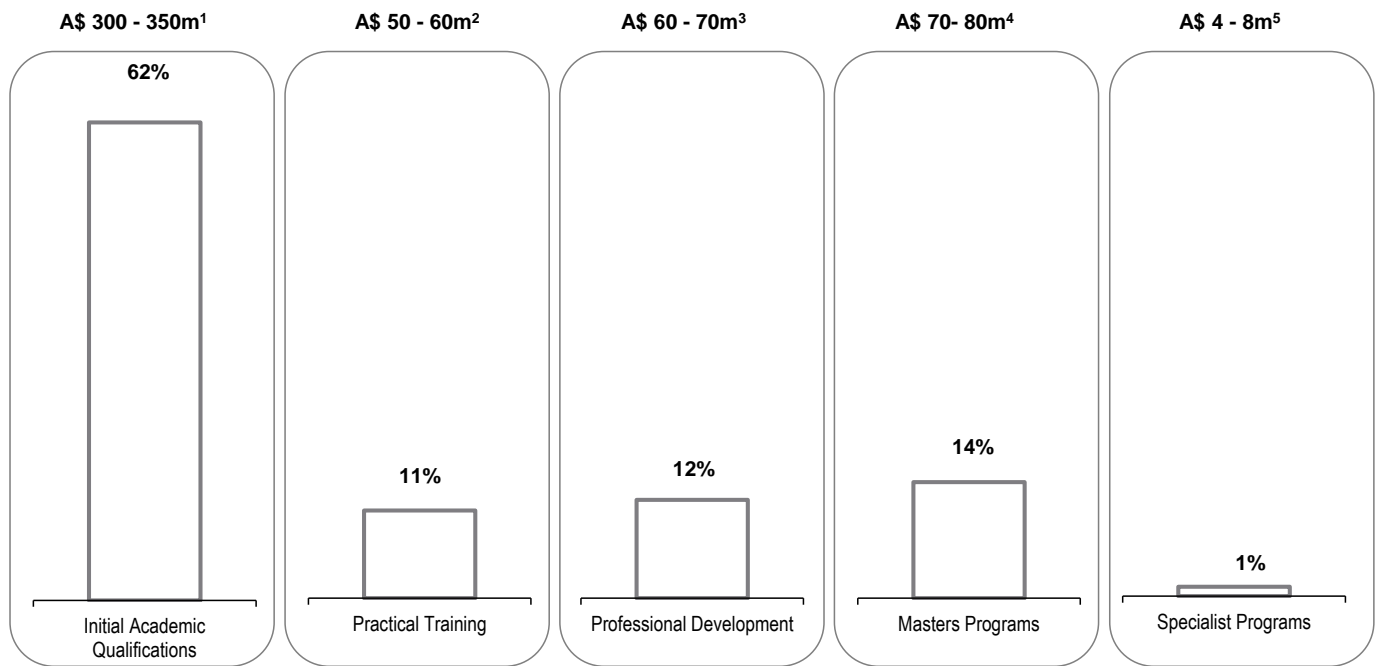
Market Size

The legal education services market is worth approximately \$480m to \$570m, 60% of which is derived from the provision of ~8,300 Initial Academic Qualifications (LLB, Juris Doctor and LPAB) at an average student contribution of \$39,000 per course.

Practical Training, Professional Development and Masters Programs share the remaining market somewhat equally – \$50m-\$60m, \$60m-70m and \$70-80m respectively. This is equivalent to 6,250 Practical Training enrolments at an average fee of \$9,100 (this assumes that there is an even distribution of students across different fee options. Many students however opt for the cheaper options and thus the average fee is probably closer to \$8,750), 630,700 Professional Development hours at an estimated fee of \$100 per hour and 3,050 Masters Programs at an average cost of \$22,000. See Chart 3 below.

Chart 3: Estimated Market Size of Training Programs

Source: IBISWorld; Department of Education; EY Analysis; 2011 Law Society National Profile; Interviews with legal education providers



Notes to graphic

1. Total student contribution for the whole course multiplied by total # of completions;
2. Number of enrolments multiplied by average fee, summed up across providers. Average fees for each provider taken to be the simple average between the most and least expensive course options;
3. Number of solicitors (including government, corporate and private practice) multiplied by number of mandatory units (each unit is assumed to be equivalent to an hour of training, multiplied by average fees per hour (NSW fees assumed). Includes both formal and informal market;
4. Average fee across major providers multiplied by # of completions;
5. Average fee for Practice Management courses (~\$2,000) multiplied by estimated number of solicitors making partners annually + specialist accreditation fee multiplied by the number of accreditations in 2013

Attachment I

PLT: Co-regulator List

Attachment I PLT: Co-regulators List

8.1 List of regulatory agencies

The interviewees were asked in Question 1 to identify the agencies which have a function in regulating their courses. The responses they gave are set forth in **Table 3**.

Table 3 – Regulatory agencies operating in each jurisdiction

	Local admission board	TEQSA	Uni. self-accreditation	LACC	CRICOS	AQF	COALD	DIIRTE (FEE-HELP)
UTS	x	X****	x	x	x	x	x	
BondU	X	X****	x	x	x	x		
LeoCus	X	x		x	x	x	x	x
UTas	X	x****	x	x	x	x		
CoLV	x**	x		x	x	x	x	x
UNewc	x	x****	x	x	x	x	x	
CoLQ	x	x			x	x		
FlindU	x	x****	x	x	x	x	x	
LawSocSA	x	x		x	x	x		
CoLWA	x	x			x	x		
ANU	x***	x****	x	x	x	x		
QUT	x	x****	x	x	x	x		
CoLNSW	x	x		x	X	x		
CoL**** nationally (1)	x	x			x	x		x
CoL**** nationally (2)	x	x		x	x	x	x	x
TOTAL MENTIONS (# = 15)	15	15	8	12	15	15	6	4

*+Board of Examiners; WA & QLD Admission Boards

**+Board of Examiners

***+NT Admission Board

****All the university-based Heads of Course identified TEQSA as a regulator but stated that all contact was via the university.

****CoL nationally (1) and (2) refer to Adrian Deans and Neville Carter respectively.

A number of the university-based providers omitted to mention CRICOS and the AQF as regulatory agencies, presumably because all these interactions were handled by the university without their involvement. However, both these agencies clearly impact upon all PLT providers in the sector irrespective of the nature of the institution, so I have taken the liberty of completing these columns for them.

Attachment J

**APLEC Schema on Training and
Workplace Hours**

Attachment J

Sample Distribution of Training & Work Experience within PLT Courses

