



Education Partners Regulation:
A Justice Conversation

Submission Practical Legal Training NSW

Justice for Lawyers' Education

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Submission Regarding Practical Legal Training in NSW

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Abbreviations & Glossary

APLEC

Australian Professional Legal Education Community.

CLE1

(Clinical Legal Education) Exposes law students to the application of the law in practice. Occurs when a student observes and participates in a legal setting and their active role can have an effect on outcomes, (Taylor, 1999, p. 3). It acknowledges the emotional content of legal practice (James, 2006) and encourages students to reflect upon values, ethics and the 'conduct of the profession in practice' (2005-2006 CLE Guide, p.41)¹. Involves teaching the 'art of lawyering', which combines technical rational knowledge with a variety of other professional skills, values, and knowledge, which can only be learned through experience by doing and encourages law students to reflect on the conduct of lawyers in the profession and to develop values awareness (Evans, 2001)². Therefore, it teaches law students to use reflective skills.

CLE2

(Continuing Legal Education) Involves understanding what lawyers do. Involves any activity or process where a lawyer learns something which enhances their capacity to carry out their work, whether or not it takes places in a formal or non-formal setting or way, and whether it occurs consciously or unconsciously (Roper, 1999, p.5, p.67).

Co-operative Reflection

Co-operative inquiry can be used when people who have similar concerns and interests, come together with the aim of facilitating their learning about how to act to change things and how to do things better (Heron, 1996). When an experiential learning methodology is used this can become co-operative reflection.

CLEAA

Continuing Legal Education Association of Australasia

Contiguous Education A term used to describe an educative method which blends formal and informal learning. It therefore incorporates prescriptive training components together with an emergent syllabus.

CPD (Continuous Professional Development)

Now a mandatory requirement in Victoria, and most states, that lawyers undertake CPD and keep a record of their attendance. Usually, a 10 point system constituting ten hours a year and completion of compulsory units; ethics, trust accounts & equal opportunity with moves afoot to achieve consistency throughout all Australian jurisdictions. Personal study and reflection is not included. Attendance at formal training workshops, lectures and conferences is the principal delivery mode (Hann & Mann, 2004, Paterson, 2006).³



Critical Reflective Practice

Involves the relational skill of divergence, (opening up to the ideas of others) and manifests the trend towards 'a more collective approach' (Fook, 2006, p.2)⁴. Maximum benefits occur when the process happens in community, in interaction with others, when participants value the personal and intellectual growth of themselves and others and when participants have time to engage in slow, non-assumptive thinking (Rogers, 2002).⁵

FLIP

New South Wales Law Society's Future of Law and Innovation in the Profession (FLIP) Commission of Inquiry 2017.

Formal Learning

Since formal learning is generally specified it can be used by those responsible for regulating education (State or admission bodies) to standardise learning practices across different locations in a system, (Johnson and Majewska, 2002)⁶ Lacks the ability to describe 'what is going on'. Some learners, especially practising professionals, will be resistant to formal instruction.

Informal Learning

The main features of informal learning are that it is:

- Organic/holistic
- Contextual
- Activity and experience based
- Arising in situations where learning is not the main aim
- Activated by individual learners rather than by teachers/trainers.
- Often collaborative and collegial. Learning is centrally located in the 'doing of practice'. Practice is located in situations in which there is an emphasis on difference, diversity and the fragmentation of identity (Beckett & Hager, 2002, p.158)

LACC

Law Admissions Consultative Committee

LAW

Learning At Work. Practitioner led learning where a professional aims for better practice (Beckett, 2002). Includes professional learning. Informs a contiguous model of education in which both formal and informal learning is present. Does not privilege one kind over the other.

LAWT

Learning At Work Theory. The epistemology of how lawyers learn at work. Learning is work and work is learning, hence Legal Working (and learning) Culture.



Leadership

Leadership is a social construction that is created through dialogue among groups of people in context, not as a fixed attribute of individuals (Schall et al. 2004, p.151)⁷. It can be considered to be a shared act of meaning-making in the context of a group's work to accomplish a common purpose (Schall et al. 2004). The literature on 'shared leadership' (Schall et al., 2004) and 'distributed leadership' (Gronn, 1999 & 2003) support this definition. It has a close connection to productive reflective practice.

Leaderwork

Leaderwork unites learning with work, when the Leaderworker acts as an individual linking pin to manage the conjunction of formally being both a learner and a worker and helps other lawyers to also achieve this. Reflective practice is central to this work. Lawyers draw on their own personal repertoire of intellectual and personal leadership skills and attributes and on their cultural heritage as legal professionals to teach and guide other lawyers. This happens irrespective of whether they rely directly upon, or draw strength from, any formal organisational role, title, strategic or structural organisational support (see Leaderworker and supra work).(Hann, 2007)

Leaderworker

The Leaderworker unites learning with work when they act as an individual linking pin to manage the conjunction of formally being both a learner and a worker and help other lawyers to achieve this. The 'Leaderworker' component of the organisational leader, acts as a broker; one who leads practitioner learning across organisational and professional boundaries whilst acting with altruistic and/or conscientious motives. In their daily work the 'Leaderworker' athletically traverses the two branches of leadership, organisational and professional, manifest in Legal Working Culture, employing personal and intellectual leadership skills to teach lawyers how to work and lead. Able to critically evaluate their own unique learning at work experiences because they have effective reflective practice skills. They can unite learning and work. Reflective learning and practice is central to this work. Legal Education is not a stable body of knowledge and practices (Hann, 2007).

Legal Education

Legal education is not a stable body of knowledge and practices but a 'dynamic nexus of at least six distinct and competing discourses; 'doctrinalism, vocationalism, corporatism, liberalism, pedagogicalism and radicalism' (James 2004).

Legal Education and Training (LE & T)

This is an inadequate term that is used within SoLE to differentiate between:

- Education -Formal learning at law school or delivered in the workplace as work-integrated or work based learning as part of an accredited course.
- Training-Any course law schools are not delivering (Barker, 2017). Law Schools are now delivering PLT.

It does not include lawyers Learning At Work (LAW).



Legal Working Culture

‘LWC’, incorporates the beliefs, behaviours and values shared by lawyers about how best to lead legal work and legal organisations and to give service. Lawyers appreciate tactful personalised guidance, through the exercise of personal and intellectual leadership skills by other lawyers in the course of their day-to-day work. This leadership extends to role modelling values awareness. It reaches beyond the individual legal organisation or institution. Capturing ‘LWC’ is at the heart of a model for advancing better Learning At Work for lawyers. It therefore values reflective learning and practice by lawyers at work. It is informed by LAW Theory. (Hann, 2007).

Master Practitioner

A reflective practitioner who has learned critical reflective skills at law school and /or the legal workplace and then uses them to build a personal repertoire of working knowledge. He or she utilises their intellectual and personal leadership skills in order to share their knowledge with others (skilled in ‘bouncing ideas’). These contribute to ‘better practice’. Often a role model for others and this includes values awareness. Guides others in learning about reflective practice and leads their professional work and leaderwork development.(Hann, 2007).

PLT Practical Legal Training.

Constitutes Stage Two Legal Education; admission to practice and is sometimes called PTC, Practical Training Course.

Practice

Practice has been defined as the successful performance of work, whether paid or unpaid (Beckett & Hager, 2002, p.92). People engage in actions whose meanings they negotiate with one another. In this sense practice does not reside in books or in tools, though it may involve them, but rather it resides in a community of people and the relations of mutual engagement by which they do whatever they do (Wenger, 1998, p.105).

Productive Reflection

Productive reflection involves a collective focus, recognition of the demands of production, the involvement of multiple stakeholders and an organisational intent. It uses working groups embedded within organizational contexts, (Boud, 2006)⁸ and leads to a changing awareness of ‘practice’. It includes peer learning.

Professional Learning

There has been some international research about lawyers’ professional Learning At Work from beyond the legal education literature. (Gold et al., 2004), researched lawyers’ professional Learning At Work and found that it incorporated informal learning although it did not constitute Continuing Professional Development (CPD) which to date has been viewed primarily as individualised learning disembodied from the workplace and practice of the lawyer (Gold et al., 2004, p.1)⁹.



Purposeful Practice

Know- how is purposeful practice when people intend to make a difference in what they are doing at work (Beckett & Hager, 2002, p.37).

SoLE

Scholarship of Legal Education.

SoLT

Scholarship of Legal Training (Greaves, 2015)

Supra work

Lawyers are required to combine their professional expertise with management and leadership work which is often not part of their formal job description and therefore constitutes 'supra-work'. There are two important aspects to this; this valued work (by the lawyer) is often not part of a formal management role and thus, instead, constitutes an unrecognised yet vital part of their daily work. In addition the lawyer's efforts to undertake this work as well as the reflective practice required to perform it well ('better practice'), remain invisible to the legal organisation.

Work-integrated learning

Work-integrated (WIL) and work-based learning are umbrella terms to describe the range of educational programs that integrate formal learning and workplace experience. Examples are work based projects, unpaid work, apprenticeships, practice firms and co-operative education programs (Atchison, Pollock, Reeder & Rizzetti, 1999). It is also called 'co-operative education' (Hann, 2007, 2.1.2.3). WIL can be *contiguous education* if it involves informal learning and reflective practice. WIL is often linked to professional practice because it envisages that students will be exposed to the complexity and context of professional practice.

"There have been many definitions of WIL provided by the literature (Abeysekera, 2006). WIL is widely used to describe situations where students spend time in a workplace setting as part of learning. The Australian Minister for Employment Participation, the Hon Brendan O'Connor has conceptualised WIL as having the "immeasurable value of integrating real work experience into academic programs" and further stated that "[e]ffective Work Integrated Learning is the key to developing a person's job-readiness" (O'Connor, 2008, p. 1). The 2008 ALTC (Australian Learning and Teaching Council) funded WIL Scoping Study defined WIL as: "An umbrella term for a range of *approaches and strategies that integrate theory with the practice of work* within a purposefully designed curriculum" (Patrick et al., 2008, p. iv). More particularly, WIL is described as "a class of university programs that bring together universities and work organisations to create new learning opportunities in workplaces" (Boud, Solomon & Symes, 2001, p. 4). The key characteristics of WIL can be said to be the centrality of an authentic experience, the integration of university learning and practice, collaboration between universities, industry and students and the award of academic credit (Abeysekera, 2006)¹⁰. WIL encompasses, but is not limited to, work placements as it also includes other authentic experiences that have a link to industry. Specific examples of WIL include work placements, projects, practicums, clinics, simulations, internships and service learning. Increasingly, these types of experiences are acknowledged as providing rich learning opportunities to prepare students for the future of "daunting complexity" and "relentless change". Work-integrated



learning as a component of the capstone experience in undergraduate law, (McNamara, Kift, Butler, Field, Brown, 2012).¹¹

Workplace Learning

Manifests when there is an appreciation and understanding about the informal nature of much of the important learning that occurs for practitioners at work. Unites learning with work. To find out about workplace learning an educator or researcher must understand its connection to a practitioner's reflection on action and their informal learning. The educative interest is to explore ways with the practitioner that they might enhance their capacity to learn from their experiences and share this working knowledge with fellow practitioners. Here there is a connection to the notion of co-operative learning but in this case, *it is initiated by the practitioner not the educator.* (Beckett & Hager, 2002).



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SHORT BIO

Qualifications

Dr Deborah Merryn Hann, PhD., B.Juris/LLB.

Admitted to Practise as Solicitor 1983. Signed Bar Roll 1987.

PhD The University of Melbourne Faculty of Education (2007, Diploma of Frontline Management, Certificate IV in Workplace Training and Assessment, Diploma in Training and Assessment Systems 1997-2000. Horse Instructors Certificate 2019.

Relevant Positions

Federal Court Judges Associate, (for 2 years), to President of the Administrative Appeals Tribunal. 1980 -1982.

Solicitor 1982-1987. Appointed as Legal Member Social Security Appeals Tribunal in 1989. Appointed Senior Member WorkCare Appeals Board 1991.

Manager Leadership and Organisational Development, Manager Workplace Organisational Development Chisholm TAFE 1997-2002.

Director Legal Professional Development Leo Cussen Institute. 2003 -2005.

Member of the National ALPMA Board 2004 -2006.

Lecturer The University of Melbourne, Education Faculty

Senior Quality Manager Reporting to Head of Quality Australia, The National Australia Bank.

Head of Operations Experience, the Academy The National Australia Bank.

Senior Project Manager Department of Justice, *Parole Boards Human Rights Project*.

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Reshaping Practical Legal Training: Justice for Lawyers' Education

This submission, titled *Justice for Lawyers' Education*, addresses the urgent need to reform Practical Legal Training (PLT). It highlights systemic issues in PLT regarding cost, quality, and pedagogical approach, critiques the fragmented and undervalued nature of post-degree legal education and proposes an educative framework for lifelong learning and professional development for lawyers.

In 2024 The Legal Profession Admission Board (LPAB) NSW commissioned a report by *Urbis* in relation to Practical Legal Training (PLT). The Honourable A. S. Bell, Chief Justice of New South Wales, a proponent of judicial education, announced that the responses from participants and the profession "generated some serious concerns about the cost and quality of PLT available in the marketplace." ¹² Submissions to the Board were invited.

Legal education in Australia is traditionally divided into three stages. Note that CLE2 is specifically included in Stage 3 in this submission:

Stage 1 Academic (the Academic Requirements, also known as the 'Priestley 11')

Stage 2 Vocational/Professional (Practical Legal Training (PLT))

Stage 3 Continuing Legal Education/Continuing Professional Development (CPD) ¹³ CLE2. ¹⁴

Submission in 5 Parts

A number of legal academics and other commentators have advanced spirited and persuasive arguments that there is a need to establish a professional learning 'framework' for lawyers post admission. ¹⁵ To do this effectively requires educators to design a framework which accounts for the contested stakeholder interests. Such a framework must also dovetail into Stage 3.

In 2004, as the then Director of Legal Professional Development at Leo Cussen Institute, I foresaw the importance of leading a 'Learning At Work' (LAW) ¹⁶ educative focus to inform the implementation of mandatory CPD in Victoria. I concurrently commenced my PhD, *Lawyers Practising Learning: Reshaping Continuing Legal Education*. ¹⁷

My PhD considered how best to reshape continuing legal education (CLE2) to reflect how lawyers learn at work and construct an epistemological bridge that spans Stages 1, 2 and 3. Given the importance of Legal Working Culture (LWC) in learning I also built a 'Legal Working Culture' blueprint using appreciative inquiry research methods. That was 18 years ago and, in most respects, little progress has occurred since.

Overall, the legal education sector has been slow to embrace contemporary educational approaches despite early adopters. I designed and delivered a 2 year practice-based LAW leadership development program for a mid-tier law firm at this time. This Emerging Leaders Program incorporated regular critical reflection facilitation sessions. Reflection helps 'to identify problems, emerge solutions or engage in collective inquiry' (Fenwick 2010, 81).



Adopting a *learning at work* perspective when discussing the desirability of reshaping PLT in Australia, and NSW in particular and given the recent findings of widespread dissatisfaction, the submission draws on the author's PhD work which has interrogated and empirically researched some of these strategic educational issues. Details are to be found in "Lawyers Practising Learning; Reshaping Continuing Legal Education." ¹⁸

PLT (Stage 2) is caught between academic requirements (Stage 1) and regulatory in Continuing Legal Education (Stage 3). It is not adequately cognisant, or is that confident, of its educative leadership role in navigating across and between both.

Lawyers admitted to practice continue to learn. Learning At Work (LAW) Theory is core. During Stage 3, contemporary educational theory tells us that practising lawyers, become self-directed learners and strive to achieve "better practice" (better learning), what (Beckett, 2008), theorises as 'holistic competence'. This is a sophisticated educative approach to the construction of a Legal Education and Training Continuum (The Continuum) that spans all 3 stages. However, note that it is recommended that The Continuum include the word learning.

Understanding what it is lawyers need to learn to maintain and grow their 'holistic competence' is pivotal to meeting both regulatory and educational requirements. Continuing Professional Development (CPD) is not the main purpose. Likewise, it is important to consider how the Priestley 11 competencies feed into Stage 2 and Stage 3 and contribute, or not, to identifying the key components of lawyers' competence required in a legal career.

Submission Structure

Part A Education Before Regulation

1. PLT Strategic Environment
2. PLT and Broader Culture and Leadership Issues
3. Stakeholders and Dominant Players

Part B Pedagogical and Epistemological Issues

1. PLT Assessment and Training Framework
2. Interface with Stage 1 and 3
3. Broader education issues: holistic competency development and LAW epistemology.

Part C Reshaping Legal Education

This Part recommends a new standalone **Centre for Post Degree Legal Education** be established and resourced. Judge led continuing education presents a counterpoint to the lack of theory for Stage 2 & remaining Stage 3. *PLT Change Strategy* recommendations are made about how PLT stakeholders can improve their education insights and leadership practices.



Part D The Learning At Work Model

Practising lawyers become self-directed learners and strive to achieve “better practice” (better learning), what (Beckett, 2008), theorises as ‘holistic competence.’ There is an inconsistency between the PLT vocational training frameworks and these bodies having higher education provider registration where the expectation is that the provider has an educational quality framework that meets the Higher Education Standards Framework (Threshold Standards) 2021.¹⁹

Part E Conclusion

Leadership and organisational culture within legal workplaces significantly influence lawyers’ professional development and wellbeing. Fairness in access to learning opportunities is critical. However, both PLT Providers and the legal profession often exhibits resistance to evidence based change. Here the PLT Providers and Law Faculties need transformational change to value those leaderworkers who can lead the way.



Part A Education Before Regulation: Reshaping Practical Legal Training

1 PLT & Other Relevant Strategic Projects

On 9 April 2025 The Legal Profession's Experience of Practical Legal Training Research Report by Urbis, prepared for the NSW Legal Profession Admission Board, was released²⁰. The results of the survey investigating the current state of practical legal training (PLT) has raised serious concerns regarding the cost and quality of PLT available in the marketplace.

Among respondents who were recent graduates of PLT:

- Only 43% found the assignments practical and career-relevant
- Only 40% deemed the teaching methods satisfactory
- Only 13% considered the course reasonably priced.

Positive findings included that 74% agreed or strongly agreed the PLT's work experience component helped in gaining practical knowledge and skills. The survey's respondents also:

- perceived PLT completion as ticking a box and *lacking deep relevance* to legal practice
- said the shift toward online delivery for most of the course led to a *lack of in-depth learning*
- deemed the course *difficult to fail*
- reported a *lack of academic rigour*
- described PLT costs as *prohibitive and failing to offer value*
- considered paralegal work and other work undertaken during studies *more useful* than PLT
- believed employer-funded PLT could encourage new lawyers to choose private practice, which *deepened the existing workforce imbalance* across practice areas.

Urbis received more than 2,500 responses from recently admitted practitioners and over 2,000 responses from supervisors as a part of the survey. Urbis conducted the survey on behalf of the LPAB, primarily targeting recently admitted practitioners who had finished PLT within the past decade and their supervisors within that period. The Legal Profession Admission Board (LPAB) reached out to PLT providers with copies of the report and requested detailed information to inform the LPAB's review of PLT in NSW. Justice Tony Payne, the LPAB presiding member, has formed a *PLT Working Group*. The group consists of the LPAB members and senior practitioners from around NSW. The group seeks to explore short-term and long-term proposals for reforms and address the cost and quality issues regarding PLT. The College of Law acknowledged the concerns highlighted in the LPAB NSW survey and the recent comments made by the Chief



Justice of New South Wales, stating “[We] recognise the importance of maintaining confidence in practical legal education and remain firmly committed to ongoing improvement and transparency in our practises.”²¹

1.1 Current and Recent Relevant Projects

The following projects involve strategic policy issues about education, competence and performance in the legal education and legal profession sectors. Each is relevant to the NSW PTL Inquiry to varying degrees, the most relevant being the Review of National Competency Standards.

1.1.1 Review of the Practical Legal Training National Competency Standards for Entry-Level Lawyers

The Law Council, APLEC,²² Legal Services Council, Law Admissions Consultative Committee, and the Legal Profession Admission Board NSW are working closely on a Review of the *Practical Legal Training National Competency Standards for Entry-Level Lawyers*. According to the Law Council²³ the revisions to the Standards aim to:

- recognise and enable different modes of course delivery, including fully in-person, fully online and blended models of course delivery;
- expand the definition of ‘teaching methods’ and clarify the prescribed number of hours for teaching Priestley 11 subjects;
- emphasise the significance of active learning and student engagement as a core requirement, with a minimum requirement of 18 hours of direct student engagement in a subject;
- introduce a requirement for a minimum of 50 per cent of assessment to be invigilated;
- restrict the uses of block/intensive delivery models in the teaching of Priestley 11 subjects; and
- introduce other revisions in response to feedback.

1.1.2 Review of Australian Legal Education 2030 and Beyond

In late 2023, the Council of Australian Law Deans (CALD) released its report, ‘Reimagining the Professional Regulation of Australian Legal Education’, authored by Sally Kift and Kana Nakano. The report offered a detailed analysis of the regulation of legal education in Australia and in a global context, and of the various drivers for regulatory reform.

According to CALD, the year 2023 also saw the beginning of a national conversation about the future of Australian legal education, with representatives from each of legal education’s peak bodies coming together to examine the current state of legal education in Australia and identify opportunities for reform. It has been difficult to ascertain the current status of this work and the pedagogical and epistemological foundations that underpin this work. .²⁴

1.1.3 NSW PLT Review

The LPAB reached out to PLT providers with copies of the report and requested detailed information to inform the LPAB’s review of PLT in NSW. Justice Tony Payne, the LPAB’s presiding member, has formed a *PLT working group*; the group consists of the LPAB’s members and senior practitioners from around NSW.



1.1.4 The Job Readiness of Law Graduates and Entry Level Solicitors in Private Practice (Final) Report²⁵

There is an ambient concern within the legal profession that many law graduates in Australia do not possess sufficient threshold knowledge and skills to be regarded as ‘practice ready’. A 2021 study by the Queensland Law Society and the Centre for Professional Legal Education at Bond University (the **QLS Report**) found that 80 per cent of respondents did not consider that entry level law graduates had the skills needed for practice, and only 51 per cent considered students had foundational levels of substantive law. These concerns have since been reiterated at the national level by the profession in its feedback to the Law Council. This raises important questions about what students are being taught, how they are being taught and assessed, the level of student engagement, and the certification of students on graduation as meeting threshold competencies.²⁶

1.1.5 Systems Theory of Change for Lawyer Wellbeing Project: Results from the System Effects Survey 2025. Prepared for the Victorian Legal Services Board + Commissioner, Melbourne, Victoria.

The Report is discussed in this submission.

1.1.6 Challenging Disrespect and Inequality in the Legal Profession; Leading Change to Prevent Gendered Violence Report: Respect and Equality in the Legal Sector Project.

Work-related gendered violence including sexual harassment is widespread in the Victorian legal sector. Notwithstanding combined efforts to raise awareness and to call out behaviour, the legal sector still has one of the highest rates. The report, for which Hann was the leadership consultant, provided recommendations on:

- workplace leadership
- training and education
- person centred and trauma informed responses²⁷.

1.1.7 Review of the Australian Qualification Framework Final Report 2019.

For consideration by the Council of Australian Governments (COAG) Education Council and the COAG Skills Council.²⁸ “A lack of clarity between current AQF levels and qualification types makes it hard for qualification developers and regulators to design qualifications and assess their quality, and for students and employers to understand the relative benefits of the qualification types” (AQF Review Final Report 2019, p12).

The Review had the purpose to redesign the AQF and develop a revised AQF taxonomy through a process of change management. The focus areas are:

- Knowledge, Skills and Application that are founded on research and reflect abilities that are required in an evolving economy and can be taught, learned and assessed.
- Descriptors for each focus area that stakeholders can understand readily and that differentiate between AQF levels.
- Descriptors from different bands in the revised AQF taxonomy are able to be used to describe qualification types.

The Review of the Australian Qualifications Framework was completed at the end of 2019. It provided 21 recommendations aimed at ensuring that the AQF continues to serve its intended



purpose now and in the future. Changes to the current AQF were included in this discussion. Changing the Australian Qualifications Framework (AQF) requires the approval of Education and Skills Ministers from the Australian, State and Territory Governments.

A cross-jurisdictional working group has been established to “consider and develop advice for Ministers on AQF Review recommendations. This work is ongoing and was expected to complete by the end of 2022”.²⁹ It is noted that Professor Sally Kift made a submission to the Universities Accord Panel on 11 April 2023 and supported the recommendation that the National Lifelong Learning Strategy be endorsed.³⁰

1.1.8 Australian Lawyer Competence Framework LACC

Under this option, key stakeholders would advocate for, build consensus on, and work to enable a ‘shared space’ approach of collaborative inquiry and joint action for the *regulation of competence*, including continuing competence, via a proposed Competence Framework.

The 5.2.1 Option of the ‘Develop an Australian Lawyer Competence Framework’ was proposed by the ‘LACC Assuring Professional Competence Project’. It did not proceed. See the CALD Report authored by Sally Kift and Kana Nakano (Reimagining the Professional Regulation of Australian Legal Education 2023, p.261).

1.1.9 International Approaches to Ongoing Competence: A Report for the LSB (Report, 2021)

The authors proposed a Model for the Competence of the UK Legal System. The Levels of Competence of the Legal System Model (Hook, Tangaza, 2021) is a *Regulatory Model of Competence*.

What I propose is an *Educative Model of Competence* rather than regulatory. The traditional legal education system has not demonstrated the capacity to work effectively with the legal profession to construct a suitable competency framework for legal practice beyond entry level. What is required is a lifelong learning model, that progresses, not only through the awareness, skills, competency, mastery and advanced mastery levels (of performance and assessment), but also encompasses more complex work, e.g. a graduated continuum of more complex work and therefore a higher AQF level of unit of competency.

1.2 Work and Learning Link

The aforementioned projects share the salient feature that to achieve their objectives a focus on the *work lawyers do and learn to do in legal workplaces* is essential. Here the union of work and learning is apparent. A summary of these issues is set out in the table below.

Strategic Project	Work and Learning Link
Review of the Practical Legal Training National Competency Standards for Entry-Level Lawyers	Active learning and student engagement (18 hours) as a core requirement. But no direct mention of the quality of the learning experience or underlying epistemology
Review of Australian Legal Education 2030 and Beyond	Focus is on the regulation issues arising from the current state of legal education. Again no direct mention of the quality of the learning experience



NSW PLT Review	Unsatisfactory workplace [learning] experiences and demonstrated work competence. Para-legal learning often more effective than PLT.
The Job Readiness of Law Graduates and Entry Level Solicitors in Private Practice (Final) Report ³¹	Concern many law graduates in Australia do not possess sufficient threshold knowledge and skills to be regarded as 'practice ready.' Again, no mediated epistemology or pedagogy.
Systems Theory of Change – Hyper Critical legal culture	No education strategy to address that a hyper-critical legal culture will adversely affect the workplace affordance (learning) of PLT and Practising lawyers.
Challenging Disrespect and Inequality in the Legal Profession	Training and education crucial yet little acknowledgment of the effect of risk adverse, mistake avoidance, legal cultures affecting readiness of legal organisations to lead necessary cultural change and workplace learning. No benchmarking to Legal Working Culture model values.
Review of the Australian Qualification Framework Final Report 2019.	Through a process of change management, develop a revised AQF taxonomy. Focus areas for Knowledge, Skills and Application that are founded on research and reflect abilities that are required in an evolving economy and can be taught, learned and assessed. Descriptors for each focus area that stakeholders can understand readily and that differentiate between AQF levels.
LACC's Assuring Professional Competence project	Option 5.2.1 of 2023 Review: Develop an Australian Lawyer Competence Framework linked to Review of AQF Project. It did not proceed.
International Approaches to Ongoing Competence: A Report for the LSB (Report, 2021)	This is a regulatory model of competence. We require an educational model in Australia as was proposed in the 'LACC Assuring Professional Competence Project' in abeyance. Professional learning concepts key here. The next step would be to mediate a combined Educative Regulatory model, one that has an Educative before Regulatory focus.

Table 1 Work learning Link

1.2.1 Courage Competence and Capability

Leading educational change is difficult as demonstrated in the various levels of success of the aforementioned projects. It takes courage and capability. In the legal sector there is a history of strategic projects doing excellent work and being left on the shelf.

If we are to accept the findings that we have a hyper-critical legal culture then it follows that leading change to improve educational and wellbeing outcomes for our people is fraught. Some might describe it as a 'wicked' problem.



1.2.1.1 Clinical Legal Education Leading Change: Covark, Hewitt, Nosworthy & Henderson

This ‘wicked problem’ is illustrated by the challenges faced when the South Australian Clinical Legal Educators, Covark, Hewitt, Nosworthy & Henderson (2024) instigated the design and deployment of sexual harassment educational awareness materials for their law student cohort during their ‘work placement’ in legal workplaces.

Although they understood the preferred option was to conduct a ‘broad analysis of workplace, culture and legislation’ the authors knew it would not be sanctioned by the ‘Legal Sector.’ This is because the legal sector does “*not want to be scrutinised or challenged*”. The authors concluded that the:

“Australian legal profession is currently facing a “critical (and long-awaited self-reckoning) regarding the prevalence of sexual harassment within the profession.”³²

Here they anticipated a ‘hyper-critical culture’ although they did not use this language as this term was not released by the Victorian Legal Services Practice Board until May 2025. They envisaged that there were 2 potential courses of action to address this dilemma namely:

“(i) a *broad critical analysis of workplaces, culture and legislation* to be undertaken regarding sexual harassment

(ii) the use of social partners [such as law faculties]. [emphasis added]

However, unfortunately, as actors within SoLE the authors knew that, *although critical analysis of legal workplaces, culture and legislation was ideal, “there does not seem to be significant professional or political appetite for such a process of scrutiny and legislative reform.”*

No doubt the law students in this cohort would have benefited substantially if their legal educators had had the authority and leadership standing to scrutinize the potential behaviours occurring in the legal workplaces, including from senior personnel.

In my view these educators were hampered by the hyper-critical legal culture from taking the necessary action to protect their law students from psychological harm.

Note that higher education providers have a duty under the TEQSA standards to ensure WIL (Work-Integrated Learning) arrangements are psychologically and physically safe for students.³³

1.2.2 Graduated Continuum of Competence Example

Below is a high level example of a proposed graduated continuum of holistic competence for SoLE Educators/facilitators to lead learning at work opportunities. Psychological safety is an important issue when considering the implications of building an holistic competency framework that curates working knowledge. Given that the AQF Review and its 22 recommendations appear to be in limbo at this time I have not incorporated the recommended framework.

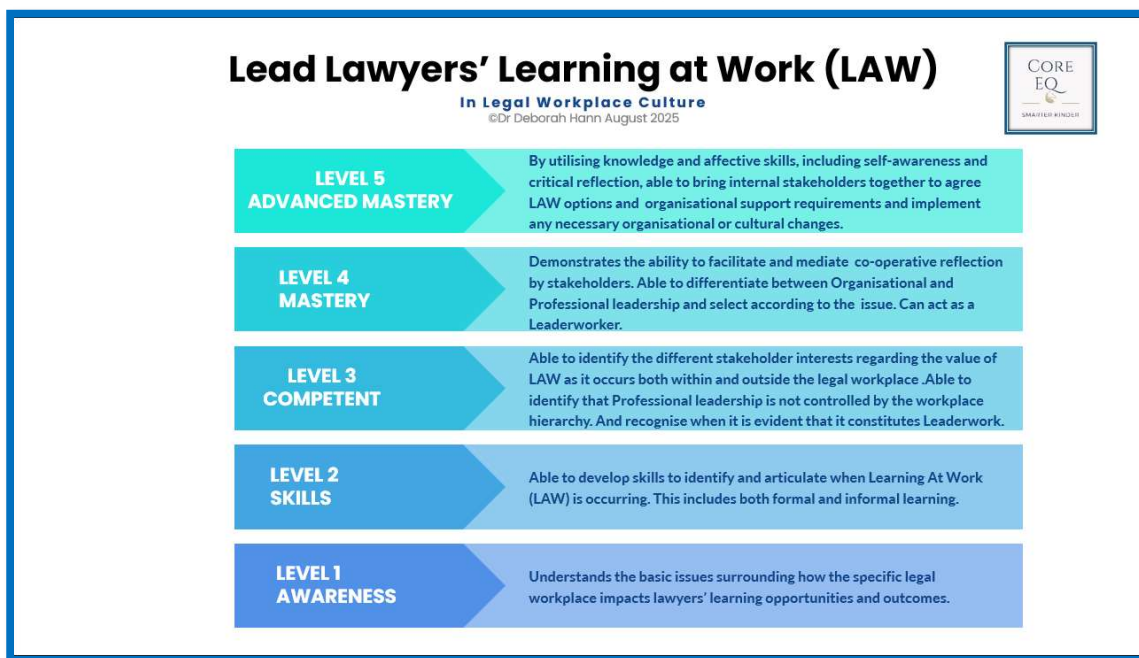


Figure 1 Lead Lawyers Learning at Work (LAW)

My PhD aimed to reshape or reimagine our Australian legal culture, using an inter alia appreciative inquiry methodology. 'Legal Working Culture' was designed and built by the research-facilitator (Hann) who engaged master practitioners, using sophisticated facilitation techniques to elicit their working (tacit) knowledge so as to build an epistemology of leadership practice. This co-operative reflective work included articulating what works well for lawyers when leading in legal organisations and in the profession. 'LWC' curates the master practitioners' descriptions of how they role model the beliefs, values and behaviours that are important to them.

Workplace Learning Theory and the contribution I made to the epistemological development of this theory, as it relates to lawyers' learning, namely LAW, asks the threshold question: **whose interests are being served?**

When you ask this question, you have the opportunity to interrogate the cultural norms within the profession (sector) or the legal organisation. Having done this complex, challenging, and confronting work you can then move to the next step of charting a new path, i.e. reshaping Continuing Legal Education.

It is remarkable how much attention and post graduate legal education resources, energy and expertise at Law Faculty and Practical Legal Training bodies is channelled into such a narrow swim lane of credentialing lawyers to be admitted to practice. Agreed it is important to 'produce' competent lawyers. It is also considerably easier because, as an educational leader one does not have to confront the realities of the "Hyper-Critical Culture". One does so at one's own peril.



Even within a legal workplace in which the culture exhibits ‘Legal Working Culture’ attributes it is still difficult work.

But what about the next 40 years of lawyers’ working lives and the health of the legal workplaces in which they work? *Why is it so hard to acknowledge that this identified Hyper-Critical (Legal) Culture, perfectionist and highly resistant to change, suppresses change endeavours?* Key findings of Hann (2007) were that professional and organisational leadership are the two distinct forms of leadership that lawyers undertake within legal workplaces. My research found that without a sanctioned language or recognition of the leadership work they do, lawyers experienced conflict and were constrained in the use of their intellectual and interpersonal skills to improve the legal working (and learning) cultures of their workplaces.³⁴ By not sanctioning leadership work by lawyers the culture is suppressing it. The recent findings regarding hyper-critical culture support my research findings.

In my view this is the key reason that legal educators often stand aloof from the messy swamp of workplace professional and organisational learning. It is a self-preservation career strategy. Given what happened to my research and therefore my career their concerns are legitimate.

In 2007 I wrote:

“[L]awyers find themselves sandwiched between the authoritative approach of ‘post- graduation’ legal education, with its emphasis on what is ‘good’ for them to know,[professional learning] and the new regime of organisational truth, which privileges their productive and marketable worth in a competitive legal industry.[organisational learning] Both are underpinned by the traditional paradigm of traditional legal education”.

Has anything changed in the past 18 years? I reiterate, traditional legal education has evolved from this hyper-critical culture and has contributed to it. We do not know to what extent because we have never researched this question.

Conceptions of WIL and capstone experiences are currently high on the Australian university learning and teaching agenda, however:

“despite the obvious synergies between the two learning experiences, the relationship between capstone and WIL and the ‘joined-up’ role these learning experiences might play in facilitating student transition from tertiary study to the world of work and professional practice *have not been clearly articulated*”.p.1³⁵ [emphasis added] (McNamara, Kift, Butler, Field, Brown, 2012).

1.2.3 Forging a New Practice Path

As the Director I wrote:

“[l]awyers are not merely observers and passive recipients, rather they undertake their own educative work post-admission to achieve ‘better practice’. Those who have undertaken Clinical Legal Education come better equipped to do this with their enhanced reflective practice skills and values awareness about the conduct of legal practitioners at work. The lack of will by the academy and the legal profession to foster a vibrant research culture and practice for either Clinical Legal Education (CLE1) or Continuing Legal Education (CLE2) is apparent. Leveraging the potential of CLE2 theory and practice to work alongside traditional education and CLE1 to inform



Legal Traineeship education design and implementation is likewise under-theorised” (Hann, 2007).

The concept of **Legal Working Culture (LWC)** is ‘map-like’ in that it depicts the shared beliefs, behaviours, and values that influence *how lawyers learn to ‘make their way’ to lead work in legal organisations*. Leadership is viewed as a social construct enacted through dialogue and shared meaning-making. The role of a “Leaderworker” — a lawyer who bridges informal learning and work, employing reflective practice to learn and guide others and foster professional growth is key.

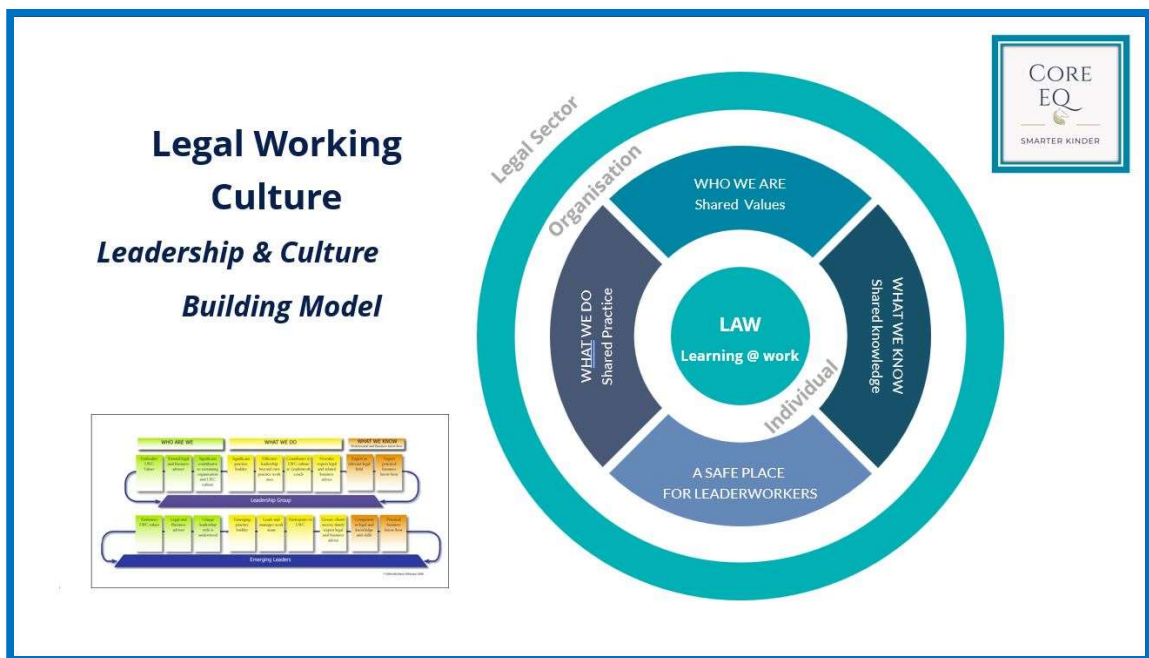


Figure 2 Legal Working Culture Leadership and Culture Building Model

Effective leadership that fosters informal learning and fair access to professional development opportunities within legal workplaces is essential to ensure quality learning outcomes and lawyer wellbeing.

Leadership and organisational culture within legal workplaces profoundly influence lawyers' professional growth and wellbeing. Fairness in access to learning opportunities is critical. However, the profession frequently exhibits resistance to evidence based reforms such as mine, perpetuating a hyper-critical and toxic culture that undermines wellbeing and professional development.



2 Culture and Leadership Issues

Adopting an innovative approach to the structure and content of this submission I will address the legal profession's formidable resistance to change as a threshold issue. If efforts to lead transformational change are likely to be "ruthlessly suppressed" then how can this be short circuited? As legal educators and practitioners we must first call out the hyper-critical culture as undermining our best efforts to work together in order to achieve the stated intentions of reimagining the LE (and *learning*) & T continuum. Shared sustainable thinking, mutual respect and cooperation can open up the possibilities. 'Legal Working Culture' offers a blueprint framework to benchmark what changes are necessary and curate the beliefs, values and behaviours that can empower us to implement a paradigm shift.

2.1 Legal Education Leadership

"The casualties of law schools hanging on to the familiar are the students—the very people an educational institution exists to serve. Is it ethical for law schools to mindlessly continue to train students for a profession that is shifting under everyone's feet?" (Mirkay & Strand, 2019 p 378)

The title of this submission is deliberately challenging in that, as lawyers, we are enculturated to believe in and serve the ideal of justice as it relates to our duty to the rule of the law, the courts and to our clients. But what about justice for lawyers in their learning careers as law students, PLT participants, trainees and members of the profession?

How well do we "model principled leadership in legal education?" (Alexander, 2023)³⁶. The President of American Association Law Schools, Mark Alexander, Dean at Villanova University Charles Widger School of Law states: "law schools' rhetoric celebrates lawyers' leadership role" yet he acknowledges that here there is a disconnect between the public leadership role of lawyers in society and what I will term the more immediate and personal leadership roles within our own legal workplaces. This is a direct link to the 'professional leadership' and 'organisational leadership' findings in Hann (2007), p.103.

Where are the guiding principles for this? The *Declaration of Judicial Training (Education) Principles* by the International Organization for Judicial Training provides a useful blueprint. One of the 3 key elements is "a right and a responsibility" to undertake training. Nowhere can a similar principle, or value, be found in how we deliver legal education services to our general law cohort across the 3 key stages of legal education.

The problems and issues raised in the PLT Survey are of such seriousness and reveal a degree of leadership intransience so profound that it is clear that sustainable transformational change will not occur without a profession wide uplift in leadership capacity. Yet here we are reminded by legal education scholars Mirkay & Strand (2019) that:



“There is little if any professional agitation for transformation of the legal landscape. Legal education and the legal profession consisting exclusively of lawyers are locked in a symbiotic cycle. Change in response to a shift in legal needs requires movement by law schools and the ABA [American Bar Association] and state supreme courts, which regulate the profession.

Successful disruption requires shifts across the board, which means that disruption in one arena alone is likely to be ruthlessly suppressed” p.376³⁷

2.1.1 Transforming the legal landscape

Let us unpack this reflection by Alexander (2023) regarding resistance to transforming the legal landscape:

- Little or no professional agitation for transformational change in legal education
- Legal education and the legal profession are comprised exclusively of lawyers
- They are locked into a symbiotic cycle
- Transformational change requires engagement from key stakeholders who regulate the profession including law schools, ABA and state supreme courts [law academy, professional association and the courts]
- Successful transformation requires all stakeholders to agree
- Disruption, or put alternatively, the decision by one stakeholder to advocate for transformational change will be ruthlessly suppressed.

Consider the powerful language used here. “Ruthlessly suppressed” is a strong and troubling description of a hyper-critical culture. Implicit in this wise advice is the unanswered, or unanswerable question – how do you persuade those stakeholders with the dominant power and standing in a ‘hallowed’ profession to open their minds and hearts to learn to reframe and reconsider what has thus far been their understanding of what constitutes legal education? In other words, are these legal stakeholders teachable?

2.1.1.A scholarly profession that does not value scholarship

To effect cultural change in legal workplaces we need to challenge the prevailing belief within the profession, that practising lawyers do not think they need to learn anything more than the practice of the law itself. One of my Stage 1 participants, L13 explained this notion in light of law being a “scholarly profession” as follows:

“L13: I think there is this feeling amongst lawyers that the law is a scholarly profession and they don’t need to know anything else. There is a sort of natural arrogance of being one of the leading professions

There is no real sense in the law that you need to do lifelong learning or professional development because just the practice of the law itself keeps people sharp. It’s partly unconscious but it is almost on the surface I think a lot of lawyers would say that. Very little recognition amongst leaders in the law that there is anything lacking in the way they do things. (L13-6) ¹”

¹ Hann, D., (2007) Lawyers Practising Learning: Reshaping Continuing Legal Education p 184



2.2 Cultural Resistance to Change

2.2.1 Fate of Legal Education Change Agents

As an educator I believe it is important to share significant learnings that may benefit others. Therefore, I will share my salutary experience when in 2004 I set out to Reshape Continuing Legal Education and thereby disrupt the status quo in legal education scholarship. There was a complete absence of education scholarship and theorising of Continuing Legal Education (CLE2) at PhD level. My PhD work was “ruthlessly suppressed” including by a major PLT Provider.

In my case my decision to undertake the first CLE2 PhD in Australia and internationally led to the loss of my legal education career. My experience and those of other legal education change agents is relevant to the current strategic legal education issues as the PLT stakeholders grapple with what to do with PLT. My views are endorsed by the law academic authors, Mirkay and Strand who state; “the structure of academia generally and legal academics in particular, however serves as an obstacle to the disruptive leadership that can initiate necessary adaptation.” (p.366)

Can and will our legal education leaders undertake to ensure that the unacceptable career outcomes for myself and the US authors of the following article excerpt (tenured law professors) does not happen to other “legal education disruptors” in Australia in 2025:

“Because of institutional resistance to change, however, neither of us remains in our former positions. One of us is now a tenured Professor of Law at the University of Hawaii Richardson School of Law; the other is still at Creighton and still a tenured Professor of Law, but no longer in the School of Law. Here, we discuss our own experience with disruptive leadership and the backlash we received, as well as the risks of failing to embrace disruptive leadership in legal education going forward.” Mirkay and Strand (2019).³⁸

My objective is to exhort our law academy leaders, regulators, PLT providers and legal profession representatives, to work together collaboratively to lead inclusive, respectful and safe transformational change. Sturm (2007, p.515)³⁹ offers a positive way forward by proposing that Law schools “should take more seriously and focus considerable attention on how lawyers participate in and exercise leadership in a wide variety of settings and do so in ways that are deeply collaborative with other professions and with *those most directly affected by the challenges that are the subject of attention.*” [emphasis added]

Here “those most directly affected by the challenges,” and therefore any change to the provision of Stage 2 PLT education, are the past present and future PLT students, the legal workplaces in which they undertake their work placements and the PLT educator/trainers. Any change initiative must ensure “deep collaboration” with these three cohorts. This submission will unapologetically focus on their interests. Here workplace learning theory is vital because as Fenwick (2006) reminds us it is the education theory that takes account of divergent interests.⁴⁰

The Legal Academy, as gatekeeper, safeguards its authority to inculcate intellectual prerequisites for admission by choosing not to sanction the build of a conceptual framework of holistic competence. Instead, it is caught within the academic versus vocational dichotomy or



“vocationalism versus professionalism” mindsets (Kift and Nankano 2021) privileging propositional knowledge and the ‘Priestley 11’. Thus far there has been no efforts made to theorise professional learning for lawyers post admission which incorporates consideration of the importance of what is learned at work (in practice) as an essential feature. In this regard the Academy of Law stands aloof.

The alternative is to construct an epistemology of legal practice underpinned by LAW theory. Holistic competency development incorporates levels of competence as demonstrated in the *Legal Working Culture Leadership Development Pipeline*, Table 28 Hann (2007) p. 298. This is a contiguous (formal and informal learning) competency continuum which demonstrates how we build from awareness, skill, competence, mastery to advanced mastery levels to rank the different levels of leadership and associated work and learning undertaken by lawyers. It was built by observing master practitioner lawyers leading in their workplaces and also engaging in dialogue with them over a period of up to three years.

The research study engaged the participant in a joint endeavour, namely ‘let’s understand leadership by engaging in dialogue about it’. Based on a theoretical framework discussed above, the study encountered the challenge of moving from a representation paradigm to particularity or reflexivity. Therefore, the performative particularity beyond description and the unfolding of meaning was based on an analysis of the initial dialogue as well as on observational data. The intention was to ask questions, which call forth that which does not yet exist, (Goldberg, 1998, p.118)⁴¹ thereby creating a new inquiry. (Hann, 2007 p122)

Underpinning [propositional] knowledge, skills and behaviours are embedded in the competency model. Professional values are curated in the ‘Legal Working Culture’ model which provides the necessary legal workplace and legal professional cultural overlay. Where applicable examples will be given of this approach throughout the submission.

I built an epistemology [theory of knowledge] for lawyers (Hann 2007). Relying on the work of Beckett and Hagar to theorise ‘Learning At Work’ for lawyers for the first time in Australia and internationally, the specific work area studied and theorised was lawyers’ *‘leadership work and learning.’*

It follows that to reshape PLT and CLE2 requires an upskill in the leadership capabilities and conceptual understandings by legal educators because post degree lawyers’ professional learning and professional development occurs predominantly in our legal workplaces not in formal education settings such as our universities or PLT educational institutes.

Legal educators, Stages 1 and 2 are not redundant, to the contrary, their participation and contributions are vital. It is time for all of our legal education bodies, their educators and leaders to put on their wellies. We must enter the messy ‘Schonian swamp’ of the legal workplace, (Beckett, 2008). Our Clinical Legal Educators (CLE1) have been doing this for decades. This time the imperative requires us to navigate the whole legal education continuum which is a more sophisticated task.



2.3 Hyper-Critical Legal Culture & Systems Theory of Change

A circuit breaker to the ever growing body of reports about lawyers' wellbeing and related issues such as gendered violence in legal organisations is provided in the groundbreaking and well-intentioned report Systems Theory of Change for Lawyer Wellbeing Project (2025) commissioned by the Victorian Legal Services Board + Commissioner (the Project). The authors, First Person Consulting, state that:

[T]he uniqueness of this Theory of Change lies in its focus on the systemic factors influencing lawyer wellbeing and the corresponding systemic responses required. This is why we refer to this as a Systems Theory of Change".⁴²

Our wakeup call comes from the finding by the authors that a “hyper-critical (legal) culture” materially affects the wellbeing of lawyers in Victoria in 2025. These findings validate my research approach in foregrounding the impact of our legal culture on educational outcomes and wellbeing of legal practitioners.

Acknowledging that “there are many existing reports, practices and approaches that can be learned from and built upon” the authors state that the Project charts a path forward. The Board + Commissioner and the corresponding authors of the Report state that the most influential factors across the system based on their network analysis, termed the “top five systemic factors” that drive poor lawyer wellbeing are:

1. Intense workloads / long work hours / time demands – this was the most influential by a factor of 3
2. Clients with unrealistic expectations/ difficult clients / clients' own misinformation or lack of understanding of the law
3. Lack of supportive / capable managers / micromanagement / poor communication [emphasis added]
4. Toxic workplace or sector / poor workplace culture or attitudes / low morale [emphasis added]
5. High levels of stress and pressure / high stakes.

The authors note that these factors are ranked the highest “as they sit at the interface of other factors identified most frequently – including the focus area. The calculation factors into the calculation the number of respondents that identified that relationship, so all results are weighted.”

2.3.1 Management Leadership and Culture

Two out of these five factors at the Organisational Level relate to management and culture, what the authors later term a “hyper-critical culture.”

Of the three clear factors at the ‘organisational level’ that influence wellbeing directly, or each other, the authors list in order as:

1. Intense workloads / long work hours / time demands
2. Lack of supportive / capable managers / micromanagement / poor communication



3. Toxic workplace or sector / poor workplace culture or attitudes / low morale.

The authors note that there is a feedback loop between these three factors and these are the only set of connections across each sub-system that has this sort of relationship.

At the sector level there are 4 factors that influence wellbeing directly or indirectly the most. In order, these are:

1. Culture of perfectionism / unreasonable expectations / hyper-critical culture / fear of making mistakes
2. Role of the regulator / regulatory systems and processes / costs to practice
3. Deadlines or timeframes (real / fake / client / judicial / court)
4. Difficult / complex areas of work / matters / volume of material.

The authors note that “by far the ‘culture of perfectionism’ factor is the most influential at this level”. The NSW PLT Survey encounters such hyper-critical feedback from its stakeholders. This will be discussed later.

2.3.2 Whose Interests are being Served?

Workplace learning theory and practice is not the same as work-integrated learning.

This is a crucial distinction to understand because work-integrated learning constitutes formal learning and the legal workplace cultural status quo is not questioned. This means that affordance and access issues to learning are not addressed. Whereas in Workplace Learning, which is predominantly informal learning, (Fenwick 2010), a threshold question is: whose interest is being served [by this learning or lack of learning opportunity]?

It follows of course that the “hyper-critical culture” identified by the authors is embedded in most legal education, undergraduate, graduate, clinical, continuing, community, judicial education and legal professional development without any serious consideration of the interests of the individual learner practitioner and the responsibility of the provider of education or the legal workplace in which it occurs.

Traditional Legal education is influenced by this Hyper-Critical (Legal) Culture. Some might suggest it is even under its coercive [or regulatory] control. The traditionalists in legal education do not know how to research lawyers’ work and learning beyond the classroom, to the clinic and legal workplace.

The traditional paradigm of legal education does not ‘recognise, encourage or reward’ research and scholarship in either CLE1 [Clinical Legal Education] (Watterson, McCarthy, Finlay-Jones & Cavanagh, 2006)⁴³ or when it is endorsed by the profession in CLE2 [Continuing Legal Education](Hann & Mann, 2004).

This lack of research means that it has been difficult to synthesise the legal education literature with what I term ‘Learning At Work Theory’ LAWT, which incorporates Workplace Learning Theory (WPL), Work-Based Learning Theory (WBL) and Work-Integrated Learning Theory (WIL).



There are divergent claims here as professional, organisational, regulatory and personal interests jostle for pre-eminence.

2.3.3 Paradigm Shift

In 2015 Greaves made a call for action to achieve a paradigm shift in PLT pedagogy purpose and policy implementation:

“The resolution of these distinctions [professional and practise] is desirable and would be made possible by a *paradigm shift in relation to teaching and learning within PLT together with cultural and organisational change*. And understanding of the relevant pedagogical theories and the rhetoric surrounding their implementation would both enable a paradigm shift on the part of educators trainers and provide the fuel for a debate between educators and administrators about the underlying purpose of pedagogical policy implementation”.⁴⁴

2.3.4 Re-shaping Legal Education

Continuing Legal Education CLE2, in the role of advocate for continuing legal education, that is lifelong learning, is invisible and mute. Work-integrated learning theory and practice alone is not adequate to address the learning needs of law students, graduates or professionals in the legal workplace. Without a contiguous legal professional learning continuum, we cannot build a lifelong learning model that integrates traditional legal education, CLE1 and CLE2 theory and practice.

By the way we have not built the theoretical model to do this yet.

It is now 2025, not 2007 when I proposed this reshaping of Continuing Legal Education. As CLE2 has been obliterated it follows legal education itself now requires reshaping. Presumptuous? Visionary? Naive? That is not for me to say. What I do know is that my research and findings found no home in legal academia then or now.

2.3.5 The Risk of Strangulation by a Hyper Critical Culture

As an independent legal professional development scholar my PhD was the first of its kind in Australia to research how lawyers learn to lead in legal organisations.

I, and perhaps others, have had their voices silenced by the legal hyper critical culture. Therefore, our contributions to constructing a path forward, out of the mire of the inconsistency across the 3 stages of legal education and the unwellness of the legal profession *is not on the public record*.

There are many existing reports that can inform these PLT issues. There is only one problem with this approach.

Because of the nature of our hyper critical culture many other groundbreaking initiatives, scholarly or otherwise have been suppressed by the very culture the actors are attempting to change. What are we going to do differently this time?

To adopt a tennis term the Legal Profession is currently running around its backhand.



We can hit a strong wellbeing forehead, e.g. we are doing something about the prevalent rates of mental distress in the legal profession. Unfortunately, what all legal sector players are not doing is playing the more difficult and advanced shot of claiming our professional and organisational leadership roles in order to change our profession's hyper-critical culture and how it impacts the careers, the psychological safety of our people and limits Workplace Learning opportunities for both our new entrants and current members.

2.3.6 Truth Telling Time

Arguably, Australian legal education itself personifies a hyper critical culture. To change this and humanise it with the features described in 'Legal Working Culture', we need to fundamentally improve the way we teach, mentor and develop our lawyers of today and tomorrow.

Most importantly of all we need to go in search of the people, like me, who have strived, often unsuccessfully to have their voices heard in a culture that *strangles innovative and forward thinking*. We need to take greater care of those who follow.

3 Legal Working Culture Change Agents

We must be prepared to listen and learn from the change agents who have had the courage to step up and out of the restrictive and critical organisational and professional legal culture and forge new pathways. Often at significant career cost.

If we are not prepared to listen and learn from these people in 2025 then when?

Lastly, I ask the question, "Would any law faculty in Australia, in 2004, have agreed to the PhD research I undertook and have had the expertise in Workplace Learning Theory and Professional Learning Theory, as well as Work-Integrated Learning Theory, to supervise the critical ethnographic research and the building of a new epistemological model?"

I was indeed fortunate that the Education Faculty of the University of Melbourne understood the significance of my research; *Lawyers Practising Learning: Reshaping Continuing Legal Education* (2007).

My key finding was Legal Working Culture. In 2007 it offered a developmental pathway to address many of the issues raised in the Hyper-Critical Culture 2025 Report and the PLT NSW Survey. I have been waiting a long time for the profession to catch up. As I have said elsewhere, I have nothing to lose because my own profession offers me nothing, not even a voice.



4 A Story of Lost Opportunity and Cultural Intransience

4.1 A Personal Story – Flog a Dead Horse or Ride the Rear & Gallop Forward

As Director of Legal Professional Development at Leo Cussen Institute⁴⁵ I led our mandatory CPD implementation in Victoria. Concurrently I commenced PhD research, *Lawyers Practising Learning: Reshaping Continuing Legal Education* with the intention to contribute to an important emerging field, namely Learning At Work, LAW Theory as it informs CLE2. With extensive previous experience in designing, delivering and evaluating management and leadership accredited training qualifications and developing performance assessment tools, my goal was to conceptually **Reshape CLE2** by building an **epistemology of practice** as it related to lawyers leadership work and learning post admission. I expected this work to take the rest of my working life. Co-located with PLT educators it was my aim for PLT and CLE2 to work collaboratively to undertake empirical research, exploring a range of educational issues concerning PLT and CLE2 Learning At Work programs.

My position provided my PhD research with the opportunity to identify lawyers who “display the issue or set of circumstances in their entirety or in a way that is highly significant for their behaviour” (Cohen et al., 2000, p.143)⁴⁶. I chose sixteen participants, thirteen in Stage One (L1 became A1) and three, plus L1, in Stage Two. Research participants included judicial members, senior counsel, managing partners, dean of a law school, PLT educator, government lawyers and private practitioners. My application for unpaid leave to complete the ethnographic research was refused and I chose to resign to finish what I started.

With trepidation, being concerned that my research would not be understood by the PLT Institutes, or appreciated by the legal academy, I pressed on. My prediction was well founded.

The PhD was examined by an international workplace learning scholar and a clinical legal education senior academic. Arguably the 100,000 word thesis should have been welcomed by legal scholarship which was at that time “scavenging” educational theory (Blasi 1995). The Education Faculty at The University of Melbourne had standing in Australia and internationally as scholars were already working on an epistemology of [professional] practice. International relevant concepts included: Holistic Competence, Work-Integrated Learning, Workplace Learning, Work-Related Learning and Professional Learning. The Masters to PhD Conversion Committee at The University of Melbourne determined that Stage 1 of my research findings and literature review conducted thus far (Masters by Major Thesis) was:

- of international significance
- highlighted a gap in the legal education, specifically CLE2 theoretical work and associated literature, and
- my senior LPD management role positioned me to select and access senior lawyers whose leadership work was of advanced mastery level.

The Legal Academy, including the Academy of Law did not concur. After completion of my PhD the silence was deafening from; the profession, legal academy, my workplace and CLE2 colleagues. No longer having my Director’s role, I sought a new position. Reporting to the Head of Quality Australia I led the build of a whole of enterprise Operations Management Continuous Improvement (OMCI) enterprise curriculum and competency framework underpinned by an **epistemology of operations efficiency and quality practice**, mapped to AQF levels through to AQF10 for the National Australia Bank. I was promoted to Head of Operations Experience and I rolled out the Business Process Foundations Contiguous Enterprise Curriculum and Syllabus.



4.2 Facilitating Co-Operative Reflection in Organisational Leadership Development

As part of Chapter 5 '*Interpreting the Findings*' (Hann, 2007, pp. 252 – 319), in which the emergence of 'Legal Working Culture' is discussed, the '*LWC*' *Leaderwork Review and Development*) Model is presented. The theoretical framework is explained together with the pedagogical approach of 'Critical and Co-operative Reflective Practice Review.' The Contiguous Education Components and Programs are detailed at 5.3.3.

These tools may be of assistance to the Working Party, when considering the PLT challenges in addressing the issues of motivation, ambiguity, scarce resources and constructive disagreements and diversity.

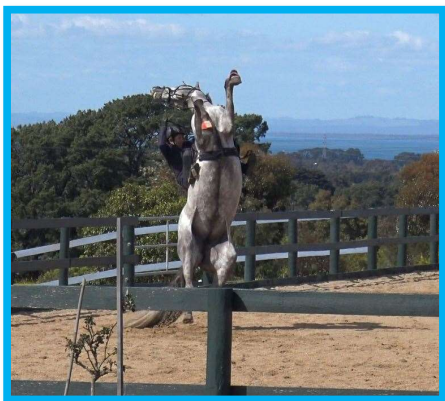
The four questions below were designed to provide guidance to lawyers when considering a strategic leadership issue within their legal workplace. They are also applicable to strategic matters at the whole of profession level. Details are set out in the tool below, Table 37 (Hann, 2007) named *Facilitating Co-Operative Reflection in Organisational Leadership Development*

1. *Is commitment and motivation important?* [Human resources and symbolic]

#2. *Is there ambiguity?* [Structured]

#3. *Are resources scarce?* [Structured, political, symbolic]

#4. *Is there conflict and diversity?* [Political, symbolic]



4.2.1. Ride The Rear

Psychological safety is the shared belief within a group that members can speak up even when it challenges the status quo, ask questions, admit mistakes and learn from them without being shamed or penalised and contributing to a culture of continuous improvement –. a culture in which we can take interpersonal risks without fear of punishment, humiliation, or rejection. It creates a workplace culture where individuals feel accepted and respected, fostering trust and openness that enables learning, innovation, and high performing teams. Constructive disagreements. Not the absence of conflict.

Let us 'Ride the Rear' of the Profession's resistance to transformational change and achieve our balance.



Table 37 Facilitating Co-operative Reflection in Organisational Leadership Development

Co-operative (Productive) Reflection
Locate feedback within the Management and Leadership Frame: Bolman/Deal Model (1991). Facilitate co-operative reflection and dialogue to identify the following: • <i>Is commitment and motivation important? [Human resource and symbolic]</i> • <i>Is there ambiguity? [Structural]</i> • <i>Are resources scarce? [Structural, political, symbolic]</i> • <i>Is there conflict and diversity? [Political and symbolic]</i> • <i>Is there a top down approach? [Structural and human resources]</i>
Action Researcher uses Search Conference with the objective of 'metanoia' – being a shift of perception, Senge (1990). The group examines its own organizational setting and then constructs a picture of a desirable future. Only then give consideration given to action steps. Performance is dependent on focus [performance], will [attitude, emotion] and capability [competencies]. • Reconstitutes the structural relations • Domain based – includes all stakeholders • Holographic – each understands the whole • Participants act as project designers and co-researchers [consensus] Main role of action researcher is to nurture local leaders, to facilitate dialogue, foster reflective analysis, write periodic and final report.
Using 'LWC' Leaderwork Action Map Figure 4, employ external or internal consulting role to fill in the detail under the categories: Who we are, What we do, What we know. Self Report: survey of staff, management and leadership profile reports, self review 360s and interviews, client surveys Ethnographic Observation: attend and observe meetings, assess interaction & participation Document Review: written documents with vision, goals, organisational structure, number staff, job descriptions
Use Productive Reflection: to work through current issues systematically • <i>What vision are you as leaders inspiring others towards? (Senge, 1990, Greenleaf, 2002)</i> • <i>Given your organisational culture, what support is possible for you to realistically attract?</i> • <i>How can you establish and sustain a leadership practice and/ or practice management support group in your organisation/group/practice group [community of practice]?</i> • <i>Are there different kinds of support required?</i>

Table 2 Facilitate Co-operative Reflection Table 37 from Hann (2007)



5 Stakeholders and Dominant Players

When Greaves, as both a PLT practitioner and researcher, states that “Cultural and social initiatives could identify, explore, and articulate PLT practice as an emergent professional trajectory for lawyers and educators,” he is saying that it is important to recognise PLT teaching practice and pedagogy as a valuable feature of SoLT. In his view at that time [2015] this was still not the case. Note that SoLT is a term used by Greaves to differentiate Scholarship of Legal *Training* (SoLT) from Scholarship of Legal *Education* (SoLE). It is important to incorporate his term in the following discussion although for the rest of the Submission I refer to SoLE as incorporating both.

Greaves was concerned about the lack of interest and commitment from the dominant players to agree to the strategic and structural changes necessary to reposition PLT educator/trainer practitioners as a dominant player cohort in influencing and contributing to better practice in PLT. He stated’ “I contend that political, regulatory, and operational decisions about future teaching and learning in PLT will be ill informed unless SoTL in PLT is properly supported, resourced, and energetically pursued to overcome the doxa of reproduction, to raise the status of PLT practice, and improve the visibility and influence of scholarship of teaching and learning in PLT”.⁴⁷ Here Stages 2 and 3 encounter the dominance of “disciplinarity” (Wickham, 1992 p.11) Stage 1 in setting the agenda for legal education and thereby also the strategic and structural priorities.

Greaves chose four critical questions to study individual and organisational dimensions of SoLT.

1. What are PLT practitioners’ interests to engage with SoTL?
2. What are their capabilities to do so?
3. What symbolic support do PLT practitioners’ organisations give to PLT practitioners’ engagement with SoTL?
4. What resources do the organisations allocate to SoTL?

Conceptualising the dominant PLT players wanting to control PLT as being the judiciary, legislature, profession, and academia, Greaves (2015) perceives them as jostling for pre-eminence. Table 3 below, *Dominant 4 PLT Players*, expands on Greaves by exploring the implications of this ‘dominance’ behaviour as it operates across all three stages including:

- the cultural change required to reconceptualise and operationalise PLT legal education
- the strategy to be adopted in the Review of the Competencies
- the requirement for an uplift in knowledge in the essential educational theory and practice areas including clinical legal education, ‘Learning At Work’ theory, ‘Holistic Competence’ and ‘Legal Working Culture’
- the means by which effective brokering occurs and operates across the dominant interests including those which thus far are given inadequate attention.



Player	Interest (Greaves)	Critique
Profession	‘Vocationalised’ approach to legal education directed to the production of “work-ready lawyers” (Tang, 2012)	PLT educators and trainers are often practitioners choosing an alternative career. Increasingly employed on a fixed term <i>teaching only</i> contract. Motivation and especially opportunity to undertake research into teaching and learning and programme implementation limited. Scholarship impossible unless self-funded. No institutional support or legal academy recognition.
Legislature, State and Federal	Constrains professional autonomy, statutory regulation of legal education and practice, Focus on consumer protections for lawyers’ clients and law students (Hulls, 2008)	Focus squarely on regulatory and social justice issues. A failure to consider <i>Justice for Lawyers Education</i> and ongoing Education post degree as a priority and contributor to a healthy legal culture, improved quality in legal services and enhanced wellbeing for lawyers.
Judiciary	The doctrine of precedent, the expectation of lawyers’ paramount obligations to the court and rule of law. Competent compliant practice.	Stands apart from legal education. Little interest in working with CLE2 (which it does not formally recognise) to develop an epistemology of practice for lawyers throughout their legal careers. This would include a graduated continuum of professional learning through to mastery level, see Hann (2007) and thereby contribute to Stage 2.
Academia	Maintains its intellectual elitism and sole right to critique. Has shown no interest in Workplace Learning Theory or building an epistemology of practice -considered to be too vocational?	Greater scope for ‘skills’ development to be shifted into the program of academic law studies and minimise the need for those skills to be taught separately and independently in a PLT course. Constraints in embedding practical skills training in foundational legal education with a lack of experienced legal practitioners on law school faculties.

Table 1 Dominant 4 PLT Players



6 Is Continuing Legal Education Invited to the PLT Competency Party?



Figure 4 Is Continuing Legal Education Invited to the Party?

6.1 CLE 2 Contribution of Scholarship of Legal Education to the Legal Academy.

How can we effectively design, deliver and review Practical Legal Training (PLT) or Stage 1 if we do not look towards a lawyer's legal career in Stage 3? Presently the body of knowledge in SoLE does not have a robust educational foundation to underpin the competency framework of *what lawyers learn at work*. This is because there has been an inadequate attention “given to the place of legal educational research” which Castan, Galloway and Steel (2020) propose “might be regarded as an interdisciplinary contribution to legal research.”⁴⁸

The authors aim to “develop the first iteration of a taxonomy designed to make explicit the methods, approaches, purposes, and subjects of the scholarship of legal education as a reflection of the intersection of scholars’ discipline practices *in both law and education*, as both teachers and as researchers, as both lawyers and academics”. In their view this proposed approach, to describe and theorise legal education research by way of a taxonomy would enable them to “seek to substantiate the contribution of scholarship of legal education to the legal academy, and to law and legal practice, within an explicit research framework”. First let us return to the desert. The way in which we understand legal research has implications for scholars of



legal education. Legal research was long seen as fundamentally about explication of legal doctrine and legal theory, and very strongly practitioner oriented. (Castan, 2020, p 7):

“The characterisation of legal education research may appear a somewhat abstract problem, however it has important implications for the development of legal education, and thus, we argue, for the development of the practice of law. To the extent that discipline frameworks reject scholarship in legal education as ‘outsider’ research, law schools will not value it and legal academics will not research in legal education”. (Castan p.8)

It is not the case that law schools can continue to reject “outsider research” because just as there is regulation of legal education by the law admission bodies there is also regulation of law faculties and PLT Providers by the Higher Education regulator, TEQSA.

Finding the Way Out of The Desert

“The implementation of the CPD scheme has been satisfactory but there is inadequate research of the kind envisaged by Watterson et al. (2006) and Hann & Mann (2004) to know how lawyers learn at work and how they are supported or not by their legal organisations and the profession. A search party is needed to bring CLE1 and CLE2 back from the desert.” (Hann, 2007,p.29)

At the time my writing about this inadequate research into lawyers Learning At Work TEQSA, the National Higher Education Regulator, had not been established. There are National Registration and Quality standards in Higher Education administered by TEQSA. In 2025 the obligations for higher education providers to obtain and rely upon “authoritative research” when planning and delivering WIL units is much clearer. The HES (Higher Education Standards) Framework requires TEQSA (Tertiary Education Quality Standards Agency) to consider the following aspects of a provider’s WIL arrangements:

- WIL is well-conceived in design and rationale, educationally sound and its implementation is quality assured and monitored by the provider, irrespective of approach. ***Ideally this should be supported by authoritative educational research and ongoing WIL-related scholarship by staff involved in planning and delivering WIL units***⁴⁹

In 2009 Siems employing a similar metaphor to Hann (2007) wrote an article ‘*The Taxonomy of Interdisciplinary Legal Research: Finding The Way Out of the Desert*’.⁵⁰ Here he asks the question; “why do we need other disciplines in order to answer these specific or general legal questions? Why is it not enough to do traditional legal research, in particular doctrinal research ?”

Sims (2009: 6-7) draws on Balkin (1996:957) to provide the following answers:

- Traditional methods are often regarded as useful but too narrow
- Doctrinalism is ‘rigid, dogmatic, formalistic, and close-minded’
 - It encourages “intellectual tunnel-vision” through an unhealthy preoccupation with technicalities
 - Places “an intellectual strait-jacket on understandings of law and society”
 - Impoverishes the questioning spirit of both law student and teacher.
- Conversely, interdisciplinary research can lead to a more informed and more balanced judgment (Hesselink 2009: 32)
 - If disciplinarity is authoritarian, then perhaps interdisciplinarity is “rebellious and a form of intellectual martyrdom, a self-sacrifice against mindless authority”



- It offers a vision of independence of mind and spirit.

Concluding this section Siems envisages the situation where a lawyer has to “acquire some knowledge about other academic fields and needs to be willing to engage in joint work with colleagues from other disciplines” noting that this “may be a challenge for academic lawyers who identify themselves more with the legal profession than with their colleagues in other departments (Posner 2002: 1315–26)”. In Greaves and my case not only were we lawyers, with current or previous practising certificates we were also lawyers who stepped up to be accountable to the academic rigours of another academic discipline, namely education. It appears that the legal academy

6.2 CLE2 Serves up Education

CLE1 and CLE2 Learning At Work scholars can lead the conversation to “Reframe PLT” and “Reimagine the Regulation [I add Learning] of LE & T” and:

- mediate the competing interests in the post admission discourse
- hold the interests of the individual lawyer (including Justice for Lawyers Education) in mind.
- call for a reimagining of LE & T underpinned by Learning At Work theory
- recognise “better practice” post admission
- curate work competencies from awareness to advanced mastery level
- construct the continuum which spans Stages 1 through to 3.

According to Kift and Nankano (2021) *professional renewal is a useful notion when considering the educational implications of the PLT review* and the importance of ‘professional’ leadership work and learning for both lawyers and educational practitioners. This view is supported by Leering (2023), Greaves (2015) and Hann (2007)⁵¹ who have all contributed by completing PhD research. to inform the theoretical and practical education components necessary to equip the legal educators and ‘trainers’ with “authoritative research.” A mindset is required to value this empirical work which is now fundamental to progressing the National Review.

Applying the registration and quality standards of Higher Education CLE2 is a core component and should therefore be an essential feature of the current National Competency development framework, including PLT.

This is why it is important to understand that employing a CLE2 education perspective, that not only incorporates CPD and Continuing Judicial Education (CJE), but also Learning At Work theory is essential. As a CLE2 educator/facilitator I utilised PhD rigour to curate a practitioner led contribution to Learning At Work (LAW) Theory when I designed and delivered ‘The Emerging Leaders 6 Month Program’ for McPherson Kelly. .

Yet by 2025 even the word ‘education’ has been excised from Stage 3 except in Judicial Education which, in educational terms, is a sub-set of CLE2. Importantly by sidelining CLE2 the ‘dominant players’ of PLT and the legal sector in general, suppress innovative educational leadership and maintain the current status quo. Note that in 2004, for instance, several judicial educators attended the CLEAA Conference in Hobart.

The HES (Higher Education Standards) Framework requires TEQSA (Tertiary Education Quality Standards Agency) to consider the following aspects of a provider’s WIL arrangements:



- WIL is well-conceived in design and rationale, educationally sound and its implementation is quality assured and monitored by the provider, irrespective of approach. ***Ideally this should be supported by authoritative educational research and ongoing WIL-related scholarship by staff involved in planning and delivering WIL units***⁵²

How can we effectively design, deliver and review Practical Legal Training (PLT) if we do not look towards a PLT participant's legal career in Stage 3? Presently the body of knowledge in SoLE does not have a robust educational foundation to underpin the competency framework of *what lawyers learn at work*.

Kift and Nakano (2021) refer to the pragmatic response by the previous Chair of LACC, Emeritus Professor Sandy Clark who said in his response to the FLIP [New South Wales Law Society's Future of Law and Innovation in the Profession (FLIP) Commission of Inquiry]:

it is: ... unrealistic to assume that law schools or PLT providers can readily include all of these proposed new requirements [as recommended by the FLIP Commission] in their existing programs. Rather, we need to re-conceive legal education as a continuum and *allocate responsibilities for sequential components to other elements of the profession*, after law schools and PLT providers have made their initial threshold contributions. (Kift and Nakano 2021 p.16)

Let us unpack Clark's proposal:

- to re-conceive legal education as a continuum
- that law schools and PLT providers make their initial threshold contributions (Stages 1 and 2)
- then responsibilities be allocated for sequential components to other elements of the profession (Stage 3). Note this should involve CLE2 although Clark does not expressly say so.

6.3 Critical Reflective Questions

1 Who are these "other elements of the profession"?

#2 Who is in charge of the allocating?

#3 Does Clark anticipate that CLE2 has responsibilities in this continuum?

#4 Assuming that CLE2 does have a role, where is the educational scholarship to inform its share of the continuum responsibility?

#5 How does Judicial education fit?

⁵³#6 What is the role of practice-based empirical research to inform the legal education continuum once lawyers are admitted to practice and working?

#7 If there is such a role who is going to fund it?

It is beyond the scope of this submission to address these questions other than to note that the "other elements of the profession" have been reluctant to permit Learning At Work experts into the fold presumably because this is interdisciplinary. Other than receiving a HECS scholarship I self-funded the only completed PhD empirical research into informing an epistemology and



pedagogy for understanding lawyers professional and workplace learning, what I term Learning At Work. This is not an adequate approach and arguably does not meet the TEQSA Standards



Part B Pedagogical and Epistemological Issues

“The time for a rethink of the pre-admission training sector in the Australian legal profession, including its conceptual underpinnings, *is overdue*. The College has consistently supported and promoted this position to all sector stakeholders and authorities for *many years now*. Therefore, the LPAB survey provides *support to a long-held College position* and the organisation welcomes it.” ⁵⁴ College of Law

1 Let’s talk Epistemology without Scavenging

Post-degree legal education is falling behind other professional groups in sponsoring empirical research. Blasi (1995) is correct when he states that this is because lawyers are basically “scavengers” who scout around to find a workable theory from another discipline. This will no longer suffice. ⁵⁵

It is time to build our profession’s education theory of what and how lawyers learn at work (in practice) once they have the theoretical, propositional and doctrinal knowledge on board, namely Stage 1. This LAW theory will be relevant in Stage 1 also, especially in Clinical Legal Education (CLE1).

Understanding how lawyers achieve “better practice” informs a legal [education] epistemology of practice. We will no longer have to scavenge from mainstream legal education and theory without the underpinning education foundations. Here SoLE is missing in action.

An epistemology is a theory of knowledge. In this case we need a theory incorporating theoretical legal knowledge and practical wisdom (phronesis). This constitutes an epistemology of Learning At Work (practice).

Epistemology of Learning At Work (practice).

Stage 1	Theoretical
Stage 2	Practice
Stage 3	Practice is Work Is Learning: from Awareness to Mastery Continuum

Underpinning this foundational work is a Leadership and Culture framework which facilitates a focus on the beliefs, values and behaviours that foster Learning At Work for lawyers. The ‘Legal Working Culture’ model with its professional and organisational leadership components provides a useful blueprint.

1.1 Complex Process of Mediation to Build a LE&T Continuum

This foundational education work needs to be prioritised before a lifelong or continuing competency continuum is produced or else we will repeat our disjointed and poorly theorised educational work. There is essential transformational leadership required to broker across the competing PTL and SoLE stakeholders and to also to discover a means to *critique, interpret and innovate*.



We must first create a common language to describe the breadth and depth of legal work and learning across all 3 stages. Therefore, a critical reflective pedagogical approach is necessary to improve our legal education theorising. This includes embracing learning models such as LAW theory that empower learners and educators.

Greaves (2015) and Hann (2007) both undertook their PhD research at AQF 10 in Education. Will their contributions to the building of a dedicated LE & T Continuum of Competence be mediated or simply ignored? In *New Directions for Law in Australia: Essays in Contemporary Law Reform*, edited by Ron Levy, the highly complex process of ‘mediation’ is described:

At the heart of law schools, and this is true of the earliest in 1088 at Bologna as it is of the most recently formed law school such as the University of Kioloa, lies a highly complex process of mediation. *Such mediation includes the activities of curation, of innovation and of learning knowledge, skill and value, all processes highly intertwined with each other.* We preserve the past in order to transmit it to the future. But *we also have a duty to critique, interpret and innovate*, through analysis of myriad legal cultures, their performativities and their fields and habitus. p 544⁵⁶ [emphasis added]

In addition to the question of whether the dominant players will entertain ‘newcomers’ a further question arises as to the effect that our hyper-critical legal culture has on our willingness to value innovative thinking. Greaves (2015) warns that managerialist models of change and the fixed-term employment of PLT educators often limit engagement with research and critical pedagogy. Transmission-based teaching dominates, focusing on knowledge transfer rather than holistic, reflective, and critical learning.

Shifting towards reflective and critically reflective approaches requires cultural and organisational change, equitable workload allocation, and recognition of disruptive educational scholarship. This cultural change is more pressing in CLE2.

1.1.1 A Shared Space; A Portrait of the Regulator as Collaborator

In the Legal Education and Training Review (LETR) Report 2012, (United Kingdom), the authors advocate for an approach to regulation that they call the ‘shared space’. This is defined in the report as:

the sustained development of ‘a community of educators, regulators, policymakers and professionals working in provision of legal services, drawing information from other jurisdictions, other professions and other regulators to identify best practices in [legal education] and its regulation’ (para 6.158).

The approach was outlined in more detail in Ch 3 of the LETR Literature Review, where the role that design plays in the shared space, contrasted with hierarchical regulation, and the its potential to shape regulated activity was investigated; Design can be used to enhance responsibility and accountability, and extend agency *by clearing a space in the legal hierarchy* so that self-governance is possible in ways that it would not otherwise be within communities of practice.⁵⁷



For regulators, the concept of closure is a dominant one, where the dynamic play of agents and the creative power of collaborative action are seen as a threat to the command model of regulation, which seeks the stasis of control⁵⁸.

If anything, it is arguable that our regulators, at least in Victoria are waiting for the dominant legal education players in Stages 1 and 2 to undertake the educational leadership required to address the fragmentation in our current legal education system. Such progress would be demonstrated by:

1. A new attitude to Open Education and Open Research, and the encouragement of co-production and of communities of practice across educational institutions and across branches of the profession *as was role modelled in my research in which I engaged with all branches of the legal profession to build a contiguous curriculum for leadership.*
2. A view of regulation as comprising not just quality assurance but quality enhancement, where responsibility is given to the actors in the regulated field to regulate their own behaviour according to their own aims, subject to monitoring.

1.2 Mediating Transformational/Disruptive Legal Education Scholarship

As a critical ethnographer, legal educator and leadership facilitator I employed the *Management and Leadership Frame* (Bolman/Deal Model (1991) to inform the *Co-Operative (Productive) Reflection Tool*, Table 37 in Hann (2007).

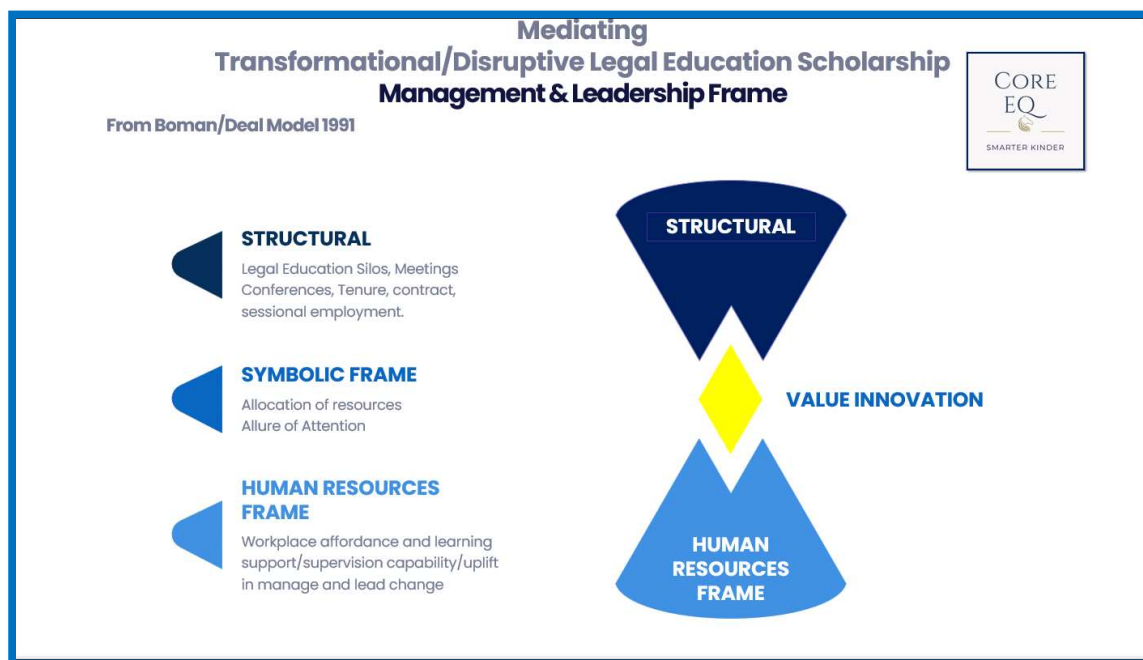


Figure 5 Mediating transformational/disruptive legal education scholarship



Let us start at the top of the legal hierarchy *structure*.

1.2.1 Symbolic Frame

Judicial Education in Australia has been a success, including in attracting a top down structural, political and symbolic education mandate. Compare this to Victorian funding for CLE2 which is channelled to the LIV and the Victorian Bar. With no criticism intended it is relevant to note that substantial funds are allocated to public legal education rather than only to the legal profession. This is a valid approach; however, it remains the case that this act is symbolic because the message given to the PLT participants and practising lawyers is that they need to fend for themselves in ongoing professional education which is after all only 10 hours per year.

Even then lawyers complain that they do not have time. They pay for their CPD themselves or via their employer. Apart from funding the resource structure for organising the delivery (mainly formal learning) CLE2 and specific projects relating to policy areas, the Legal Service Practice Board and other stakeholders expect solicitors to fund their own education.

Commentators may say this is acceptable and a good thing. Importantly there is a stark differentiation in the symbolism of the value of professional CLE2 education. Australian Judges spend an average of five days a year participating in funded judicial continuing education (JCE) each year whereas solicitors undertake 10 hours per year of basically unfunded CPD.

Even if the above is acceptable the issue remains that the predominant Learning At Work (LAW) by practising lawyers will not be captured, collated or curated by experienced legal educators and then transformed into relevant timely professional development and shared, via SoLE or other means with legal academics, PLT teachers and CLE2 facilitators.

1.2.2 Structural Frame

In the past 20 years the structural education silos have isolated CLE2 even more although the reach and expertise in Judicial education has expanded.

To reshape PLT and CLE2 requires an upskill in the leadership capabilities across our profession because post admission lawyers' professional learning (or professional development) occurs predominantly in our legal workplaces, not in our universities or PLT educational institutes.

1.2.3 Human Resources Frame

The structure and way in which legal organisations are led will have a direct impact on every lawyer's ability to Learn At Work, i.e., in practice, whether they are at entry level in the profession or have established careers.

It follows that the quality of a lawyer's Learning At Work (LAW) will likewise be directly influenced by the extent to which a particular legal organisation leads legal professional development within its own ranks, and beyond. Importantly, fairness in facilitating access to professional developmental opportunities in legal workplaces is paramount to ensure quality professional learning outcomes. A more collaborative and rigorous approach that balances the interests of the profession, academia and society is necessary.



The risk is that those practitioners who do not have ready access to suitable in-house PLT or CLE2 will have less access to high quality education. This prompts a question around whether the current structures, political frame and symbolic frame ensure **Justice for Lawyers' Education.**

2 Getting Soul into SoLE:

By 2024 International SoLE had reached the crossroads where Ostaficzuk (2024), in considering the United Kingdom LETR Report raises some implications for Mandatory Continuing Legal Education (MCLE) and asks the question; “Is MCLE Broken? Rethinking Continuing Legal Education [CLE2] for the Next Fifty years.” Ostaficzuk makes the fundamental assumption that CLE2 is only about Mandatory CLE2.

It is now the regulators who “own” MCLE or MCPD. To varying degrees they regulate Professional Development, even when it is without the ‘compulsory’ regulatory aspect. It is as if CLE2, practitioner-led learning is an optional extra, like ‘fries on the side’. Any workplace learning theorist can tell you that practitioner-led learning is the main focus.

Assuming Ostaficzuk findings are correct that MCLE is broken, how did we get to the position that the regulators now exercise the de facto educational leadership of MCLE (UK) and CPD (Australia)? This role belongs to ‘Professional Leadership’ and to a lesser extent ‘Organisational Leadership’.

The Answer

The answer is straightforward. There has been little progress internationally by legal scholars (SoLE) in developing both a Holistic Continuum of Competence of LE & T (the Continuum) and a coherent educational theory of CLE2 underpinned by Learning At Work (LAW).

Thus far the most theorised aspect of this foundational education work is in the field of reflective practice which contributes to the pedagogy of the Continuum. First, we must deal with the threshold issue of how to construct a Holistic Continuum of Competence.

2.1 A Call for Research Action But Where is the Patron?

Thus far none of our 38 Law Faculties, regulatory bodies, professional associations and a number of standalone Legal Educational Institutes have led, commissioned or sanctioned the work to foster a research culture in Stages 2 or 3. Without this, the hyper-critical legal culture will prevail and restrict any innovative educative work or transformational change initiatives.

There has been no fostering of a research culture within PLT Institutes in Australia whereby foundational PhD level work and/or practice based research is encouraged and utilised, Greaves (2015). Yet PLT Providers have at their fingertips a deep reservoir of keen, engaged, soon to be admitted to practice lawyers, motivated PLT educators and collaborative legal workplaces. Where is the evidence that this has been leveraged adequately for the benefit of law students, PLT participants, the legal industry and society?



The need for a standalone educational body that has as its core purpose, ‘better practice’ and has the independence and resourcing to achieve its aims and principles, such as that enjoyed by the Judicial Colleges, becomes apparent. Perhaps you are thinking about The Academy of Law. Hold that thought as we will return to this later.

We might conclude that there has been resistance from the main stakeholders in PLT to appreciate the value of educational research. Such a view could be bolstered if we knew that in 2007 one of the PLT Providers saw no value in backing the only successful Australian PhD research into lawyers’ Learning At Work. Furthermore, the work and recommendations by Greaves (2015), in his contribution to understanding and supporting the educative work of PLT educators, underpins the requirement that professional development opportunities be provided to both PLT educators and researchers.

The failure to support or undertake research into Stages 2 and 3 which is sponsored by the legal academy, or other legal education bodies, including the Academy of Law, is a lost opportunity to enhance the international standing of legal research in Australia.

Exploring this issue further is beyond the scope of this submission, suffice to say that this failure by stakeholders to recognise and harness previous research recommendations has no doubt contributed to the frustration of key stakeholders including PLT participants and PLT legal workplace supervisors.

2.2 Hann PhD Research

CLE2, and Legal Education generally, does not have an epistemology of practice about how lawyers learn at work, see 2.2.3.⁵⁹

Roper (1999)⁶⁰, by advancing a spirited and persuasive argument that there is a need for CLE2 providers to establish a professional learning ‘framework’ for lawyers post admission, and by recommending that this framework should incorporate the broader range of work undertaken by lawyers beyond technical legal work, and include business, management and leadership skills, is referring to the need to support ‘better practical learning’ (Beckett & Hager, 2002)⁶¹.

To do what Roper suggests is however, to engage in theorising ‘professional practice’ and this should be undertaken cautiously, (Hann, 2007, 2.2.1). In his proposal, Roper does not address the contested issues of professionalism and commercialism and how this affects lawyers’ work and learning, despite noting that law is a profession and that this has implications for CLE2. More fundamental, is that Roper overlooks the fact that ‘the traditional paradigm of the nature and reach of academic legal research needs to be challenged’ because it ‘fails to encourage high quality applied legal research that impacts on policy and practice’ (Watterson, 2006, p.3) [emphasis added].

In this context also, there is only limited and indirect empirical research into ‘exactly what values govern the mass of Western lawyers’ behaviour’ (Evans, 2001)⁶². Evans challenges the ‘implicit assumptions in the legal profession and among legal educators that are commonly held about the ‘homogeneity of so-called “good” values among lawyers and predicts that this lack of uniformity may undermine the practice of law by the profession as a whole’. He endorses the role



of CLE1 in teaching values to law students, (Hann, 2007 2.1.3.5). In a similar vein, Coysch (2005)⁶³ argues that justice education is about creating a ‘morally discerning graduate student’ and is concerned about the type of person that emerges at the end of the course, the process of the experience and the awareness they have developed.⁶⁴

My study conducted a modest but foundational examination of these issues in so far as they relate to lawyers’ leadership and management work and learning, see Hann (2007) 2.1.3.5. As a CLE2 ‘provider’ in the shape of an educational practitioner, I accepted Roper’s claim that it is important to learn more about ‘what in fact lawyers do’ but to do this requires crafting a wider canvas of theoretical considerations than Roper envisaged. Based upon my own research interests and expertise and the need identified in the literature, I chose to undertake research into how practising lawyers learn to manage and lead at work, what they learn, whether they learn together and importantly, where they learn. My study considered the practical, ethical and access issues including; professionalism, (Rhode, 2000)⁶⁵ vocationalism, (Beckett & Hager, 2002) commercialism (Uelman, 2005)⁶⁶ and ‘workplace affordances’ (Billett, 2001) and the relevant epistemological considerations of this learning.⁶⁷

2.3 SoLE Contributions

SoLE literature predominantly cites Schon 1987 when considering Stage 3 which is, in its view, regulated CPD. When scholars discuss post degree learning in general terms there is a preference to distinguish formal learning in CLE2 from reflective learning whereas, in fact, reflective learning skills are a key aspect of both formal and informal learning across all 3 stages of the Continuum especially in Stage 3. Note this is confirmed by The Higher Education Learning Framework (HELF)⁶⁸. SoLE scholars do not discuss concepts such as contiguous education and the benefits of this approach in curating lawyers’ Learning At Work post admission.

It is important that SoLE comes to terms with the implication of ‘emergent work and learning’. Orr (1996, p.10)⁶⁹ envisages that conflict may arise between the organisation and the practitioner in identifying what is valuable work and therefore learning. The organisation’s interest in prescriptive work may conflict with the value the lawyer attributes to experiential and improvised work which cannot necessarily be pre-determined or anticipated. This work is a combination of work and learning because it is through their reflective practices that lawyers learn to identify what is important learning for them. Legal educators, such as CLE1 and CLE2 providers, need to understand this contested area if they are to work effectively with stakeholders, legal organisations and their lawyers.

Lawyers also act independently of predetermined roles and plans because their work is ‘emergent’ and unfolds (Hutchins, 1991).⁷⁰ This can occur independent of formalities and pre-designed plans (Orr, 1996; Suchman, 1997). Therefore, it is not only necessary to understand the organising of lawyers’ work but to also appreciate the subtleness of the dynamics between information and representation in the situated practice of work (Osterlie & Munkvold, 2005).⁷¹ Here understanding the potential of ‘*Leaderwork*’ as conceptualised by Hann (2007) is important. As are the implications of AI. Discussion of this is beyond the scope of this paper.

Extending our consideration this also applies to work undertaken beyond the interests of the individual organisation. This relates to a lawyer’s professional self, such as undertaking public



leadership and service work, or teaching other lawyers these skills. In general, CLE2 providers operate from within the traditional model of legal education and offer formulaic legal update lectures using basic transmission pedagogy rather than giving sufficient emphasis to discovering effective ways to engage meaningfully with practising lawyers in critical reflection. . Thus far, there has not been a learning culture or regulatory requirement for developing adequate critical reflective skills in any of the 3 stages. However, note TEQSA regulations.

2.4 Clinical Legal Education CLE 1

CLE1 which operates in both Stage 1 and Stage 2, has the potential to be a key contributor. It has produced a large body of expertise, or know how, to teach law students in workplace clinics. As yet there is a gap in the academic literature discussing the LAWT implications of formal and informal learning and the desirability of building a contiguous practice informed curriculum. Absent is a robust foundational understanding of how lawyers learn at work. 'Legal Working Culture' principles can underpin this reshaping of the continuing legal education continuum of learning.⁷²

Key stakeholders of the legal profession, specifically those involved in the credentialing of law graduates to practise law, are stuck in a merry-go-round of surveys and authoritative reports in accordance with their stakeholder mandates. The result is that each independently initiates their own lines of enquiry, including surveys such as the recent and important PLT survey, without building upon the necessary conceptual education scaffolding that curates the lifelong continuum (holistic competence) of lawyers practising learning. Evident is a failure to respect other academic disciplines.

The College of Law's response to the LPAB highlights the problem when Carter states that "this responsibility [of the PLT sector] needs to be comprehended in context of *what the regulatory bodies have actually required it to do*".⁷³

It is time to lead the conversation and action towards practice-centred learning '(practitioner led learning) or else developments such as those introduced in the UK, where PLT has been abolished, will become our future. We can retain the positive aspects of PLT if we are prepared to do the work this submission and others canvass.

2.4.1 Conceptualising reflection in experience-based workplace learning.

As soon as legal education transcends the formal confines of university (and to a lesser extent PLT) a fundamental educative shift occurs –lawyers learn at work. For professionals most of their learning occurs in this swamp, that is the workplace. It follows directly that if most of lawyers' learning post admission occurs at work, that is in practice, that we best understand dare I say research, this phenomenon.

According to Fenwick workplace learning can be defined as 'expanding human possibilities for flexible and creative action in contexts of work'. Here workplace learning refers to informal learning that involves the interconnections of humans and their actions with rules, tools and texts, cultural and material environments. It includes the relations and dynamics among individual learners and learning collectives, and it is often embedded in everyday practice.



Workplace learning is also embodied, involving cognitive and affective activity. Although it can be defined as an outcome of change, Fenwick examines it as a process. Reflection, Fenwick (2000) argues, is explicitly identified as central to learning primarily in the constructivist perspective.⁷⁴

As Beckett and Hager (2002)⁷⁵ remind us, researching and theorising this field is difficult and that it is important “to ascertain just what and how workers learn from the experience of work” (Beckett & Hager, 2002). Workplace learning literature is deficient on the “development of know how in experience across the lifespan of adults.” It lacks ‘conceptualisation’ and is currently scattered in an unsystematic way in diverse literature (Beckett & Hager, 2002, p.8). They demand a more sophisticated approach: What is required ... is a sophisticated understanding of the practical accommodations available between working and learning ... because only by understanding what practical accommodations are possible can better ‘practical work’ and better practical learning be identified (2002, p. 8). Despite developments in this field, elsewhere there has been no systematic conceptualisation in SoLE in the past 20 years. It seems that Learning At Work theory is one step too far for SoLE.

CLE, MCLE, CPD which, have been conflated in SoLE are not describing the same aspect or the same educational concept. It is intriguing that lawyers, who dedicate their professional careers to crafting legal arguments and documents in which use of correct terminology is crucial, are so ‘unknowing’ when using technical education terms.

For example, it is not appropriate to import educational terms such as Work Based Learning (WBL) without understanding the limitations. Symes & McIntyre (2000)⁷⁶ suggest that WBL has eliminated the inequalities created by formal education. This is not accurate because different kinds of inequality are possible with WBL, such as unequal access to workplaces and within a workplace, affordance issues. Utility and working knowledge do not necessarily lead to more inclusive knowledge.

Ostaficzuk, a founder of CLE.accreditation.com adopts the Blasi approach of employing educational terms without undertaking the theoretical work required to develop an educational theory of CLE2.

We find him presenting a “Pooling of Ideas: Changing Approaches to Continuing Legal Education” after conducting what is, within the legal paradigm, a comfortable task of conducting a “comparative study of current rules and regulations on mandatory continuing legal education”. This approach prompts the question; is there a case for moving away from regulations based MCLE which is essentially compliance monitoring, towards a reflective approach focussed on measuring the results sought? Surely as CLE educators we have progressed our thinking past this question by 2025.

Then Ostaficzuk presents 3 “approaches” without any reference to relevant education terms apart from ‘reflective’:

- Prescriptive (compliance)
- Autonomist (onus on the professional)
- Reflective (cyclical and successive).



However, he reaches a useful conclusion because, after considering his four studies, he concludes that what they “ have in common is that they highlight the main limitations of the prescriptive approach to continuing training. They call, with a different tone, for a rethinking of this prescriptive approach and a rebalancing, inspired by innovations put forward by certain local and international regulatory bodies, toward a different framework and greater autonomy for professionals.” In this respect we agree, to the extent that Ostaficzuk supports self-directed learning.

3 Education Foundations

3.1 Education and Learning Concepts

3.1.1 Learning Terms

This section will outline the ‘6 learning terms’ and then present a diagram depicting these. They underpin an ‘holistic competence framework’ or continuing continuum of LE & T. They are:

Formal Since formal learning is generally specified it can be used by those responsible for regulating education (State or admission bodies) to standardise learning practices across different locations in a system, Johnson and Majewska (2002)⁷⁷ It lacks the ability to describe ‘what is going on’. Some learners, especially practising professions, will be resistant to formal instruction.

Informal Learning The main features of informal learning are that it is:

- Organic/holistic
- Contextual
- Activity and experience based
- Arising in situations where learning is not the main aim
- Activated by individual learners rather than by teachers/trainers
- Often collaborative and collegial. (Beckett & Hager, 2002, p.158).

Non-formal learning “any organized, systematic, educational activity carried on outside the framework of the formal system to provide selected types of learning to particular subgroups” (Coombs & Ahmed, 1974, p.8).⁷⁸

Work-based Learning (WBL) Learning that involves work-place knowledge and skills either in the university or in the workplace that is normally with the formal involvement of the employer. A pragmatic approach employed to meet a need to develop work skills of organisational workers. Their learning is based at work. Sometimes assumes that the learner is developing certain key skills such as interpersonal, information handling, self-application and personal development. Can involve work placement, internship or externship, (Hann, 2007, 2.1.2.3).

Work-integrated Learning (WIL) Work-integrated (WIL) and work-based learning are umbrella terms to describe the range of educational programs that integrate formal learning and workplace experience. They are sometimes termed *work-related learning*, (Fergusson and van der Laan 2021b). Examples are work based projects, unpaid work, apprenticeships, practice firms and co-operatives education programs. Also called ‘co-operative education’ (Dressler &



Keeling, 2004),⁷⁹ (Hann, 2007, 2.1.2.3). Can be contiguous education if it involves informal learning and reflective practice.

WIL is often linked to professional practice because it envisages that students will be exposed to the complexity and context of professional practice. It can occur; on campus in simulated work settings, within 'work experience' and in community based learning activity. CLE1 fits this definition.

Workplace Learning (WPL) Manifest when there is an appreciation and understanding about the informal nature of much of the important learning that occurs for practitioners at work. Unites learning with work. To find out about workplace learning an educator or researcher must understand its connection to a practitioner's reflection on action and their informal learning. The educative interest is to learn to become a connoisseur of this artistry. Having done this it is possible to explore ways with the practitioner that they might enhance their capacity to learn from their experiences and share this working knowledge with fellow practitioners. Here there is a connection to the notion of co-operative learning but in this case, it is initiated by the practitioner not the educator.

Work and Learning

For at least 30 years, work environments have been identified as fertile settings of learning. As a result, 'learning' and its relationship to education and research has been reframed. Work in the sense of providing locations for learning, 'can be any form of work or purposive activity that gives rise to learning' (Lester and Costley 2010, 563)⁸⁰. Such associations between work environments, work as practice, learning, higher education, and research have been acknowledged as distinct pedagogies. The most common being Work-Based Learning (WBL), Workplace Learning (WPL), Work-Integrated Learning (WIL), and Work-Applied Management (WAM). Collectively, these have been classified under umbrella terms like 'Work-Related Learning' and 'Work-Oriented Learning' (Fergusson and van der Laan 2021b).⁸¹

Importantly WBL has been described as "a pedagogy in which mid-career and senior professionals use their work practice and context as fundamental components of learning by participating in higher education programmes deliberately designed to integrate learning and practice, resulting in a higher degree award," (Baker and Peach 2017)⁸².

The PLT courses fit this categorisation although the PLT participants are entry level lawyers. It is noted that some scholars propose that there could be a more stepped approach to law graduates satisfying the requirements of admission to practice with more structured WBL over a period of say 2 years, McMillan and Lilley (2024).⁸³ According to Costley and Lester (2012)p.25984 WBL 'sits in the university as a transdisciplinary field in its own right, rather than as a mode of learning within a specific area of study'.

Supervised Legal Training

'WBL programmes in[higher education] span a broad spectrum of activities, but they are united by combining practical and theoretical learning as well as enabling learning at or through work to contribute directly to academic recognition'. Stan Lester and Carol Costley (cited by Lester and Crawford-Lee 2022, 787)⁸⁵



The supervising lawyer has a coaching role to help the Stage 2 participant “develop essential legal skills” and ensure work meets the competency standards for entry-level lawyers required by the admission board:

- Duration is 12 months
- There is no qualification without the participant completing the additional core competencies with the formal PLT Provider
- Delivery is at participant’s legal workplace
- No course fees
- Support is led by supervisor
- Self-directed on the job.

This optional approach, offered by the College of Law in Stage 2 is described as “self-directed” yet supervised by the lawyer employer supervisor. It is important to note that well accepted education terms are being used in a novel and inconsistent way to established education terminology. It is not correct to describe this option as self-directed because the participant is required to satisfy the assessor (The College of Law), meet a formal set of competencies and be supervised by the Workplace solicitor.

Questions which arise include:

1. Does this supervisor hold any qualifications in assessment and training or workplace coaching?
2. Does the supervisor delegate assessment to an HR representative within the firm?
3. How does the PLT Provider satisfy itself as to the validity of the assessment process?
4. How is the competency assessment moderated?

The authors also propose that ‘work-based learning’ can be defined as “all and any learning that is situated in the workplace or arises directly out of workplace concerns”. Lester and Crawford–Lee (2022, 787).⁸⁶ It is beyond the scope of this submission to discuss current theoretical developments which are still at the embryonic proto-theoretical i.e. emergent stage.

Recently four generic spheres of learning have been identified, namely : autodidactic learning; informal learning, nonformal learning, and formal learning. However, this proto-theoretical model does not take account of one of the key findings of Hann (2007) namely that of ‘Leaderwork’ and the role of lawyer as ‘Leaderworker’. This aspect is important when understanding how it is possible to curate the working knowledge of lawyers and thus build holistic competency frameworks when much of the important learning is informal.

This proposed proto-theoretical model of overlapping learning types has not been tested in the context of PLT and although it can assist the reader to appreciate the various aspects of ‘work-related learning’ it does not adequately deal with the contested workplace learning issue of whose interest is being served.⁸⁷ We must do this work ourselves.

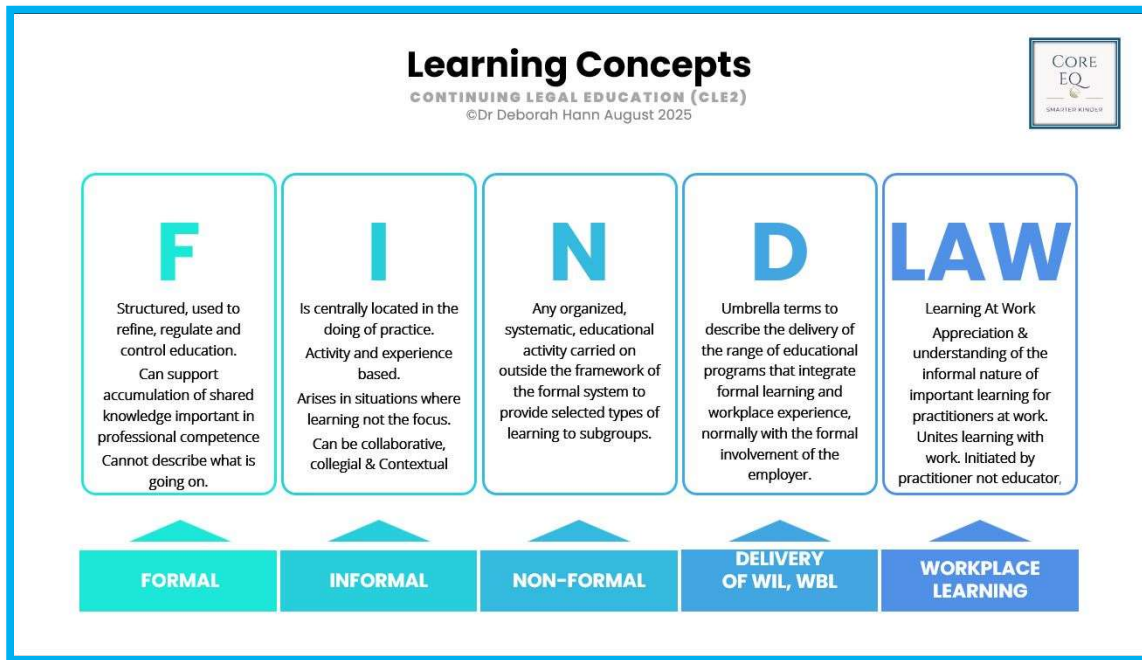


Figure 6 CLE Learning Concepts

3.1.2 Educational Terms

Contiguous Education

A term used to describe an educative method which blends formal and informal learning. It therefore incorporates prescriptive training components together with an emergent syllabus.

Practice

Practice has been defined as the successful performance of work, whether paid or unpaid (Beckett & Hager, 2002, p.92). People engage in actions whose meanings they negotiate with one another. In this sense practice does not reside in books or in tools, though it may involve them, but rather it resides in a community of people and the relations of mutual engagement by which they do whatever they do (Wenger, 1998, p.105).⁸⁸

Supervised Legal Training

A workplace-based pathway to becoming a lawyer. Instead of completing a PLT course a person spends 12 months working full-time in an approved legal practice getting “hands on experience under the guidance of a qualified lawyer.”⁸⁹ They must also complete some compulsory units.

Supra-work

Lawyers are required to combine their professional expertise with management and leadership work which is often not part of their formal role and therefore constitutes ‘supra-work’. There are two important aspects to this; this valued work (by the lawyer) is often not part of a formal



management role and thus, instead, constitutes an unrecognised yet vital part of their daily work. In addition, both the lawyer's efforts to undertake this work and the reflective practice required to perform it well (better practice), remain invisible to the legal organisation. Leaderwork is an example of supra-work.

Traditional Model of Legal Education

Constituted by an underlying teacher-focus and individualistic culture with an emphasis on the 'transmission of knowledge about legal rules and doctrine' (Keyes & Johnstone 2004, p.543).⁹⁰

Workplace Learning and Performance

People use a variety of terms to refer to similar work, namely:

- Training and Development (skills; training and longer-term development).
- Human Resource Development (organised learning experience, conducted in a definite time period to increase job performance).
- Learning and Development (ongoing process of developing knowledge and skills instead of one time training).
- Work and Learning (by which the learning benefits accrue both to the employer and to the worker and includes improving performance, enhanced career development). (Carliner, S., et al., 2006, p. 10-11).⁹¹

4 Competency-Based Frameworks and Assessment

4.1 Learning At Work (LAW) is not a Junk Category of Knowledge

"As educators shift their attention to the world of adults' lifelong learning, especially as shown in workplace experiences, it is little wonder that daily life - a *"junk" category of knowledge for the past 2000 years of Western civilisation* - is found to provide exceptionally rich opportunities for truly educative experiences. Holistic competencies are one way to harness these." Beckett (2008)⁹² [emphasis added]

This submission cannot hope to traverse all of the issues prevalent in the provision of quality education in Stages 2 and 3 relevant to Learning At Work Theory and reflective practice. However, one key issue can be addressed by asking the question:

Is the problem with legal education in Australia that SoLE is seduced into believing that Learning At Work' is a "junk category of knowledge"?

LE & T must transcend the current view that Learning At Work is a "junk category" and appreciate the standpoint, as Beckett suggests, that it is actually a rich repository of learning. We already have an unfinished roadmap to follow because of the successful establishment of *Judicial Colleges* in Australia⁹³ and Hann (2007).



In an early article on professional learning, Houle, Cyphert and Boggs (1987)⁹⁴ explain the progressive ‘professional learning’ phases for professionals. A legal professional career will usually progress as follows:

- satisfying the initial entry requirements, PLT
- maintaining professional skills and competence, CPD and CLE2
- developing membership [contribution] of the profession (CLE2).⁹⁵

The authors suggest that the specific characteristic– the possession of a ‘specialised body of knowledge and skills’ requires both initial *and* continuing [legal] education (Houle, Cyphert and Boggs, 1987, p87)⁹⁶. Importantly this learning progresses to being predominantly practitioner-led but not at the initial stages. When a PTL participant is employed or undertaking ‘work experience’ in a legal organisation their opportunities to learn rely on suitable competency development and articulated learning outcomes, sound training and assessment strategies and supervisor coaching skills within the workplace. These must be contextualised to each specific workplace. Learning outcomes can be diminished, or enhanced, by organisational priorities, capabilities and interests.

Here the provision of legal education, learning and training must aim for a level playing field as Carter suggests this is one of the key attributes of the existing PTL arrangements. It is important for legal educators, facilitators and trainers to have the required skills, strategies and capacities to mediate this with the formal legal organisational leadership structure and culture, to ensure that the endorsed competencies are able to be demonstrated in a specific legal workplace. On occasions tough feedback to legal organisations is necessary. Will our hyper-critical culture, evident in many workplaces, permit the doing of this work and learning, namely Learning At Work (LAW). In educational terms LAW should underpin the existing and any revised competencies. Here all 3 stages of legal education must be prepared to ‘scrutinise’ the prevailing culture and claim their voices.

4.2 The Competencies

We begin with the view of an international educational expert on professional and workplace learning. Beckett reminds us that “rather than regarding competence as something individuals or organisations have, it might be better to regard it as something they do.” (Beckett, 2008 p.23).

In its submission to the PLT Review the College of Law states that it delivers a product that meets the existing national competencies. As the largest provider of entry-level basic training, the College struggles to achieve a single threshold standard of baseline competence across all 100 Competencies prescribed by the Rules and its own curriculum.

The College agrees it is time for a rethink of the prescribed Competencies and its role in providing basic, generalist training to prepare law graduates to commence work in supervised legal practice as required by the State regulatory bodies. It acknowledges that:

- It is the largest provider and has a leadership role in the sector
- It is time to rethink competencies
- The findings from the survey need to be weighed against other evidence such as detailed student evaluation data gathered at institutional level, especially when benchmarked to targets and



comparative data, including comparative data drawn from Commonwealth sources, notably the QILT (suite of surveys for higher education that cover the student life cycle from commencement of employment)⁹⁷.

- The sector is co-regulated and the Commonwealth has an interest in this matter given the high levels of FEE-HELP student support involved in maintaining the PLT regime.
- It understands its role is to achieve a standard baseline of competence for PLT participants
- Its baseline includes the 100 competencies and its own additional curriculum
- It is probable that the survey questions probe knowledge and skills different in their detail from those prescribed in the APLEC/LACC Competencies and the Uniform National Admission Rule. [These survey results sit within a larger piece of work being undertaken at the National level]
- It is important for all stakeholders to support the next stages of review including the national review process being led by the Admissions Committee of the Legal Services Council (LSC) and Law Admissions Consultative Committee (LACC)
- Beyond achieving baseline competence, in prescribed generalist fields, graduates leave the PLT course with “plural knowledge and skillsets as relevant to their career ambitions and levels of effort in that direction. It is not surprising that individual skill and knowledge sets are variable across the large sample, according to personal career preferences and personal contexts.”

Conceding that competency frameworks developed for admission to legal practice do not serve entirely the same purpose as vocational competencies developed in Australia since the 1990s nevertheless on any view the APLEC competencies are not best practice in educational terms. Notably, neither the Law Admissions Consultative Committee (LACC) competencies nor the ‘Priestly 11’ competencies provide a “common and transferable language for describing professional performance and explaining the abilities and attributes expected of specific types of professionals at different stages of their careers.” The Australian Legal Education standards have been jointly developed by the Australasian Practical Legal Education Council (APLEC) and LACC and seek to describe the observable performance required of entry-level lawyers at the point of admission to the legal profession in key areas relating to legal practice. Following this work APLEC developed Accreditation Standards for PLT Courses.

The Professional Standards Councils which are the independent statutory bodies responsible for promoting professional standards and consumer protection through thought leadership and education, and the approval, monitoring and enforcing of Professional Standards Schemes⁹⁸ also notes:

However, competency frameworks have their own weaknesses, especially in cases where the established competencies **fail to articulate the actual skills and knowledge required across the profession**. This may occur because the framework neglected to include the full sweep of diverse skills required of a professional or because it has become outdated in the face of major changes to technology, education or practice,’ (Professional Standards Councils).⁹⁹

4.3 Regulating Formal Learning

4.3.1 Benefits of Formality in Education

The development of competency based legal PLT Training is two-dimensional and formulaic because it is primarily concerned to regulate the “competence”, i.e. formal learning of entry level lawyers. This approach does not foreground construction of competencies underpinned



by workplace learning theory which foregrounds practitioner-led learning and therefore includes informal learning.

PLT Stage 2 has become overloaded with stakeholder interests that are either misinformed or uninformed about the benefits of robust education theory and practice beyond formal learning. It seems that PLT practitioners almost consider regulation of competence to be akin to assessment. There are sophisticated performance and competency models of assessment that would indicate otherwise. For example, it is possible, using item response theory, to rank the difficulty of a [high level] performance criteria being assessed. In 2003 I created such an assessment tool for the Manage Occupational Health and Safety Unit of Competency at AQF 5 level.

Contemporary adult and professional learning theory will look to the workplace and work-integrated learning or work-related learning as a fundamental element in the design of Stage 2 learning at work competencies that incorporate knowledge and skills. Presently Stage 3 discourse relates predominantly to the *regulation of Stage 3 learning* rather than on how to empower, that is motivate and inspire individual lawyers to step up and build an effective learning strategy and roadmap for their ongoing professional learning.

The legal academy and other legal stakeholders have failed to navigate the cultural issues in our legal profession. This next section examines the uncoordinated and disjointed approach to coherent educational theorising of Stage 3, linking back to Stages 1 and 2, and how and why Judicial Education stands apart.

We are at a critical juncture where it is imperative that the academy and the legal profession foster a vibrant research culture and practice for both Clinical Legal Education (CLE1) and Continuing Legal Education (CLE2) both of which have not had adequate structural support. The traditional paradigm of legal research thus far does not acknowledge the imperative of researching lawyers' work and learning beyond the classroom, to the clinic and legal workplace. This may not meet the TEQSA Standards.

A pressing call to action to all legal stakeholders—including regulators, educational institutions, and the legal profession is to co-create a robust, integrated professional learning continuum underpinned by holistic competencies, that both challenges and supports lawyers throughout their careers.

This collaboration should broker across and aim to align the interests of the profession, academia, and society to enhance the quality of legal services, lifelong learning and lawyers' workplace wellbeing. Importantly it should be informed by the success of Judicial Education in Australia and internationally.

Overall, there is a failure of legal academia to facilitate a cooperative community of research practice across the 3 stages of legal education, particularly in PLT and CLE2.



5 PLT Assessment and Training Framework

The Table below provides a high level analysis of some key features of the current PLT Education Assessment and Training Framework.

PLT Current Assessment and Training Framework	Critique
The PLT Course is offered as an AQF Level 8 Graduate Diploma [TEQSA Regulatory responsibility] Option 1	Yet there is no requirement in the LACC that PLT 'trainers' hold any educational qualifications as trainers and assessors or work experience, what I call 'Learning At Work' facilitators. There is no SoLE scholarship examining whether or not the current course sits at AQF 8 level across the core units.
Yet some PLT Courses are embedded at the degree stage in law faculties. Option 2 'Supervised legal training' Option 3.	How can these 2 options both be consistent at AQF Level 8? If it can be done at Law Degree AQF Level 6 (Stage 1) then it logically follows it cannot also be delivered at AQF Level 8. It is likely that "selling" a Graduate Diploma level qualification which can be obtained within a few months is attractive. Arguably law graduates are <i>buying</i> a post graduate degree rather than gaining admission competency capability.
AQF Level requires that the graduates at this level will have advanced knowledge and skills for professional or highly skilled work and/or further learning.	Where is the assessment methodology to facilitate this? Where is the requirement that the PLT Provider has an adequate professional development program for its own people who are delivering the course? A minimum qualification would be TAE40122 Certificate IV in Training & Assessment. Hann has a PhD in this field of Learning At Work (LAW).
AQF Level inconsistencies for same competencies? Skills Graduates at this level will have advanced cognitive, technical and communication skills to select and apply methods and technologies to: ➤ analyse critically ➤ evaluate and transform information to complete a range of activities, ➤ analyse, generate and transmit solutions to complex problems ➤ transmit knowledge, skills and ideas to others.	On what basis do PLT providers establish that their PLT courses which are delivered in universities, standalone education institutes and now legal workplaces consistently apply AQF 8? Assessment at AQF 8 requires a sophisticated independent assessment strategy that incorporates evidence from a workplace. The supervisor's input should be only one of many inputs. The candidate will also need to demonstrate that they can transmit their Learning At Work to others. The workplace supervisor needs to establish their coaching facilitation credentials.
The focus in the LACC Standards is on requiring the PLT Provider to demonstrate a ' quality of workplace experience ' without reference to many of the issues one would expect of a Graduate Diploma AQF 8 level qualification. Predominantly the emphasis is on number of	The fundamental point here is that it is not 'workplace experience' which is key to competency, it is the opportunity for Learning At Work to occur. These are 2 distinct concepts which have been conflated in the LACC Standards. Workplace experience without meeting the AQF Level is not satisfactory.



PLT Current Assessment and Training Framework	Critique
days, 15 days with at least 2 “full days of workplace experience per week”.	
Supervised Legal training A workplace-based pathway to becoming a lawyer	Instead of completing a PLT Course a participant spends 12 months working full-time in an approved legal practice getting hands on experience under the guidance of a qualified lawyer. There is no other requirement apart from the supervisor being of good character.

Table 2 Critique of PLT Assessment and Training Framework

McMillan and Lilley (2024) discuss the reconsideration initiated by CALD “of the adequacy of legal education in Australia (Including both the Priestly 11 requirements and the LACC Standards in preparing law graduates for professional practice”. However, they fail to give the educational analysis provided in the above tables or to understand that, even by the 1990’s, robust and criterion referenced assessment techniques were in wide use in other industries and professions. They state:

It should be noted that the *LACC Standards* were based on principles developed in the 1990s, they were first released in 2002, and they were later revised in 2015 and 2017. Given the vast changes to the legal profession in the past 30 years, it is questionable whether competency standards first developed so long ago continue to meet the needs of the profession .¹⁰⁰

Without a theory of LAW [practice] having been settled by legal education scholarship perhaps the current practices by PLT Providers are reasonable. The following matters may call this into question:

- The independent scholarship of both Hann (Stage 3) and Greaves (Stage 2) could have contributed substantially to mediate the current disjointed LE&T
- Hann (2007) theorised Learning At Work and reflective practice for CLE2 and CLE1 and also by inference PLT.
- Greaves (2015) proposed a more robust pedagogy for PLT
- There is an inadequate uptake by the PLT Sector, which historically is also closely connected to CLE2, to value Greaves and Hann education research.
- The question arises, *what alternative initiatives did the College and other PLT providers take to keep abreast of contemporary educational knowledge and practice?*
- Given universities are now in direct competition with PLT providers, how is this moderated from a quality management standpoint in terms of consistency and validity of the educational practices?

Let us conclude this section with an excerpt from the College submission relying on the principle of equitable access to justify the current PLT methods and delivery approach. If its foundational purpose is to ‘democratise’ [access to meeting the admission requirements] then the College should have no argument with my recommendations that Justice for Lawyers’



Education requires the legal education stakeholders to step up and ensure quality education outcomes at all 3 stages of legal education:

“Whether that balance remains right for the profession of law or whether it should be adjusted in some way at this time should be an important area of enquiry for the *impending national review* and the College will support the outcomes of that review whatever they may be, bearing in mind the high importance of maintaining equitable access, given that a foundational purpose of establishing the College in the first place was to democratise.” Carter 2025.

6 Broader Education Issues

6.1 Contemporary and Coherent Reimagining of a LE&T Continuum

“In response to increasing calls for regulatory reform, a contemporary and coherent reimagining of a LE&T continuum was considered worthy of investigation. A *continuum conceptualisation* would consider the relationship between the sequential components of LE&T, across the academic and PLT phases (for pre-admission/entry-level competence) and then onto the post-admission phases of ‘newly admitted lawyer in supervised practice’ and continuing competence. Almost every recent international review, together with the CPD Review conducted in 2020 for the Victorian Legal Services Board + Commissioner, has signalled the imperative to address professional regulation in this way; *over the practitioner’s lifelong career, for more integrated, system-wide legal regulation, from pre to post admission for sustained assurance of competence.*” (Kift and Nankano 2023, p.13)

6.1.1 How Can We Reimagine the LE & T Continuum When It is Non-existent?

The maintenance of high standards of performance also require a healthy professional culture — one that values lifelong learning, takes ethical concerns seriously, and embraces a “service ideal.”¹⁰¹

How can we reimagine what does not exist? Recently SoLE commentators have invited us to reimagine our LE & T Continuum¹⁰². But there is no such continuum formulated. Legal scholars and legal stakeholders have been unable or unwilling to focus on building a lifelong learning continuum, especially one which is informed by Workplace Learning Theory. Our Australian Legal Education Sector has not valued lawyers’ lifelong learning. This is not the ‘healthy professional culture’ envisaged and gives weight to the findings of the Systems Theory of Change Project which found that, at least in Victoria, we have a “hyper-critical legal culture.”

The reasons for this are challenging to articulate because to do so places me in the role of the education change agent whose communication no one wants to recognise. My profession has shown no appetite for such feedback. Nevertheless, here it is:

- Legal education swim lanes operate in isolation and without collaboration to understand Learning At Work Theory as a core component of the LE & T continuum
- For the past 18 years there has been no collaboration between APLEC and CLE2 educators on developing a Learning At Work Theory for legal practice
- CLE2 has atrophied to become CPD despite it predating mandatory CPD
- Regulation before Education in Stage 3 [should be Education before Regulation]



- Siloing of Judicial Education from Stage 3
- Hyper-critical legal culture leading to serious implications for the health and wellbeing of practising lawyers throughout Australia despite a number of strategic initiatives to address this.

6.1.2 Justice for Lawyers' Education

When theorising a workplace learning theory for legal work and learning in legal workplaces, we also consider the impact of culture, professional and workplace, on the workplace affordances and learning opportunities available to lawyers, who, the education literature establishes will be self-directed learners post admission. Underpinning this is the belief that to achieve this uplift and “high standards of performance” a “healthy professional culture” that “values lifelong learning” is required. Yet the Systems Theory of Change for Lawyer Wellbeing Project found that our legal workplaces exhibit a “hyper-critical culture,” one which is inter alia adverse to risk taking and mistake making.

To summarise:

- Lawyers post admission learn predominantly at work in the course of the day to day
- This learning is both formal, non-formal and informal
- It is possible to construct a curriculum based on all 3 types of learning. This is called a contiguous curriculum
- The learning occurs within the role definition of the lawyer and also beyond. This supra work is performed by lawyers to meet their professional leadership initiatives
- Hann found that this supra work is performed despite the hyper critical culture in legal workplaces. When this work occurs, it is described by Hann (2007) as ‘Leaderwork’
- The quality and extent of this Learning At Work is directly affected by workplace affordance
- Adopting the Victorian Legal Services Board concept of ‘hyper-critical culture’ it is imperative that people who become change agents, that is facilitators of change within a legal organisation and beyond (professional leadership) have their contributions valued and their careers supported.

A focus on ‘Wellbeing’ as a *panacea* for solving our cultural issues, without an alternative educative strategy such as benchmarking a healthy legal culture and articulating the leadership and management capability uplift required across the profession, including at senior stakeholder level is inadequate because:

- In this context this is not possible in a toxic culture.
- There cannot be ‘Wellbeing’ without psychological safety
- It is not possible to have psychological safety in hyper-critical cultures.
- Psychological safety is a prerequisite for wellbeing
- Without transformational cultural change in Legal Education, at all 3 stages, ‘Wellbeing’ for lawyers cannot be achieved.



Psychological safety is the shared belief within a group that members can speak up even when it challenges the status quo, ask questions, admit mistakes and learn from them without being shamed or penalised, contributing to a culture of continuous improvement, and take interpersonal risks without fear of punishment, humiliation, or rejection. It creates a workplace culture where individuals feel accepted and respected, fostering trust and openness that enables learning, innovation, and high performing teams. Constructive disagreements. Not the absence of conflict.

6.2 Features of Contemporary Competency Model

6.2.1 Legal Education Learning at Work Continuum

Stage 2 and especially Stage 3 of legal education must harness the ‘*what, how and why of*’ lawyers’ work. Thus, a ‘contiguous’ education framework that incorporates graduated levels of mastery, and by its nature, is built on *codifying working knowledge* is preferable.¹⁰³ Lawyers Learning At Work thus lies at the core of any continuum of holistic competence.¹⁰⁴ For a detailed discussion on this regarding lawyers’ leadership education refer to Hann (2007) particularly Section 5.3 ‘LWC’ [*Legal Working Culture*] *Leaderwork (Review and Development) Model*, p 294.

It is beyond the scope of this paper to undertake a complete exposition. The key point is that an ‘epistemology of practice’ can inform all 3 stages of legal education and therefore the proposed continuum. It can also address performance levels of competence within a unit of competency up to mastery level. Hann (2007) provides a foundation for this to be done for Professional and Organisational Leadership competencies.¹⁰⁵

6.2.2 Holistic Competence Underpins Contiguous Curriculum

As said in Hann (2007) the “traditional paradigm of legal education does not acknowledge the imperative of researching lawyers’ work and learning beyond the classroom, to the clinic and legal workplace. The traditional paradigm of legal education does not ‘recognise, encourage or reward’ research and scholarship in either CLE1 or when it is sanctioned by the profession in CLE2 (Hann & Mann, 2004)¹⁰⁶. This lack of research means that it has been difficult to synthesise the legal education literature with what I will term Learning At Work (LAW) , which incorporates workplace learning theory, work-based learning theory and work-integrated learning theory.”

There are divergent claims here as professional, organisational and personal interests jostle for pre-eminence. In this legal drama, CLE2, in the role of advocate for continuing legal education, that is lifelong learning, is invisible and mute.

It follows that LAW Theory and practice alone is not adequate to address the learning needs of law students, graduates or professionals in the legal workplace. Without a contiguous legal professional learning continuum, underpinned by holistic competencies, we cannot build a lifelong learning model that integrates traditional legal education, CLE1 and CLE2 theory and practice.



6.2.3 Standards for PLT Workplace Experience

Here we have a most unusual situation where the state based admitting authorities have 3 discrete roles. In addition to being the admitting authority, they are ipso facto acting as an educational accreditation body and the legal stakeholder in charge. In the absence of educational leadership across the sector the regulator has become the educator regulator body.

The purpose of these LACC 'Accreditation Standards for Australian Law Courses' is to

- (a) "assist Admitting Authorities, when accrediting, monitoring or re-accrediting a PLT provider to determine whether the PLT provider will provide for a student of the PLT course to undertake appropriate workplace experience"; and
- (b) where appropriate, to provide clear, tangible guidance to PLT providers of ways in which a PLT provider can demonstrate its compliance with the Standard Australian arrangements.

The following table examines some key issues.

The Accreditation Standards for Australian Law Courses

Survey Feedback Relevant to Standards Criteria	General Comments
Feedback: "misnomer to call it workplace experience" "lacks value for money" "PLT work experience not useful." Kift and Nanako (2021) note a recently published study on the attitudes of legal practitioners indicating widespread dissatisfaction with the level of 'work-readiness' among newly admitted legal practitioners in Queensland¹⁰⁷.	It should be Learning At Work competence. 'Holistic competence'. I assessed managers in 11 units of competence in the 1990s using a sophisticated holistic assessment tool. Does any PLT provider have this in 2025? If this was happening in an industry with a training package there would be the expectation to benchmark to national standards. Why are these competencies treated differently? What national standards is APLEC benchmarking to?
Misnomer to call a PLT participant a "learner", they are an adult learner law graduate.	Adult learning principles and quality control. Survey results report "lack of academic rigour." Adult learners expect learning to be contextualised to their learning preferences and needs.
15 days minimum period of workplace training as part of a PLT course. Not appropriate to be talking about 'structured curriculum' and 'on the job learning' at AQF 8 level, (even at AQF 5 level for that matter) with such a minimum number of days.	Not adequately meeting AQF 8. Not closely regulated by LACC or TEQSA.¹⁰⁸ TEQSA seems to have a low profile in ensuring AQF8 satisfied.
2 years of supervised practice, after admission. Where a particular legal workplace cannot provide a core element of learning pursuant to the competency then alternative educational arrangements are necessary.	Requires an Holistic Competence Assessment Strategy and expertly crafted assessment tool/s with performance criteria contextualised to the legal workplace in which the participant is employed. Desirable that high level information to demonstrate compliance with AQF Level 8



Survey Feedback Relevant to Standards Criteria	General Comments
	information is shared at the sector level and not held as proprietary working knowledge of any particular legal organisation.
It is the Provider who has the obligation to satisfy the learning outcomes.	What is the assessment strategy or quality control? e.g. moderation of assessments. What is PLT actually assessing? See AQF level 8 specifications for learning level.
Experienced supervision. The College could have further emphasised the crucial roles of the PLT educator/trainer and legal workplace supervisor by noting that there is a developmental need at the whole sector level for an uplift in supervision and coaching skills of lawyers. However, it does not understand this to be its mandate.	What training or self-directed learning have the “workplace experience” supervisors undertaken? What formal coaching is offered within the Profession and SoLE for this purpose? Do law academics in Stage 1 understand this as part of their role? How can we leverage Clinical Legal Education?
Reward and recognition.	What are the reward and recognition strategies within the profession to acknowledge this contribution by supervisors. Does this count as their CPD at the very least?
Legal Organisational Culture.	My research and others also show that the culture within a law firm or other legal organisation will have a direct effect on the nature and quality of a PLT participant’s Learning At Work.

Table 5 PLT Work Experience Standards

6.3 Reflective Practice and Critical Reflection Skills

“Whilst reflective practice is a desirable capability for law graduates, legal education in Australia largely fails to incorporate and assess critical reflective skills, as it is directed at producing a technically skilled and ideologically compliant legal workforce”¹⁰⁹.

PLT teachers Susler and Babacan (2021) ¹¹⁰ propose that law schools have a positive role to play in the education of their students through instilling doctrinal knowledge, professional practice skills and critical thinking skills. Necessary also is to empower lawyers as learners and “not as only members of a profession heavy on hierarchy, power and obedience to the rule of law.” This Submission contains a Critical Reflection, *Ride the Rear*, by the author using one of the tools created for *Lawyers Practising Learning: Reshaping Continuing Legal Education*.

6.3.1 Reflective Practice

The Threshold Learning Outcomes (TLOs) for the Bachelor of Laws were developed in 2010 as part of the Learning and Teaching Academic Standards (LTAS) Project, led by Professors Sally Kift and Mark Israel.¹¹¹

6.3.1.1 The Good Practice Guide 2013



The Law Associate Deans Network commissioned The Good Practice Guide 2013 to support the implementation of Threshold Learning Outcome 6(b): Self-management, focussing particularly on reflective practice and how to teach and assess *reflective practice* skills.¹¹²

TLO 6(b): Self-management Graduates of the Bachelor of Laws will be able to: (b) reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development. This Good Practice Guide seeks to assist law schools and legal educators in implementing TLO 6(b) by:

- Providing a concise summary of existing research and good practice in the area
- Synthesising the key considerations to be considered in determining how to implement TLO 6(b)
- Identifying further work.¹¹³

Where is our SoLE research on the extent to which this is occurring?

6.3.2 Teaching Experience and Qualification

Greaves raises the thorny issue of the extent to which teachers (or trainers) in PLT have teaching training or experience and the extent of their practical current legal practice experience. This issue is also relevant when considering the qualifications and experience of academics and practitioners delivering clinical legal education (CLE1) and CLE2.

Just as my motivation in undertaking a PhD was to contribute to the scholarship of continuing legal education and to the development of CLE2 practitioners, likewise Greaves had similar aims for PLT practitioners. He provides 10 reasons why scholarship of teaching and learning is vital:

1. discover how learning is made possible
2. raise the status of teaching
3. support practitioners to teach more knowledgeably
4. enable assessment of quality of teaching
5. improve learning experiences of lawyers to be
6. professionalism conceptualised PLT practitioners dual professionalism as lawyers and educator
7. pragmatism contemplate PLT as transparent to external scrutiny and evaluation
8. 8 policy recognise existing policies of both legal and higher education regulators participate in policy making
9. recognise the legislative purpose of mandatory PLT to improve protection of lawyers clients in the administration of justice and promote quality legal services
10. self-actualization of PLT practitioners using SOTL to do PLT better rewarding efforts improving work satisfactions through a sense of doing work one is fitted for.¹¹⁴

Greaves reminds us that achieving better practice in legal education and training that meets the needs of the individual, profession and community requires a wholehearted engagement with LE &T (Stages 1, 2 and 3) theorising and practice. Importantly after Stage 1, presently the educative work is unsophisticated and inadequate except for judicial education. Even here the absence of integration into a whole of profession continuum of holistic competence and epistemology of practice is evident.

There are two important distinctions between higher education and professional training that remain and these have bearing upon the culture of PLT. The first distinction is that educators and



trainers within PLT are likely to be experienced practitioners who have entered the field of education and training as an alternative career. This career background brings with it a tendency to replicate the procedures and processes of practice in linear teacher centred face to face teaching. The second distinction is that educators and trainers within PLT are increasingly employed on a fixed term teaching only contract and as a result their motivation to undertake research into teaching and learning into participating programme implementation may at best be limited.

Although it has been argued that professional education is different to higher education the introduction of flexible pathways and work based education have left the boundaries between PLT and higher education within the university setting less distinct. This heralds the potential for an integrated approach to undergraduate and professional education. Note here the inconsistencies in AQF levels of undergraduate PLT (AQF 6) and post-graduate PLT (AQF 8) and the relevance of adult education and training education and regulation.

6.3.3 Instructive approaches to teaching and learning

Traditional competency based learning in PLT infers a preference for transmission based learning and assumes that knowledge and skills can be reduced to their component parts and then taught by formal instruction to participants.

A reflective sustainable and holistic pedagogical paradigm would require an inclusive approach addressing the needs of all stakeholders and a culture of critical reflective practice from all PLT providers including universities.

6.4 Theorising Practice and Reflective Practice

Practice has been defined as the successful performance of work, whether paid or unpaid (Beckett & Hager, 2002, p.92). Reflection on practice involves the practitioner spending time, during and after their work experience to think about what happened and what it means in terms of 'getting better'¹¹⁵ The number notations in the following refer to the author's PhD sections (Hann, 2007, 2.1.3).¹¹⁶

'Better practice' occurs when a 'master practitioner' unites their learning with their work by integrating the cognitive, psychomotor, social and affective aspects. They can make this learning explicit, to themselves and to others, and thus build their repertoire of working knowledge. This know-how is 'purposeful practice' when people intend to make a difference in what they are doing at work (p.37), (2.2.2).

Daley asserts that there is an 'inadequate epistemology' about professional learning when professionals, including lawyers, are 'integrated into organizations' (Daley, 2000, p.7)¹¹⁷. This point is reiterated by Abner (2004) when discussing the need for "disciplined inquiry rather than storytelling or musing" in the professional learning literature. In contrast to the body of literature on post-graduate learning in the health care professions, the process of learning to become a lawyer after law school remains predominantly unexplored in the legal education literature.



The body of literature on learning after law school can best be described as incomplete and fragmented (Abner, 2004, p.2)¹¹⁸. There has been some recent international research about lawyers' professional learning at work from beyond the legal education literature. Gold et al (2004), researched lawyers' professional learning at work and found that it incorporated informal learning although it did not constitute Continuing Professional Development (CPD) which to date has been viewed primarily as individualised learning disembodied from the workplace and practice of the lawyer (Gold et al., 2004, p.1). CLE2 educationalists have developed effective teaching strategies to teach reflective skills to law students, (2.1.3.1). These include educational models of reflection to develop legal skills. Beyond these skills CLE1 educators have raised the importance of incorporating 'cultural awareness' about the conduct and values of the legal profession (Evans, 2001, Coysh, 2005), (2.1.3.2) and the relevance of emotional intelligence (James, 2006) (2.1.3.3).

These Stage Two developments in PLT could be extended into Stage Three to enhance lawyers' reflective practice skills, including how to embrace 'cultural awareness' about how they work and learn together, as well as learning to be critically reflective about organisational culture. A similar approach can facilitate the discussion of the educational methods employed by CLE1 to teach reflective skills.

In 'Making Sense of Law Firms, Strategy, Structure and Ownership' (1997)¹¹⁹ Mayson outlined some of the fundamental challenges for lawyers' Learning At Work when he described the prevailing "ethos of training in law firms is on the-job development. And 'this means learning by experience, learning from experience, and learning through experience'" (Mayson, 1977, p.383), (2.3.3).

Given the importance of reflection in this kind of learning, Mayson considers that lawyers are seriously disadvantaged because what is valued in a law firm is doing, not questioning: Learning by, from and through experience requires reflection. This requires a critical look at the 'what and why' of practice. Law schools should have taught the skills of questioning and thinking critically. But practising lawyers are doers; in a law firm it is the doing that is valued, not questioning. Mayson continues:

"The pressure on a new lawyer in a firm is to conform, not to question or examine critically. Indeed, those that do question are regarded as subversive and out of place. There thus begins a cycle of doing that which reinforces existing structures and methods. This is the very antithesis of change and can therefore make the process of change difficult in a professional environment (Mayson, 1997, p.383)". [emphasis in original]

This pressure on the fresh law graduate to conform and therefore not to reflect or question is not only, as Mayson suggests, the antithesis of change, but it is also the **antithesis of how adults learn at work, by their reflective practices**. Upon conducting the study and therefore specifying lawyers' workplace learning and work more explicitly, Hann (2007) presented a profession-specific educative model that specified 'better practical learning' (Beckett & Hager, 2002). Adopting a democratic standpoint, it will also be important to consider what changes, if any are needed in legal workplaces to achieve this.



6.5 Other Components

6.5.1 Purpose of Workplace Experience

Given the above analysis it is unlikely that the reality of PLT provision, to meet the obligation, to offer ‘workplace experience’ actually provides a student [participant] with an adequate opportunity:

- (a) to apply, test and reflect on what has been learned during programmed training, while interacting with practising lawyers, other staff, government officers and clients; and
- (b) to develop an understanding of the nature of legal practice and of the student's aptitude for engaging in legal practice.

6.5.2 Delta Competency Model

It is noted that in recent years the ‘Delta Competency Model’ has gained traction when considering a Continuum of LE & T from a professional development standpoint in law firms.¹²⁰

6.6 The 12 Challenges in Delivering Quality Education Outcomes across the LE&T Continuum

The following challenges, in how the legal education sector delivers quality education outcomes in CLE2, and generally, are still evident in 2025 and propel me to continue to advocate for progressive change:

- CLE2 educational scholarship outside of the regulation paradigm is, apart from Judicial education, almost non existent
- Had CLE2 scholarship been supported it would have theorised Learning At Work and contributed to a “Constructivist” view that reflection is central to learning at work
- Concomitant failure to harness the ‘Constructivist’ learning approach that meaning is key to transforming experience into learning and it follows into constructing holistic competencies
- Unlike Clinical Legal Education (CLE1), CLE2 scholars have not contributed to the body of Scholarship of Legal Education (SoLE). Even here CLE1 is not an equal partner according to several commentators
- CLE2 commentators, apart from those maintaining the regulatory mindset, will not be invited to the Competency Working Groups or Review.
- There is an implied assumption in SoLE that APLEC has the answers for PLT yet Stage 3 educators have a stakeholder interest also
- Law academics, most of whom do not deliver education in Stage 3, are the subject-matter and critique experts of CPD especially mandatory CPD. It is important for CLE1 to have a voice here.
- Query whether there are any CLE2 recognised scholars or practitioners outside of PLT and law academic cohorts
- Work on developing a *theory of practice* for lawyers ongoing competence has not occurred
- In these absences attention is directed almost entirely to the issue of regulating competence at admission stage without building the bridge to ongoing holistic competence in Stage 3.
- The foundational competency work and proposed reimagining has thus far not included consideration of Workplace Learning Theory and practice.
- 18 years of empirical research in this field building on Hann (2007) has not occurred.



7 Regulation Before PLT Education

7.1 Justice for Lawyers Education; A Reimagination

7.1.1 Self-directed learner

For the practitioner to be a ‘self-regulating professional’ or a ‘self-directed learner’ (Lester and Costley 2010) they need a capacity for sustained and critical reflection (Helyer 2015)¹²¹. Because of its centrality, reflective practice builds specialist knowledge and skills, encourages independent research, and promotes life-long and “life wide learning.” Fergusson p 608¹²².

In Stage 1 Law students can be equipped with the knowledge and skills to become self-directed learners before they move into Stages 2 and 3. Leering and Hann establish that reflective practice strengthens capacity and commitment to learning in practice for law students, Stage 1 and “learning at work” for graduates and practitioners, Stages 2 and 3:

The need to re-imagine legal education as a more vibrant, engaging, relevant and rigorous learning experience has become a pedagogical imperative for law schools and legal educators. Encouraging reflective practice, emphasizing the importance of student self-direction, may also help counter perceived “weaknesses” in legal education pedagogy and curriculum by strengthening a student’s capacity for, and commitment to, professional learning.¹²³

In Stage 2 In 2015 Greaves noted that the lack of a robust professional development framework and a lack on the focus of upskilling the teaching, training and facilitation skills within PLT providers [and now also universities] led to the “ paucity of scholarship of teaching and learning (SoTL) in Australian PLT”. He saw “little shared knowledge in the field”.

Further he claimed that the “lack of SoTL undermines PLT providers’ and practitioners’ readiness to inform policy, regulation, theory and practices in PLT.” This compounds the lack of a research culture in PLT when at “the same time, lawyers and legal educators face uncertainty due to changed economic circumstances, internationalisation of legal education and practice, and emergent technologies that subsume legal processes.

These changes underscore heightened political and regulatory scrutiny of structures and practices in PLT”. What progress has been made in the past 10 years?

Efforts to equip, even empower lawyers to improve their workplace learning experiences (and it follows holistic competence) and acquire awareness and skills to counter the coercive power of our hyper-critical legal culture have thus far been unsuccessful. By conducting foundational PhD research *about* how lawyers learn to manage and lead at work (workplace learning) the aim was to focus on lawyers’ informal learning, particularly leadership work which would then lead to ‘better practice.’ That done a contiguous educative model can be designed and built.

This research work placed practitioner-led learning at the heart of its focus. It was interdisciplinary, foundational and generative and did not simply scavenge from known educational



concepts. Instead, it undertook underpinning empirical research employing critical ethnography, symbolic interactionism and appreciative inquiry methods to research lawyers' leadership work and learning. As discussed elsewhere these efforts fell on deaf ears.

In Stage 3 As the only CLE2 education professional to have successfully conducted PhD empirical research in how lawyers post admission, learn at work Hann (2007) claims the essential role of Continuing Legal Education (CLE2) to inform any reframing of any or all of the 3 stages of legal education, particularly Stages 2 and 3:

[L]awyers find themselves sandwiched between the authoritative approach of 'post- graduation' legal education, with its emphasis on what is 'good' for them to know, and the new regime of organisational truth, which privileges their productive and marketable worth in a competitive legal industry. Both are underpinned by the traditional paradigm of traditional legal education.

Yet, here, lawyers are not merely observers and passive recipients, rather they undertake their own educative work post-admission to achieve 'better practice'. Those who have undertaken Clinical Legal Education come better equipped to do this with their enhanced reflective practice skills and values awareness about the conduct of legal practitioners at work.¹²⁴

Not only is CLE2 the poor relation of legal education it is also the runt of the 'Learning At Work' litter. Clinical Legal Education (CLE1) has earned substantial recognition and created educational models of reflection and critical reflection for law students (Mach et al. 2002, Taylor, 1999, Giddings 2003, 2010, 2020) thereby increasing its reach and effectiveness. CLE2 does not yet have a healthy repository of academic theorising and practice to contribute to the development of concepts around lawyers' Learning At Work, reflective practice skills, 'holistic competence' and continuum of competence but neither do Stages 1 or 2.

CLE2 has not been granted standing to advocate for the urgent need for all 3 stages of legal education to collaborate and build an integrated theoretically sound continuum of competence. This vital work would empower lawyers at all career stages to become effective 'Learning At Work' practitioners and coaches and reposition PLT as the champion of the critically reflective and competent entry level practitioner.

After admission to practice the focus becomes *regulation of competence* instead of continuing legal education and a continuum of competence to support self-directed learning balanced with regulation. The clear message has been that, apart from the compulsory 10 points of CPD, there is no imperative to prioritise ongoing professional development [CLE2].

Since 2007 there has limited legal scholarship critiquing Stage 2 and Stage 3 of legal education. In particular there has been a noticeable gap in research and academic scholarship on *what and how lawyers learn at work*, which is directly relevant to whatever approach is adopted in PLT. Leveraging the potential of CLE2 theory and practice to work alongside traditional legal education and CLE1 to inform Legal Traineeship education design and implementation is likewise under-theorised.¹²⁵ Imagine what a rich vein of practical led knowledge we could have gathered and curated about the work and learning of lawyers as they commence their legal careers and beyond if we had built on the research recommendations by authors such as Greaves and Hann.



6.1.2 *The Workplace Swamp, Wellies and AI*

The expansive footprint of AI across the breadth and depth of the legal profession demands urgent attention. Will AI know more about how lawyers learn at work than ourselves? If so, how will we control what we know and what we do, or more to the point what AI knows and does in our name? If we accept AI is here to stay then how will we teach it our professional values in professional conduct and ethics for example? A formal learning lens will not enable us to understand the rich repository of informal learning that is occurring every day in legal organisations. AI is far more across this than we humans are.

The concepts of “Legal Working Culture” and the role of the lawyer as “Leaderworker” are key findings of Hann (2007) which encapsulate best practice in how lawyers learn at work and heralds a constructive means to curate our working knowledge and *instruct rather than obey AI*. A contiguous educative model is key.

Appreciating how lawyers learn to lead change in legal workplaces and the challenges they face when doing so will assist to break down cultural resistance and scepticism and support our change agents. Hann (2007) research findings and recommendations provide an education blueprint for how to appreciate what is best practice in lawyers Learning At Work and to then collect, codify and craft this knowledge into a continuum of legal education competencies. A critical reflective guide for *how to lead workplace learning in legal workplaces* is provided because without effective leadership nothing can happen¹²⁶.

It is time to put on our wellies and get into the *messy swamp of workplace learning* else AI will decide that human feet in wellies are seldom needed to deliver legal services. It has already entered our landscape and the swamp has less oxygen and more megabytes every second of every day.¹²⁷

6.1.3 *Ongoing Competence Conversations*

There has been a failure to lead lawyers away from the hours-based approach to CPD which, according to the Continuing Professional Development Issues Paper¹²⁸ prepared for the Victorian Legal Services Board + Commissioner, are concerned with a “points grabbing and box ticking exercise” that “creates incentives for minimal effort and commitment by lawyers and providers” rather than “genuine, relevant professional development.” This section makes no excuse for including substantial quotes from authoritative reports to best capture the essence of current thinking.

The necessity to foster a more mature and substantial approach to CLE2 (Legal Professional Development) is apparent as discussed in the Report *Reimagining the Professional Regulation of Australian Legal Education* 2021 (for the Council of Australian Law Deans (CALD). The authors note that there has been “an increasing maturity of approaches globally in the regulation of professional competence” (Kift and Nankano 2023, p 10).

Attempts by forward thinking PLT trainers and CLE2 practitioners to participate in critical analysis and reflective processes is often resisted by management in PLT Providers and even in



universities because it raises challenging issues about leadership, equitable allocation of workloads and recognition of efforts and achievement.

Another reason why academics might not willingly participate in such a process is that teaching and the promotion of learning does not rate as highly in the legal academy as research activity. Here there is a juxtaposition. On one hand research activity is more highly valued and rewarded yet actual PhD level empirical research, especially interdisciplinary, in legal education, is poorly recognised and rewarded. Sometimes even stonewalled.

Many PLT educators and trainers perceive that they are already overworked. An academic career depends on significance being attached to research and in the legal academy, publication of peer reviewed articles. If the opportunity cost is too high, to contribute to such research and scholarship, on top of a busy PLT trainer's workload, people will discover that the cost to them outweighs the benefit. They will only persevere if the opposite holds - hence the importance of recognising and rewarding scholarship of teaching pedagogy in SoLE.

PLT itself is a key stakeholder of CLE2. Legal education continues past completion of a law degree. Most people will still need to undertake PLT Stage 2, to be admitted to practice and some will have completed Stage 2 as part of a hybrid program at a law faculty, Stage 1. This is inconsistent.

Despite the desirability of a more informed and sophisticated educative approach to CLE2 the predominant discourse regarding post degree education remains stubbornly at the PLT stage which is where it has lost its way. Too much is being asked of PLT Stage 2 which does not have a sound engagement with scholarship of teaching and learning (Greaves, 2015) by stakeholders with only an awareness level of sound educational epistemology and pedagogy. Despite predominant views to the contrary, legal education would benefit from renewed leadership commitment to build our own epistemology of practice.

At Stage 2, legal education usually called training, is also *continuing* because it has progressed past the award of a law degree. Yet apart from a handful of progressive education thinkers in the legal academy, comprising clinical legal education, judicial, independent education scholars and PhD contributors, the discourse within law remains stubbornly in a swim lane of resistance and scepticism to contemporary work-related education and learning. Contrast this with the progress made in Judicial Education.¹²⁹

Thus far the legal academy has undervalued the fundamental educational challenge of leveraging our practical wisdom, i.e. the “what, how and why” of lawyers’ learning at work - apart from clinical legal education with its social justice foundations. An example of this is the lack of training and support for supervisors (working legal practitioners) of PLT participants and the need for a more effective coaching and training framework for PLT work supervisors in legal organisations.

The quality of a lawyer’s learning experience post law degree remains too closely aligned to the legal workplace in which they find themselves rather than to any overarching professional learning framework and contiguous professional curriculum that is jointly “owned” or sponsored by the profession, PLT and the legal academy. Justice in Legal Education calls for a realignment.



Greaves discusses the professional and judicial discomfort with intellectualism and critique which in the view of leading commentators led to the framing of PLT as practical and vocational with the intention to instil professionalism in trainees and produce entry-level lawyers ready for work. The strategy was to compartmentalise, or isolate PLT away from the academic domain. Yet the competing market interests are demonstrated by the decision of some law schools to integrate PLT with the academic degree which is probably a market-driven development. If the legal academy disagrees with this view, then it should have no issue in fostering recognition of PLT literature and research in SoLT.

It is clear that a review of the current PLT competency model is welcome given the groundswell of dissatisfaction from PLT teachers, legal academics involved in the delivery of PLT courses, regulators, PLT participants and the profession. In 2015 conceding that, any implementation of change, with respect to the structure and delivery of PLT in Australia will be contested. Greaves noted that significant change initiatives can be led by PLT providers such as to:

- Operationalise symbolic support for SoTL by allocating to it the necessary resources, and provide recognition, training and support to PLT practitioners for SoTL work.
- Recognise that the exclusion of contemporary knowledge and innovative ideas about teaching and learning, impedes legal educators' readiness to respond to change and uncertainty.
- Recognise the importance of sharing such work through publication for external scrutiny and application.
- Explore strategies to improve the visibility and influence of their work by having regard to the objective of supporting scholarly writing, selection of journals, citation practices, and use of social media and other metrics.



Part C Reshaping Legal Education

To improve the learning experiences of PLT participants and the performance outcomes for the profession requires a shift in how we conceptualise and deliver legal education across the 3 Stages. Most importantly it requires a preparedness to listen and learn from those experts and scholars who have insights into how best to overcome inertia in leading change in legal education design and delivery post degree.

1 Putting SOUL into SoLE

“We have asked lawyers to be ‘more businesslike’ and they have responded accordingly. But this puts tremendous pressure on the ‘service ideal’ that traditionally distinguished ‘professions’ from businesses. We now desperately need to rethink and rearticulate the core ethics and principles that bind lawyers together.

“I don’t think that it’s overly dramatic to say that we need to fight for the soul of the profession.” (Weisbrot, 2007)

In 2007 the ALRC President Professor David Weisbrot, a Foundation Fellow of the Australian Academy of Law (AAL) was launching ‘Managing Justice’. His heartfelt leadership call was that we were indeed fighting “for the soul of the profession”. He believed that there was a desperate need for what became the Academy of Law which he believed would ensure that “ethics, education and accountability” would play a critical role in shaping the Australian legal culture in the years ahead and that this in turn would determine how well the legal system operates in the public interest. 130

Yet 15 years later the Victorian Legal Services Commissioner, Fiona McLeay felt compelled to draw attention once again to the necessary shift in lawyers’ behaviour which she pointedly enunciated in 2022 as follows:

Workplace sexual harassment and bullying have been against the law for some time now, in many countries. *Yet lawyers who would not otherwise break laws (eg, by stealing their clients’ funds) nonetheless continue to harass or bully their colleagues.* This type of attitude to the rule of law – in which a distinction is drawn between the laws a lawyer will and won’t obey – is unlikely to inspire public confidence in the profession or the rule of law. It therefore rightly concerns legal regulators. [emphasis added]¹³¹

This section will discuss the important role of PhD research in formulating new education theory and practice and then conclude by returning to Weisbrot’s clarion call to The Academy of Law and critiquing what it has contributed to SoLE in the past 18 years.



1.1 The legal academy and an uncomfortable truth

My PhD is not in the Law library of Melbourne, Monash or Leo Cussen Centre of Law, a national PLT provider. Eighteen years later it is still the only PhD from a CLE2 (namely Stage 3) perspective to research lawyers' Learning At Work, by employing inter alia Workplace Learning Theory. That is an uncomfortable truth. As a Leadership consultant my reason for sharing this is that it provides a useful example of what can happen when the legal profession operates within a narrow lens of what is agreed upon knowledge.

At the time of commencing my PhD the Deans of both law faculties were Board members of Leo Cussen institute. The Board members of Leo Cussen including the Executive Director, Deans and President of LIV and other members knew about the research I was undertaking. Early this year I wrote to the current leaders of these three education bodies requesting assistance to ensure that my PhD would now reside in the legal databases of these institutions. Regrettably I did not receive a response from any of them. Following that outcome I organised for my thesis to be available on the University of Melbourne Minerva database.¹³²

I welcome the opportunity to be critiqued by fellow 'scholars.' This is important because my thesis is an Education PhD thesis like Greaves (2015). As is now recognised in 2025, law scholars will and must engage with inter-disciplinary research including mainstream education theory (my approach). My research is an early example of this. Due to its research field its findings have become more relevant and it continues to have the potential to inform other research. The term 'Continuing Legal Education' as used in my PhD is no longer universally used, although I note Kift and Nankano(2023) specifically do so.

A PhD candidate is required to be abreast of their whole field(s) of knowledge and then, only if they can identify gaps in the literature and or opportunities for reshaping conceptual frameworks, are they permitted to proceed. This is the confirmation stage. Without a valid contribution of new knowledge there is no PhD awarded.

In the Academy of Law publication, 'The Legal History of Legal Education (Barker, 2017) the whole of CLE2 (Stage 3) consists of only one and a half pages¹³³ It is an historical fact that my Australian PhD, Reshaping Continuing Legal Education: Lawyers Practising Learning (Hann, 2007) was completed at the University of Melbourne but not mentioned or cited in Barker's publication or any other publication since 2007.

As wayfinders we can become the architect and builder of our profession's working knowledge, our praxis. We cannot outsource this work, for instance, to a PLT provider that operates within the constraints of existing education mindsets about what is legal education and what is legal training and is currently coerced into unfailing obedience to that didactic approach. It is easier to be hyper-critical of PLT, rather than take the courageous decision to reflect upon the whole legal education, learning and training continuum from Stage 1 through to advanced mastery at Stage 3.

Instead, our legal stakeholders should have regard for and listen to those of us who have stepped out of silo-thinking and become 'wayfinders.' This requires a willingness to learn from those who have, of their own volition and within our own sphere of expertise, chosen to search



for a better way to explicate what it is lawyers do at work. These contributors have not yet been invited to the 'PLT Working Party'.

1.2 Academic Literature

"There is an extensive body of academic literature about PLT in an Australian context. There was a dedicated journal (the Journal of Professional Legal Education) published between 1983 and 1998 by the Centre for Publication & Information of the College of Law on behalf of the Australian Professional Legal Education Conference. The 16 volumes show the extent of scholarship at that time about the development of the Australian approach to PLT. Kift notes that much of which still resonates to an interested reader in 2025 and therefore remains relevant to reviews of the Australian PLT approach". (Kift and Nankano, 2021 p 50)

Kift and Nankano lament that this journal is no longer published given it encouraged [SoLE] scholarship for Stage 2 legal education. It is perhaps indicative also of the 'wicked problem'¹³⁴ of Stage 2 being marooned between theory (stage1) and practice (stage 3) and having an identity crisis.

1.3 Education PhD Theses in SoLE

Unpublished PhD research is part of what is termed "grey literature"¹³⁵. It is important to note that legal academia, and it appears also the legal profession, places no value on this type of research despite the fact that it is peer reviewed and assessed by esteemed members of the international academy. Presumably this situation can be understood in the context that legal practitioners have determined that such research work is *too academic to be useful*, yet it seems it is also *too practical to be academic scholarship*. In the legal sector, rather than being grey, PhD literature can be rendered invisible.

Hann, and to a lesser degree Greaves, are caught in the artificially imposed territory between theory and practice. It is time for a change of mindset. If we are to improve the professional learning experiences and holistic competence of participants at Stage 2 PLT it is necessary to broker adroitly between them.

At the risk of overlooking another person's PhD contribution and taking account of my own capacity as an independent scholar, with no affiliation to a law faculty, or PLT Institute, and therefore no direct access to legal academy resources, I have chosen 3 theses, one from each of the 3 identified stages, that best distil the strategic issues currently faced in PLT in Australia. James (2006) is also included because of his power-knowledge critique.



Legal Education Stage	PhD Contributor New insights	PhD Title and Key Contributions
Stage 1	Leering (2023)	Integrative reflective practice in Canada and Australia: Enhancing legal education, pedagogy, and professionalism
	Valuing reflective practice could eventually provide the impetus for a paradigm shift in how we understand legal professionalism and professional competence.	Integrative reflective practice in Canada and Australia: Enhancing legal education, pedagogy, and professionalism. Twenty-first century legal professionals need a reflective legal education that emphasizes self-assessment and self-efficacy; supports life-long learning; and builds the capacity for innovative thinking and responding creatively and constructively to “wicked problems”. “Reflective practice”—a core competency in other professions—has the potential to enhance the education of legal professionals by developing these skills.
	For a legal culture steeped in an adversarial tradition that favours polarized debate over engaging in reflective dialogue the capacity for future legal professionals to reflect collectively to generate new approaches has become crucially important.	By supporting law students to become more explicitly and diversely reflective as early as possible, their capacity and commitment to reflect will be strengthened—helping to produce the shift in professional consciousness that is so sorely needed.
	An integrated reflective practice becomes a way of being, leading to phronesis or practical wisdom and creates a space for examining ethical concerns.	An ‘integrated reflective practitioner’ is a professional who integrates theory and practice, critically reflects on practice (what one does), and theory (what one knows), and what one believes as a self-directed life-long learner, and then acts based on that reflection to improve their practice. This kind of professional recognizes the power of reflecting collectively, learning from others and from other disciplines, to enhance professional services, increase professional knowledge, ensure rigour about one’s insights and interdisciplinary knowledge
Stage 2	Greaves (2015)	PLT Practitioners’ Engagements with Scholarship of Teaching and Learning
	PLT is a non-academic and critique free field. acknowledging the professional expertise of PLT educator practitioners in educating PLT students and need for more support and training in adult learning. ¹³⁶	PLT is a non-academic and critique free field. The evolution of legal education has been marked by tensions between the judiciary, profession, and academia, with a preference historically for apprenticeship models over academic intellectualism. This has contributed to the compartmentalization and undervaluing of PLT and CLE2, reinforcing their marginalization and limiting opportunities for critical engagement and continuous improvement.



Legal Education Stage	PhD Contributor	PhD Title and Key Contributions
Stages 1-3	Hann (2007)	Lawyers Practising Learning: Reshaping Continuing Legal Education (2007)
	This thesis studied lawyers' leadership work to mastery level and proposed an epistemology of leadership practice. Leaderwork Leaderworker Legal Working Culture Organisational leadership Professional leadership	Learning At Work (LAW) & (LAW)Theory. Lawyers are not merely observers and passive recipients, rather they undertake their own educative work post-admission to achieve 'better practice'. Those who have undertaken Clinical Legal Education come better equipped to do this with their enhanced reflective practice skills and values awareness about the conduct of legal practitioners at work. The lack of will by the academy and the legal profession to foster a vibrant research culture and practice for either Clinical Legal Education (CLE1) or Continuing Legal Education (CLE2) is apparent. The traditional paradigm of legal research does not acknowledge the imperative of researching lawyers' work and learning beyond the classroom, to the clinic and legal workplace.
Stages 1-3	James (2004)	Power-knowledge and critique in Australian legal education: 1987-2003 (2004)
	Knowledge is power	Rather than monolithic, the discipline of legal education was by 2003 a dynamic nexus of distinct and competing discourses: doctrinalism, vocationalism, corporatism, liberalism, pedagogicalism and radicalism. Each of these six discourses was simultaneously a form of knowledge and an expression of disciplinary power within the law school.

Table 6 PLT PhD Contributors Stages 1, 2, 3

In 2008, just after I completed my PhD, Colbran, S., and Tynan, B., wrote:

[h]istorically, Law has low rates of PhD enrolments, limited supervisory capacity, narrow methodology, little collaboration within and between Law schools and other disciplines, and a tendency to duplicate effort rather than taking advantage of the synergies amongst law schools for the benefit of both staff and student.”¹³⁷

In 2020 Lindley, J., Skead, N., and Montalto¹³⁸, suggest that legal research bears some similarities, but is also distinct in a number of ways to other social sciences and humanities. Even these authors do not address the importance of welcoming complimentary disciplines, such as education, into the SoLE fold. My viewpoint is that, in fact, the legal academy could learn from how PhDs such as mine and Greaves (2015) managed to successfully traverse the two disciplines of law and education and contribute to both, thus revealing a way forward. The



recent academic work by Galloway and Castan (2021) of creating a taxonomy of legal education research does not alleviate the difficulties for our research to be considered interdisciplinary legal scholarship, because their proposed taxonomy remains in the legal swim lane.¹³⁹

That my PhD to date resides physically only in the Melbourne Education library and now also digitally on Minerva, is perhaps the most salient evidence in support of this. Perhaps courageous reflection would lead to insights as to how the senior legal academics could not ensure its safe arrival to its other merited places, namely the law libraries of Melbourne Law School, Monash Law Faculty and Leo Cussen Institute.

1.3.1 Interdisciplinarity and Australian Legal Education

It seems that we may not have progressed past the confusion about interdisciplinarity as canvassed by Wickham in 1992 when he identified problems with the way in which the Pearce Committee Report addressed this issue. Wickham claimed (1992, p.11) that the “Pearce Committee Report’s confusion sees it directly favouring greater interdisciplinarity at the same time as it limits these discussions, sometimes to the point of meaninglessness, and even at the same time as it directly favours continued disciplinarity.” After considering the 4 conditions set out in the table below Wickham concludes that “the widespread failure to distinguish between the teaching and research **of** law and teaching and research **about** law serves to support the continued dominance of disciplinarity in Australian law teaching and research”. This situation may well explain the failure of law schools to give attention to inter-disciplinary research **about** law.¹⁴⁰

4 Separate Conditions for the widespread confusion about interdisciplinarity in Australian law teaching and research	Interdisciplinarity and Australian Legal Education
1. Lack of clear distinction in Australian higher education between the teaching and research of the law and teaching and research about law.	Serves to support the continued dominance of disciplinarity in Australian law teaching and research.
2. Lack of a clear definition of interdisciplinary in Australian higher education generally.	Interdisciplinarity is experienced as a source of disorder which disrupts the proper functioning of academic communities, especially their demarcation arrangements and their career structures.
3. The career paths for those trained in the disciplinary mode of Australian law teaching and research and for those involved in this mode as teachers and researchers are much clearer.	Uncertain career paths for those trained in the interdisciplinary mode and for those teaching and researching in this mode.
4. Arrangements for administering and accommodating all teaching and research in Australian higher education.	Disciplinarity is a much safer career bet for students and staff involved in legal education.

Table 7 Legal Education Interdisciplinarity



1.3.2 *Disciplinarity and Reflective Practice*

Facilitating law students to become reflective practitioners and thereby take greater responsibility for charting their own professional learning provides an opportunity to dissipate rising tensions between law schools and practitioners. Practitioner led learning in CLE2 from entry level and beyond is key.

Encouraging reflective practice and highlighting the importance of the professional learner's self-direction can help counter perceived weaknesses in legal education pedagogy and curriculum by strengthening a student's capacity for, and commitment to, professional learning. This done, the next step of harvesting 'better practice' reflection to build a contiguous curriculum and thus reshape legal education would lead to a more co-operative mediation between 'education' and 'practitioner-led learning'.

In Australia, reflective practice is understood as critical to the formation of a positive professional identity and robust legal professionalism (Field, Duffy, Huggins, 2014). See also Annie Rochette, "Teaching and Learning in Canadian Legal Education: An Empirical Exploration" (Doctorate of Civil Law, McGill University, Faculty of Law, 2011) [unpublished]. Reflective Practice is becoming a more vibrant, engaging, relevant and rigorous learning experience and has become a pedagogical imperative for law schools and legal educators.

2 Reshaping Legal Education

In acknowledging a climate of readiness for change in the regulation of Australian legal education the authors note that "many factors are converging to create a climate of readiness for change that sets the context for a reimagining of the professional regulation of Australian legal education and training" (Kift and Nankano 2023 p.10). It is important to understand that scholars are reframing their understanding of regulation and that they also use the term 'legal education and training' which is a restrictive term that does not incorporate professional learning.

The Law Society's Future of Law and Innovation in the Profession Commission of Inquiry (FLIP) identified a range of 'skills and areas of knowledge' deemed necessary for law graduates' entry-level proficiency, in addition to retaining all of the existing Priestley 11 (and statutory interpretation) and PLT competencies. As the previous Chair of LACC, Emeritus Professor Sandy Clark, noted pragmatically in his response, to the FLIP Commission:

"it is: ... unrealistic to assume that law schools or PLT providers can readily include all of these proposed new requirements [as recommended by the FLIP Commission] in their existing programs. Rather, we need to re-conceive legal education as a continuum and allocate responsibilities for sequential components to other elements of the profession, after law schools and PLT providers have made their initial threshold contributions. Further, we may need to regulate each part of that continuum consistently. Where can additional knowledge, skills and values best be acquired by entry-level lawyers? When can this realistically occur? How can we make it happen?" ¹⁴¹

Clark's plan to "tackle the 'socially complex' problem of developing an evidence-based consensus to bring about a step change in Australian professional legal regulation" is to be conducted in three discrete phases.



- **Stage 1:** Conduct a desktop review and formulate options for reimagining professional regulation for CALD's consideration, leading to choice of preferred option(s).
- **Stage 2:** Development of the preferred option(s) with the assistance and oversight of a broad-based Reference Group and/or evaluator; extensive consultation and consequent iterative enhancement for consensus generation; and a report to CALD and other stakeholders on the agreed approach's socialisation, evaluation and refinement.
- **Stage 3:** Implementation of the consensus-generated approach as appropriate following endorsement of the Stage 2 Report.

The authors note that the complex relationship between LE&T and its regulation in Australia has not been subjected to a comprehensive review, such as that proposed for many years. by Clark. They claim that “extensive literature canvassed in their 2021 report makes the evidence-based case that review and reform are overdue and that international and local good practice should be leveraged to consider how best to meet current professional demands and safeguard the interests of clients and consumers of legal services.” (Kift and Nankano, 2023)

The authors' views confirm the relevance of the research methods and findings of Hann (2007) especially the 'Legal Working Culture' and 'Leaderwork' findings.

2. 1 Reimagining the Professional Regulation of Australian Legal Education

Regulation and Education need a fresh conversation as shown in these 3 proposed features:

- An integrated, research-informed, lifelong learning approach that values practical experience, continuing education, and leadership development is preferred.
- Reimagining the Professional Regulation of Australian Legal Education requires professional competence, including continuing competence, via the development of 'competence frameworks' across the LE&T continuum, from pre- to post-admission and beyond.
- Addressing cultural issues within legal workplaces, recognizing the scholarship of legal educators, and fostering collaboration among stakeholders are essential steps toward enhancing lawyers' professional development and wellbeing throughout their careers.

In Reimagining the Professional Regulation of Australian Legal Education, the authors Kift, S., and Nakano, K., (2021),¹⁴² discuss the international developments including the SRA in England and the move away from formalised PLT:¹⁴³

“Objectively, it could be observed that it is difficult to equate the warranted and intense scrutiny to which lawyer formation is subjected at the pre-admission stage for day-one competence (accompanied by constant agitation to incorporate ever more professional learning into the two regulated initial stages), with the quite laissez-faire, light touch regulation to which that same lawyer is subjected once in actual practice”. (Kift and Nakano, 2021,p.205)

However, even these authors do not problematise the issue in the context that Stages 2 and 3 have morphed into regulated learning which from a workplace learning standpoint is undesirable. Due to a lack of interest and or opportunity to research workplace, work-integrated and practitioner-led learning by lawyers in Stages 2 and 3, the focus even by scholars, has been weighted to competency and regulatory matters rather than to a more expansive and inclusive



approach. Neither have we effectively leveraged the large body of academic knowledge and practice in Clinical Legal Education which now spans Stage 1 and Stage 2 and could also inform Stage 3 education.

This is relevant for the issue at hand, namely the cost and quality of PLT Courses in NSW and by implication, given national providers, in other states of Australia.

2.1.1. Commentary

McMillan and Lilley (2024) critique the current form of PLT in Australia based on the authors' experience of PLT in different institutions, both as former students and current teachers and considering recent research.¹⁴⁴ Based on this assessment the authors conclude that the "PLT courses have not overcome the inadequacies of articles training so as to ensure that a person entering the profession can function at a standard of competency which can be reasonably expected of a first-year practitioner." ¹⁴⁵

The authors examine the current Australian approach to PLT and the broader context of experience in England, Wales and New Zealand.

They also consider the recent changes in the UK which involve "a substantial departure from the Australian pathway to legal practice for a new practitioner, with the SRA primarily focused on the examination requirement and the completion of two years of legal workplace experience, rather than whether the practitioner has completed a degree in law and a formal practical legal training course (as is the case in Australia):

"It is noteworthy that over the past decade, the legal profession in England and Wales has undertaken a major review (the Legal Education and Training Review — 'LETR') of its system of legal education and training, resulting in the abandonment of the PLT approach adopted in the 1980s and 1990s (the Legal Practice Course — 'LPC'), and the introduction of a new centralised examination in its place (for solicitors, this is the Solicitors Qualifying Examination — 'SQE')." ¹⁴⁶

When proposing an Australian way forward to improve Stage 2 of legal education the commentators do not give adequate weight to the potential of 'holistic competence' and recruiting Workplace Learning and Work-Integrated Learning theory and practice.

3 Benchmarking to Judge Led Education: Judicial Education Principles

"People cannot be effectively compelled to be educated."¹⁴⁷ The Honourable AM Gleeson AC, QC

We may not be able to compel people to learn but we can regulate their professional work and conduct. Instead of subsuming education into regulation, a preferable alternative is to benchmark Stage 2 educational strategy and practices to the values and vision embodied in Principles 1-10 of the *Declaration of Judicial Training [Education] Principles by the International Organization for Judicial Training*.¹⁴⁸



By developing the educational framework to understand and articulate how and what it actually is that lawyers learn in legal workplaces, we can start to work together to articulate the nature of learning in a PLT context and frame the themes underpinning “intentional legal education.”¹⁴⁹

We must commit to the training principle that “[It] is the right and the responsibility of all members of the judiciary [*read legal profession*] to undertake training. Each member of the judiciary [*read legal profession*] should have time to be involved in training as part of their judicial [*read legal*] work.”

The 3 key elements are:

- A right and responsibility
- Every member
- Time as part of judicial work.

To avoid the merry-go-round of reports, such as this current review in NSW, the fixed mindset of the Legal Academy not to embrace innovative educational change and leverage the valuable lessons of Judicial Education, PLT and CLE2 scholarship, must be effectively challenged.

What will it take for this to occur?

In Australia, judicial education has, in the words of one judicial officer, become “part of the landscape”.¹⁵⁰(cited in Appelby et al., *Judicial Education in Australia: a contemporary overview* 2021p.6). Significant progress occurred between the late 1980s and early 2000s – including the establishment of the Judicial Commission of New South Wales (JCNSW) in 1986, the introduction of education programs by the Australian Institute of Judicial Administration (AIJA) from 1987,¹⁵¹ followed later by the creation of both the National Judicial College of Australia (NJCA) and the Judicial College of Victoria (JCV) in 2002.p 6

Interestingly, recognition of the importance of judicial education and the only general use of the term “education” post admission, that is CLE2, occurs in the field of *judicial education*:

“The past few decades in Australia have seen judicial education gain momentum in both provision and participation. Institutional supports and resourcing for judicial officers at all levels have become standard in all jurisdictions. This commitment reflects the acceptance within the institution that judicial education is important. Judicial education can contribute to public confidence in the judiciary by demonstrating that judicial officers are actively engaged in, and value, their professional development and that they are appropriately responsive to concerns about judicial performance. Judicial education offerings can also support judicial values, competence, and excellence and, accordingly, improve performance”. (Appelby et al., *Judicial Education in Australia: a contemporary overview* 2021p.5)

The words Education and Training are used interchangeably when referring to Judicial Education. Some of the key features of Judicial Education include:

- *Judicial education* is an aspect of professionalism
- *Continuing education* is as important for judges and magistrates as it is for practitioners
- For judicial *training* to be effective, it must be provided by an organisation with such standing amongst judges and magistrates that they will give it their full co-operation and support



- An organisation controlled by the executive government would simply be ignored by a substantial section of the judiciary.

3.1 From Scepticism to Credibility

This excerpt from a conference presentation by the then Chief Justice of NSW, the Honourable A M Gleeson, describes a significant change of attitude from scepticism to enthusiasm and credibility. Although not claiming this directly, his Honour is acknowledging the importance of his leadership role as “first among equals” in supporting the learning of his judicial colleagues.

“During my time as Chief Justice of NSW, and President of the Commission, I saw a major change in the attitude of the judiciary towards this subject. Initial hesitancy and scepticism was overtaken by widespread enthusiasm. I have no doubt about one of the principal reasons for the Commission’s success. Its skilled staff have performed splendidly, but their achievements have been possible largely because the Commission is controlled by the judiciary: it is independent of the executive; and its educational activities have been controlled and assisted by judges and magistrates. That accounts for its acceptance. It enjoys, amongst the judiciary, what is sometimes referred to as “credibility”. This is the usual experience in common law countries where judicial officers are appointed in the manner with which we are familiar.”¹⁵²

This aspect was also highlighted by my judicial research participants in *Lawyers Practising Learning; Reshaping Continuing Legal Education*. My research technique garnered valuable insights from judicial officers including a Chief Judge, Deputy Chief Magistrate and Federal Court Judge. These insights encapsulated their reflective practice learning about the challenges in developing their own leadership skills and also when leading other lawyers, including the learning and professional development of their colleagues.

For example, L5, a Chief-Judge of a Superior Court referred to himself as a “first among equals,” mentioned his challenges in achieving momentum and cultural change when leading judicial officers, including the onerous requirement to treat them as equals and engage in extensive consultation.

L5 said:

“I have a notion called momentum. As you would know there is a great lethargy in the law and it manifests by people saying, ‘oh we haven’t done it that way before’ or ‘I don’t know how that would sound’ and a lot of people in the law, for good reason, thoroughly enjoy discussing particular matters, for quite a long time, it doesn’t seem to occur to them, at intervals at the end of the day you actually have to achieve something...

And then as happens in the law, everyone says, ‘Oh we have that now’ and nothing has happened and now I want to see an inaugural President appointed, a secretary general appointed and that’s what I’m doing now. So those 2 things that I’ve set myself in the time frame of these 3 weeks and I will be very gratified if they both get up ... having a vision to want to get on with it you know.

Everyone at the [group conference] I think, it took a bit of a struggle because there were various vested interests that didn’t want anything to do about it. There I think there was a bit of relief that it got up. Lethargy set in and nothing happened.

DH The implementation challenge?



L5 Yes. (L5-1-4)”

(Hann, 2007 p 227)

From my perspective his Honour predicted the struggle I would face when it was time for my work to be shared with my profession. Silence and inertia.

3.2 Continuing Judicial Education

The recent history of CLE2 is not consistent with the progress in Continuing Judicial Education (CJE) where 10 hours a year is deemed adequate for CLE2, as compared to 5 days a year for CJE. The basic requirement of 10 points (hours) of CPD annually has seduced the profession into believing that bolted on standalone learning events, often on-line delivery with no assessment or reflective input, are adequate to maintain and enhance their competency. Yet the judiciary have retained the concept of education, even *continuing* education as necessary and valuable to underpin a judicial career.

The legal profession and other key stakeholders need to sponsor a more sophisticated and robust approach and return to the framing of professional development as *continuing legal education* so as to privilege education over regulation. Instead, the legal academy and its legal stakeholder partners have abrogated their responsibility to lead us out of the swamp.

Fundamentally the Legal Academy remains aloof from the messy swamp of *workplace professional and organisational learning* (Learning At Work Theory).

There are some valuable initiatives in lawyers’ professional development initiated by individual law faculties, regulatory bodies and professional associations. The CALD (Council Australian Law Deans) has dipped its toe in - found the swamp too messy - or is that too difficult?¹⁵³

But the grunt work, the real work of building a contemporary holistic competency model underpinned by legal scholarship and serious research about *what and how* lawyers learn at work is missing in action except for some exploratory work by Hann and Greaves.

There is a failure by the legal academy, other relevant legal education bodies such as the Academy of Law and PLT providers to engage with and support this academic scholarship.

CLE1 thought leaders are constructing pathways. In fact, Monash is hosting the 2025 Navigating Global Challenges in Clinical Legal Education Conference: Innovating for the Future¹⁵⁴ and celebrating 50 years of Clinical Legal Education. I have been invited to present a conference paper "*Clinical Legal Education and Lawyers Practising Leadership*".

Yet the professional and academic gatekeepers have ensured that there has been no cross-fertilisation and collaboration by CLE1 and CLE2 to design and build an epistemology of practice underpinned by ‘Learning At Work’ theory.



It seems that research has not been sponsored by Stage 2 PLT providers despite the obvious relevance of empirical educational research to their provision of entry level education and the higher education regulatory requirements. Instead, PLT and more so CLE2 are banished to inhospitable outer reaches of the legal profession, to be assigned the herculean task of assembling the evidence of what is already a known truth to any workplace and professional learning education theorist. These theorists know that scavenging around will not build a robust professional education model for tomorrow's graduates that ensures AI remains the profession's servant not master.

3.3 Judicial Control over Formal Training and Continuing Education

There are two reasons why judicial control of formal judicial training and continuing education is considered essential. The first is a matter of principle. The second is a matter of practicality.

Allsop, J addresses 'Judicial independence':

"As with the need for continuing education in other professions, the need for continuing judicial education is now widely accepted in Australia. Judicial education bodies have provided programs for Australian judicial officers since the late 1980s. Unlike other professional education however, the purpose of continuing judicial education extends beyond the need to improve professional competence and performance. The ultimate purpose of judicial education is to improve the quality of justice within the paradigm of reconciling the "divergent and to some extent inconsistent requirements of public accountability, judicial independence, and efficiency in the administration of justice"¹⁵⁵

Post admission learning or development for lawyers has been formalised into discrete swim lanes of regulatory compliance and entry requirement for the Bar and specialisation streams for solicitors. In addition, over the past fifty years, judicial education has gained increasing global recognition as a conscious, organised activity. Aspirational policy statements, most notably the *2017 Declaration of Judicial Training Principles* from the International organisation of Judicial Training (IOJT) underpin the strength of judicial education.

The AIJA Secretariat, which has been in operation since February 1987, is funded substantially on a composite government funding basis through the Meetings of Attorneys-General (MAG)¹⁵⁶ There is no such funding for PLT or CLE2.¹⁵⁷

3.4 The Future of Judicial Education in Australia

The Handbook for Judicial Officers of the Judicial Commission of New South Wales, states that "[T]he aims of judicial education will continue to be the promotion of the highest standards of behaviour befitting judicial office and to foster judicial capacity and skills."

Noting that Australian judicial education providers are "now slowly but surely working towards a more collegiate and national approach to the design and delivery of education programs" the Handbook states that the purposes of judicial education will continue to be:



- the development of judicial skills
- the preservation of judicial independence
- to provide individual and institutional accountability which will meet the diverse needs of judicial officers¹⁵⁸.

3.5 Justice in Judicial Education

The Judicial Commission of NSW has incorporated many of these principles in the Declaration of Judicial Training Principles in November 2017 in its continuing judicial education policy.¹⁵⁹

It includes:

“Principle 5 **It is the right and the responsibility** of all members of the judiciary to undertake training” [emphasis added]

3.6 Missing the Point: A Contemporary Overview 2021

The 2021 Report on Judicial Education was funded and prepared for the Australasian Institute of Judicial Administration by 5 senior law academics.¹⁶⁰ The objective of this Report was to provide an overview of the contemporary provision of judicial education in Australia.

However, no doubt considering it beyond its brief, the Report does not acknowledge or discuss the educative imperative to craft a robust epistemology of practice that informs all three stages of legal education and locates judicial education within this landscape. Although noting “the importance of regular professional development opportunities after recruitment has become accepted generally across many workplace environments, including in the legal profession from which judicial officers are recruited” the Report fails to address the importance of the leadership role by the judiciary in advocating that judicial education be based on “sound adult education principles.” Acknowledging that Hann (2007) is grey literature, nevertheless it would have been desirable to refer to her relevant findings about this.

The Report notes that judicial officers are not well trained in the delivery of adult education, which may impact on program effectiveness emphasising “that not one adult educator was reported to have delivered a judicial education program in the period under study”. This issue equates with the same dilemma in PLT and gives weight to the view that an uplift in coaching and training skills across the legal profession is required, taking account of the fact that there will be many skilled coaches whose expertise can be curated to assist.

At least the leaders in judicial education acknowledge the benefits of the judiciary receiving training in these skills. It is difficult to understand how judges can be ‘trained’ in ‘education’. See for example the handbook for Judicial Officers and the section on ‘Continuing Judicial education: the Australian experience’.



3.7 Whatever Happened to Continuing?

In this next section I challenge the prevailing mindset within the Legal Academy. Even the heading ‘Whatever Happened to Continuing’, problematises this mindset. Consider that the 2021 Report refers to only “Judicial Education” whereas the NSW Handbook for judicial officers refers to ‘**Continuing** judicial education.’ [emphasis added]

The 2021 Report mentions continuing legal education sparingly.¹⁶¹ Notably it does not address the issue that judicial education is, in professional learning and work-related terms, a sub-set of Stage 3 CLE2 nor the fact that chief judges such as his Honour value sound adult education principles.

The Honourable Justice J Allsop AO, Chief Justice of the Federal Court of Australia, from 2013 until 2023, in his article “Continuing Judicial Education: The Australian Experience, expressly states:

“The Judicial Commission recognises that effective judicial education has to be based on sound adult education design principles and focus on experiential and interactive learning, that is, learning based on experience and enhancing judicial skills. The Commission has been influenced by the work of David Kolb and the National Judicial Institute of Canada”. 162

The 2021 Report provides little analysis, theoretical or otherwise, about how Judicial Education is located within the broader body of legal working and learning culture, for instance CLE2. The limited focus discusses the lack of assessment and the effort by CLE2 “to respond to complex goals of continuing professional development (CPD)” and to “mandate that certain elements be present within the yearly plan for individual practitioners”. Contrast this with the embodied view of his Honour:

Because a successful legal career is a precondition for judicial appointment, judicial education is directed at already experienced legal professionals. **The need is better expressed not as a need for judicial training, but rather for judicial education**, which focuses on induction, orientation and transition to the Bench, and then on a continuous renewal of professional education and a sharpening of judicial skills. It is beyond doubt that the judicial function requires professional skills of a very high order. [emphasis added]¹⁶³

The authors, Appleby, Kerr, Le Mire, Lynch and Opeskin, of the Report ‘Judicial Education in Australia: A Contemporary Overview (2021)’, discuss the emergence of judicial education as a “priority activity.” They note that “the emergence of judicial education as a priority activity has required the allocation of significant resources, even ‘big business’”, (Appleby, Kerr, Le Mire, Lynch and Opeskin, 2021, p.6). Interestingly a key issue raised is that “resources are needed not only for the development and delivery of education activities, but also to support the time required for judicial participation as both educators and learners” (Appleby, Kerr, Le Mire, Lynch and Opeskin, 2021 p.6).

3.8 Report 2021 Recommendations with Critique

The 2021 Report made 4 recommendations.



No	Report Recommendations	Missed Opportunities in the 2021 Report
1	Standard taxonomy and format for the transparent reporting of judicial education offerings is needed.	The Report did not address: ➤ A 'Learning At Work' taxonomy is necessary in order to curate both the formal and informal learning of judges. SoLE has not yet created a taxonomy of legal education for Stages 1 and Stage 2. The work of Galloway, K; Castan, M; Steel, A, (2020) still focusses on creating a taxonomy for legal education research which does not incorporate 'Learning At Work' theory. ➤ That legal education is so central to the idea of law and is itself a constituent part of law, the debates within law including about its purpose positivist, doctrinal, critical, normative, etc are reflected within legal education. ➤ That there is an absence of a mediated dialogue about harmonising the educational premises of legal education scholars. Currently their scholarship and educational practices "reflects their own discipline identity and commitment to the law". 164
2	'Offerings' need' to align to the judicial lifecycle.	A Continuum of Competence, from Awareness through to Advanced Mastery is required but is absent. This can be done for Judicial professional learning at work. In my PhD I engaged with judges to construct 'Legal Working Culture'.
3	Further research should be funded and undertaken on ways to address the judicial education needs of judicial officers working in smaller jurisdictions or regional settings.	The Report did not address: ➤ The fundamental issue that research into all aspects of judicial work and learning, including remote learning, is important and needs to work towards harmonisation with Stages 1, 2 and CLE2 research. ➤ Presently there has been little interest shown by the Judicial Colleges to participate. Maintaining their independence from government and the executive appears to have also led the judiciary to remain in their own legal education swim lane. ➤ The absence of research support, by The Academy of Law in this specific field.
4	Further research should be funded and undertaken to better understand: the content and quality of judicial education offerings, the level of participation in those offerings, and whether those offerings are perceived to be meeting the needs of judicial officers, courts, and the public they serve.	The Report did not address: ➤ It is imperative that this research does not sit outside of SoLE and recognises that judicial education is part of a continuum of holistic competence that incorporates all practice, including judicial practice which is a sub-set of Stage 3. ➤ The lack of interest by Judicial Colleges and SoLE in Stage 3 scholarship.

Table 8 Judicial Education 2021 Report Critique



4 What Happened to the Australian Academy of Law?

Launched on 17 July 2007, [the same year I completed my PhD] the Australian Academy of Law (AAL) states that it is "the fifth learned Academy in Australia and is the culmination of a process begun with the Australian Law Reform Commission's landmark report", 'Managing Justice: A Review of the Federal Civil Justice System' ALRC 89, (2000). The purpose behind the establishment of The Academy was that it was considered that there was a "fragmentation of the legal profession."¹⁶⁵

'Managing Justice' traced the rapid growth, diversification and fragmentation of the Australian legal profession, and the serious challenges these issues present to the maintenance of a coherent professional identity and traditional collegiate approaches. Without positive action the single 'legal profession' could become a multiplicity of 'legal occupations', none of which sees itself as part of a larger whole.

The objects of the Academy, set out in the AAL Constitution, include:

"To promote the highest standards of legal scholarship and research, of legal education and practice, and of the administration of justice.

To establish and advance funds to provide scholarships and research grants which advance legal education and the discipline of law and promote ethical conduct and professional responsibility."

ALRC President Prof David Weisbrot—a Foundation Fellow of the AAL—said 'Managing Justice' claimed that ethics, education and accountability play a critical role in shaping the Australian legal culture, which in turn determines how well the legal system operates in the public interest.

The launch of the Australian Academy of Law on 17 July 2007 is a key aspect of the positive action recommended in 'Managing Justice', bringing together the three strands of the legal profession—the judiciary, legal practitioners and legal academics—united in promoting high standards of learning and conduct and appropriate collegiality across the profession."

4.1 An Accident of Timing

It is an accident of timing that The Academy of Law and 'Legal Working Culture', Hann (2007) were both born in the same year. As the Director of Legal Professional Development, in 2004 I had shared Weisbrot's view that it was imperative for the legal profession to adopt an appreciative and constructive approach to curating high standards of learning and conduct and appropriate collegiality across the profession.

This was my motivation to undertake the demands of post graduate research in addition to a full time senior management role and parenting 3 teenage children. As discussed elsewhere my concern and commitment to my profession was not met with equal resolve and collegiality. .

Upon completion of Stage 1 of my Masters in Education by Major Research it became apparent that the substantial literature review and research findings were of such importance that the Faculty of Education invited me to apply to convert my Masters to a HECS Scholarship PhD. Upon acceptance of my written application and oral presentation in support, my research candidature



was converted. Taking this step is indeed risky because if you do not satisfactorily complete your PhD you have no qualification.

Most disconcerting is that no efforts were made by senior stakeholders within the legal profession to connect The Academy of Law with my research. In the absence of what would have been in my view an excellent opportunity to work together I was faced with the unenviable decision of leaving the legal profession to find alternative employment.

4.2 Rule of Law and Legal Education Leadership

The lack of collegiality and effective communication across legal education stakeholder groups led to the situation that in 2017, some 10 years after my PhD was completed, the Publication by Federation Press, *The History of Legal Education* by David Barker allocating only one and a half pages to CLE2. The publisher, Federation Press claimed:

“The book considers the critical role played by legal education in shaping the culture of law and thus determining how well the legal system operates in practice. In addition, it examines a major challenge for legal educators, namely, the tension between ‘training’ and ‘educating’, which has given rise to a plethora of inquiries and reports in Australia. In the final analysis, it argues that legal education can satisfactorily meet the twin objectives of training individuals as legal practitioners and providing a liberal education that facilitates the acquisition of knowledge and transferable skills.”¹⁶⁶

Here in plain sight sits the age old dichotomy between education (Stage1) and training (Stages 2 & 3) without a sophisticated critique of the importance of practitioner-led learning in CLE2, learning At Work (LAW) and the opportunity to build a contiguous legal education continuum of competence.

In 2024, giving the Academy of Law Annual Patron’s Address, her honour Chief Justice Helen Bowskill, said:

“Many important gaps are filled by the work of academic scholars, whose work can help to identify, understand, explain, test, question and expand concepts and ideas, all to the benefit of the development of complex legal problems. In the end, I do not think there is really any gulf between us as jurists. Whilst academic scholars, lawyers and judges have different roles to perform, and ends to meet, we all ultimately have a common goal; the development, recognition and protection of the rule of law for the benefit of our society.”¹⁶⁷

Clearly The Academy of Law is of the view that its leadership role in Australian legal education has contributed to academic scholars, lawyers and jurists by sharing a common goal in the development, recognition and protection of the rule of law.

This equates directly with one of my PhD research participants, then a senior counsel who later became a superior court judge. Our third interview begins with A1 insisting that it is imperative that I capture what is the most important value for him about leadership:

“I really thought after our last chat, I thought, I almost rang you and sent you an email...I thought I’d speak to you this time, thought I’d remember... I really think - the essence of leadership is service. (A1-3-1)



He continues that; ... really, I am talking about humanity. I am talking about social justice and social policy. (A1-3-1)”

At this juncture our dialogue reaches the heart of what A1 considers to be his professional identity, (FEX) and even what legacy he wishes to leave with his legal career.

4.3 Shared Thinking

I propose that Legal Working Culture sits clearly within the stated aims of the Academy being to "to Promote the Highest Standards of Legal Education and Practice" and promote the administration of justice. 'LWC' makes apparent the professional leadership values shared by senior practitioners who understand that their service is to the “proper administration of justice” and that providing independent legal representation is indispensable to the Rule of Law and to the continuation of our democratic society”, (Hann 2007, p 142).

My key finding was ‘Legal Working Culture’ underpinned by LAW theory. It proffered a constructive, unprecedented and creative approach to retaining the collegiality in law by distilling observational, interview and reflective practice dialogue data from leading lawyers across the three main disciples of law, namely the judiciary, academia and practising lawyers – mirroring the Academy’s cohort.

I synthesised my findings across a complex theoretical foundation including leadership theory, workplace learning, work-integrated learning, professional learning, legal education and continuing legal education.

Does Legal Working Culture [now] fall within the Academy’s mandate of legal education? Because if it does, I am looking forward to an invitation to build on my findings and conduct research with the Academy. It is never too late.

Part D The Learning at Work (LAW) Model

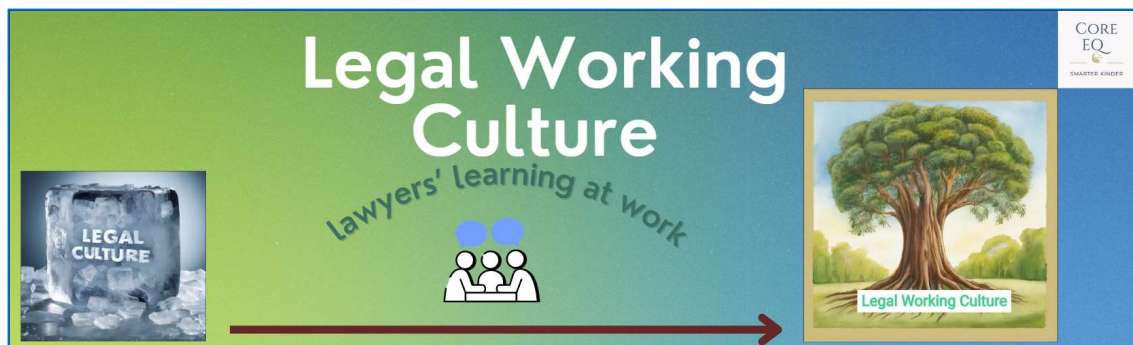


Figure 7 Legal Culture and Legal Working Culture

1 The Model

My proposed **Learning at Work (LAW) model** is a framework that can inform all 3 stages of legal education. The educative components are the LAW Model (epistemology) and teaching of



critical, productive and cooperative reflective practice (pedagogy). It is based on holistic competence and therefore is a contiguous curriculum

Important work is being undertaken in:

- The review of the regulation of legal education
- The proposed legal education, and training (LE & T) lifelong learning continuum
- 10 principles of reflective practice
- Clinical legal education pedagogy
- Reworking of 'Priestley 11' Competencies.

1.1 Legal Working Culture

1.2 Professional and Organisational Leadership

My study confirmed many of the previous international research findings about the value of informal learning in 'Professional Learning'. It achieved a broader objective, however, which was to study lawyers' workplace learning and therefore to recommend an educative model that incorporated both professional and workplace learning strategies. This is essential for lawyers' learning in Stage 3 and Stage 2. The focus of my research was leadership work and learning (practice).



Figure 8 LWC Professional Leadership and Organisational Leadership

The Model complements the competency work already undertaken, and ongoing, by regulators and law faculty scholars in competency curriculum redesign and clinical legal educators' pedagogy work and practice.



The ongoing excellent work undertaken at the Stage 1 level in law faculties would of course inform the holistic competency model. My education model will provide structure to support lawyers' reflective practice for their own learning and to contribute to the learning of others by *curating 'better', even best practice* that informs a graduated competency continuum. It equips educators, trainers and facilitators with the insights and skills to articulate the working, or practical know-how of our master practitioners, which is fundamental to this objective. With these skills it is possible to create a living (or iterative) curriculum which can be contextualised to specific practice areas and/or legal workplaces.

My study included the "LWC' Leaderwork Action Map' that provides a visible representation of the cultural aspects of leadership work in legal organisations. It can be used by individuals and groups to undertake critical, productive and co-operative reflection about leadership issues in the legal workplace and it is thus part of an emergent leadership review and development syllabus. Further details are available in Hann (2007 p.301).

Lawyers' reflective practice is integral to the "LWC' Leaderwork Review and Development Model' (Hann, p.294). The reflective guides provide a graduated progression from the kinds of reflective practices familiar to clinical legal education (Table 31). Progressing to Advanced Mastery level requires the use of critical, productive and co-operative techniques (Swanwick (2005), Boud, 2006, Fook, 2006, Mc Manus, 2006), (Hann 2007 p. 301 and Tables 32 & 37).

2 Centre of Legal Education Learning and Training

2.1 Legal Learning Education and Training Continuum not Legal Learning and Development Continuum

Critical reflections about the past 20 years of structural, political and symbolic developments in legal education and SoLE may lead us to the collective view that the profession, and PLT providers in particular, would benefit from the establishment of an independent *Centre of Post Degree Legal Education* which has, as a core objective, to co-ordinate empirical educational research into best practice in Stages 1 through to 3.

The Centre/s would be based at state level, with a federal umbrella similar to Judicial Education as is embodied in the 'Training Principles for Judges'.

The detrimental impact of maintaining the artificial and unsophisticated division between education (Stage1) and training (Stage 2) and what I term Continuing Legal Education (CLE2), now often termed professional development/ CPD, (Stage 3), would be alleviated.

Although a simple proposition, the failure to foreground *learning* as a fundamental feature of the proposed Legal Education and Training (LE & T) Continuum has serious implications. Instead, it should be referred to as the Legal *Learning*, Education and Training (LLE & T):

1. The term, education and training does not incorporate Learning At Work (LAW).



2. Learning At Work (LAW) is the primary means by which lawyers learn (and develop) their legal practice skills, knowledge and attitudes post admission and yet 'learning' is excluded from the continuum.
3. 'Education' in Stage 1 in the context of the proposed 'LE & T Continuum' is understood to constitute propositional knowledge and the "Priestly 11" without any required Learning At Work component. So how does Learning At Work get on the page for Stages 2 and 3?
4. Clinical Legal Education (CLE1) is part of a formal accredited course and is therefore work based learning as well as WIL. It retains education in its term.
5. It seems that the legal education transition point from education to training is PLT. It can be inferred, that in part, the intent behind this name change is to distinguish this 'training' from legal scholarship and to also locate it in the legal workplace or practicum. The inference being that it fits the 'junk' category of learning, (Beckett 2008).
6. PLT constitutes formal training, yet it is also formal accredited education. As mentioned elsewhere it seems to be delivered at 2 different AQF levels. When this 'training' occurs in the workplace it is WIL. This will be more prevalent at junior levels in the profession.
7. More senior levels of the profession will engage in predominantly practitioner led learning. This is what is called 'informal learning' and fits in Learning At Work (LAW). Here the importance of articulating a graduated progression of work and learning is vital.
8. To include practitioner led learning in Stage 1, beyond the traditional case study method, requires a paradigm shift in legal education thinking and the development of skills to build a contiguous curriculum which would incorporate a holistic competency framework. Practitioner led learning can also inform formal learning at all stages of the continuum including Stage 1.
9. Regulators and others use the term professional development or CPD to describe lawyers' learning post admission. If this is to be equated with training then it constitutes an unsophisticated pedagogy and removes our focus on 'education' in Stage 3. *Hence why instead Continuing Legal Education should be reshaped, not removed.*
10. By excluding LAW theory from legal scholarship, a result has been a failure to recognise and leverage the rich learnings that Beckett (2008) says are often considered the "junk" category of learning yet are actually the main game in legal practice in legal workplaces.

2.2 Proposed Legal LET Centre Guiding Principles

Key success ingredients in Judicial Education provision by the Australian Judicial Colleges is threefold:

- Their focus on the specific *learning needs* of judicial members
- Independence from government and
- Attraction of substantial government funding via the various Attorneys-General and regulatory bodies.



The proposed Centre could adopt similar guiding principles:

- Focus on the specific *learning needs of practising lawyers* to address both technical legal competence, work competence, including technological and ‘legal working culture’ competence.
- Balance education and learning outcomes with required regulatory performance outcomes.
- Attract substantial government and other funding to undertake educational research into lawyers learning.
 - foster educational research into the most effective means to design, develop and deploy PLT programs and Stage 3 Continuing Legal Education Programs.
 - The first research project could be into legal supervision practice in Australia.
- Have a specific function to overview the delivery of Legal Education Programs to non-lawyers by other bodies.

Its key stakeholders could include:

- The Law Student Society
- CALD
- ALAA (Australasian Law Academics Association)
- [a new] Representation for PLT Trainers/ Education and CLE2 facilitators/educators
- APLEC (representing The College of Law and The Leo Cussen Centre of Law etc.)
- LACC
- Community representatives
- AIJA
- The Academy of Law
- Legal Services Council
- Law Council of Australia.

Had such a Centre been established in 2007, when the Academy of Law was established, Australia could have been at the forefront of challenging the dominant international discourse of regulating post admission learning. We would also have 18 years of valuable empirical research and legal educational scholarship in this field.

Imagine there is a scheduled week per year, even two days, where all lawyers in Stage 3 undertake funded *professional learning and development*. Currently there is government funding that channels through to lawyers’ professional development but it is not retrieved and collated from the individual swim lanes of professional practice and interest, to then be consolidated and curated into a continuum of professional learning policy and practice. With the advent of Artificial Intelligence this is a more pressing issue.

It is arguable that the Academy of Law has the mandate to do this already for Stage 2 and Stage 3 of legal education however it has not commissioned or recognised research beyond a narrow



interpretation of legal education. Can it be assumed that the Academy's standpoint is that its mandate is limited to promoting the highest standards of legal scholarship and research and legal education and practice *only* when it involves the administration of justice?

Its current mandate is:

- "To promote the highest standards of legal scholarship and research, of legal education and practice, and of the administration of justice.
- To establish and advance funds to provide scholarships and research grants which advance legal education and the discipline of law and promote ethical conduct and professional responsibility". [Emphasis added].

Assuming that, even this restrictive interpretation is correct, then Learning At Law theory is still within this purview as demonstrated by my PhD Senior Counsel participant, see Section 4.2 in Hann (2007). Given this situation it is necessary for a renewed impetus to advance legal education and research particularly as it relates to practitioner led learning. Hence the need for the Centre if the Academy of Law does not accept the brief.

2.3 Pedagogy of Reflective Practice in PLT

'Reflective practice' partners LAW theory in several ways. Importantly there is a vital educative (or facilitative) role for legal educators in all 3 stages of legal education. Here we will focus on Stage 2 as it involves, "work experience", traineeships, and the 12 month hybrid of working and completing compulsory PLT units of competence. The feedback from PTL participants was that their learning was often of an unsatisfactory quality. Workplace supervisors also expressed dissatisfaction. What does this tell us?

At the PLT stage work-integrated learning (WIL) provides the main input, namely:

1. Providing a learning scaffold or pedagogy for the PLT participant's professional identity formation (Trede 2012)¹⁶⁸
2. Facilitating the 'mindful learner'.
3. Identifying constraining aspects of 'Legal Workplace Culture'.

2.3.1 Work-Integrated Learning Curriculum

Professional Identity Formation

Trede (2012) explains that work-integrated learning (WIL) opens the door for reflective practice and formation of professional identity:

"a WIL program prepares students for practice and includes learning professional roles, understanding workplace cultures; professionalizing and socializing into a community of practice; and developing agentic workforce participants. WIL is the space where professional identity formation should be stimulated and initiated. They traverse different spaces: self as learner and as professional; self at university and in workplaces; and learning about theory and practice" (Trede. p164)



Next Trede outlines three principles that can be distilled from a critical WIL curriculum that enhances professional identity and professionalism. These principles underpin pedagogical strategies that facilitate a *purposeful* development of professional identity and professionalism:

- Problematizing participation
- Generating a discourse of professionalism and professional identity; and
- Capacity building in students and mentors to question.

These three principles of; participation, identity and capacity building are influenced by workplace related factors as foreshadowed; “[W]orkplace educators might be unskilled in facilitating student learning, students might be unsure on how to participate, and the workplace culture might be hostile and workloads busy (Fuller, 2007).

Furthermore, full participation is “further complicated because students are assessed by their workplace educators which may jeopardize authentic learning. Not all students feel invited to move towards more fully participating in practice, and not all students want to (Trede & Smith, 2012. p.165). In this regard our hyper-critical legal culture can suppress this learning.

2.3.2 Mindset Formation

When PLT participants enter a legal workplace for “work experience” they are still constructing their identity and assumptions. If they have previously worked as a para-legal then their professional identity formation and mindset, that is beliefs, attitudes and assumptions, about ‘how we do things’ are already forming. Either way it seems that there may be insufficient formal or informal support from the PLT educator/trainers, who are often sessional, to the participants and the specific legal workplace.

Buchanan defines a mindset as constituting habits of mind which are formed by previous experience involving deeply held beliefs attitudes and assumptions and provide a frame of reference that shapes our capacity for perception and action, (2017).¹⁶⁹.

2.3.3 Leadership role of Workplace Coach Supervisor

My research established that there is often a lack of support and understanding when lawyers undertake additional work in legal organisations, such as assuming the coaching and mentoring role of a PLT participant. Note Schall (2024) ¹⁷⁰when she expands on her previous work of developing a *Defender’s Guide to Reflective Practice* (1999) by explaining that lawyers do not think enough about the consequences of a particular role, [in this case a supervisor coach role], and will often need organisational support, both from their workplace and the PLT provider, to better engage with their participant to improve the participant’s learning outcomes.

The participants often encounter the constraints of legal workplaces. Restrictive hyper-critical cultures do not provide a healthy learning environment. An implication is that the supervisor coach can be resentful of the expectation they will engage in the formal assessment process without adequate induction and time allocation.

If you don’t value the specific LAW (Learning At Work) then how can the legal practitioners in the coach supervisor role value their own contribution which will usually be rendered invisible in the legal workplace? (See Hann 2007).



2.3.4 Leadership role of PLT educator/trainer

There are complex cultural aspects at play when placing a PLT participant in a legal workplace. It is imperative that both the workplace supervisor coach and the PLT educator/trainer are aware of this. Effective WIL facilitation requires the educator/trainer/facilitator to have the skills to guide the workplace supervisor in a reflective process to challenge their own prevailing mindset and ways of doing things.

At the sophisticated end of this spectrum the educator/trainer/facilitator can help the leaders within an organisation to become critically reflective about their own working culture and engage in sensemaking (Weick, 2010).¹⁷¹ This was part of the educative facilitation work in Hann (2007).

2.3.5 Mindset Paradigm Shift

Buchanan referring to (Kegan and Lahey 2009)¹⁷² and (Langer, 1989) claims that a “person’s mindset can harden and become fixed” and that “to change a mindset takes a process of development as a person’s ability to take an aspect of their mindset and make it an object of their awareness. This developmental process can be conceptualised as ‘mindful learning’, i.e. a developmental process involving a mindset shift or a paradigm (Langer 1989, 2000 p.40).”

A ‘Learning At Work (LAW)’ model would be ‘owned’ by the proposed Centre and:

- Design and build competency units which span Stages 1, 2 and 3 of the LE & T Continuum:
 - technical legal competence including use of technology
 - work competence
 - legal working cultural competence
- address the educational relevancy, cost and quality issues raised by PLT participants
- provide a ‘living’ or iterative professional learning and development ladder to progress lawyers’ ongoing professional education
- attract research funding for practice based research.
- alleviate the academic versus practice dichotomy and instead foster innovative and practitioner centred learning strategies
- deliver a more relevant and vibrant PLT experience
- equip PLT Participants to be self-directed learners as they progress in their careers
- establish educational guidelines to meet sound CLE2 education and work-integrated outcomes.

It is possible to benchmark the instruction skill level required for PLT based coaching. Those lawyers demonstrating mastery skills could be encouraged to share their techniques and insights (practices) that could then be codified into a contiguous education model (Hann, 2007).

3 Holistic Competency Model

Hook Tangaza (2021)¹⁷³ suggest a model for an ongoing competence regulatory regime in the UK – ‘A model for the Competence of the Legal System’. They envisaged *independent levels of competence at the individual, firm (organisational competence), profession and legal sector levels*. The authors note that a toxic culture in the profession broadly, or in a firm specifically,



will impact competence at any of these levels.¹⁷⁴ However they did not progress to a consideration of ‘holistic competence’.

3.1 Legal Workplace Practices

The Learning At Work (LAW) model would be informed by strategic initiatives such as the:

- *Challenging Disrespect and Inequality in the Legal Profession Project* hosted by the Women's Legal Service Victoria and sponsored by WorkWell, WorkSafe.
- *Systems Theory of Change for Lawyer Wellbeing Project*: Results from the System Effects Survey 2025. Prepared for the Victorian Legal Services Board + Commissioner, Melbourne, Victoria

3.2 Development Strategy to Upskill Legal Education scholars, teachers and trainers

- A co-ordinated approach to upskill education research capabilities across the legal academy in the field of educational theory and practice
- Formal qualifications should be prioritised including:
 - A minimum qualification TAE40122 Certificate IV in Training & Assessment be developed and contextualised for delivery and assessment of legal competencies.
 - It should also be at Diploma level.
 - It is noted that most legal educators prefer to undertake post-graduate qualifications so a contextualised qualification is also needed.
- In implementing change, the legal profession can work with educators to identify and articulate the skills that entry-level lawyers require to be better practitioners (The Review). This requires a research project
- Initiatives by PLT and CLE Providers to provide their staff with opportunities to contribute to SoLE research
- Establish an inclusive legal academic culture which provides opportunities to independent scholars and others for fellowships and participation on research projects
- CLE2 be acknowledged as a field of legal educational research and welcomed into SoLE.
- The ‘grey literature’ comprising PhD level research into legal education be collated and made available in one repository
- The 2030 Review needs to ensure that alternative perspectives, including the voices of PhD level research are elevated.

3.3 A New National Conversation

‘The Reimagining the Professional Regulation of Australian Legal Education (2023) Report’ undertook a detailed analysis of the regulation of legal education in Australia, and in a global context. It identified the various drivers for regulatory reform and the key stakeholders invited to participate in the national conversation. The focus being the possible, probable and potential impact upon our efforts to protect and enhance the wellness of law students, legal academics and legal practitioners.

The stakeholders were identified as:

- CALD, the Law Admissions Consultative Committee (LACC),



- Australasian Professional Legal Education Community (APLEC)
- Legal Services Council,
- Law Council of Australia and
- Australasian Law Students Association (ALSA).

We cannot possibly have this national conversation if it excludes the educational expertise and experience of the CLE2 community. In 2004 the CLE2 community indeed existed and had an annual National CLEAA Conference¹⁷⁵. APLEC only represents Stage 2 of legal education which I reiterate is not the same cohort or interests as Stage 3. In 2007 my PhD called for a Reshaping of Continuing Legal Education, not its annihilation, which is what appears to have occurred.

Notably there is no representation for Stage 3, CLE2 experts on the 2030 National Review. Its participation is fundamental to an all-encompassing conversation about how to enhance the wellness of law students, legal academics, PLT and CLE2 practitioners and legal practitioners as they learn and work in legal organisations.

By articulating a meaningful alternative perspective, this submission makes an important contribution to your consideration of the PLT issues in NSW and indeed nationally. It follows that the voice of CLE2 should be invited to the 2030 National Review. What this submission more broadly aims to achieve is a contribution to the reimagining of legal education (and therefore also regulation).

3.4 Good Practice Guide; Reflective Practice

Here are the 10 principles set out in the Good Practice Guide developed for law teachers in 2013. To what extent have these principles been met by 2025? Note this guide is written for Stage 1. It would be possible to extend the principles into Stages 2 and 3 and add extra components.

No	Reflective Practice Principles
1.	There is need for a <i>clear and consistent definition</i> of reflective practice across faculties, universities, and jurisdictions.
2.	There is a need for reflective practice skills to be <i>embedded across the entire law curriculum</i> .
3.	There is a need for further development of <i>teachers' skills and knowledge</i> of reflective practice, especially how to teach these skills to students.
4.	<i>Good practice teaching tools</i> are necessary to assist the teaching of these essential skills.
5.	<i>Research</i> is needed to explore how reflective practice skills taught in the early years of legal education are reproduced in the later years looking for evidence students use these skills to enhance their understanding of the law and their roles as legal practitioners.
6.	A greater emphasis on reflective practice skills is needed in the <i>later years of law curriculum</i> to promote students' ability to reflect on the development of their substantive legal knowledge.
7.	<i>Greater promotion</i> of reflective practice skills is needed <i>within the law profession</i> to counter the devaluing of these skills.
8.	Research is needed to explore how teachers model <i>good reflective behaviours</i> to students.
9.	There is a need for the <i>development of courses explicitly teaching reflective practice</i> within curriculum.
10.	There is a need to develop the use of <i>ePortfolios</i> to enable individual students to document their development of threshold learning outcomes. ¹⁷⁶

Table 9 The 10 Reflective Practice Principles Stage 1



3.5 A Shared Space: Justice for Lawyers Conversation

In the Legal Education and Training Review, Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales (Report, June 2013) Ching, Maharg, Sherr and Webb argue that the regulation of LE&T should go beyond basics and embrace a shared space approach for collaborative inquiry and joint action that has the potential to transform the regulatory relationship between all legal education stakeholders, including regulators, to the benefit of enhanced LE&T theory and practice. These can be paraphrased as follows

- Such an approach takes account of ‘multi- and interdisciplinary approaches
- Interjurisdictional approaches consist of not just global best practices but the complex weave of global with local circumstances, local regulatory codes and local practices’
- The ‘shared space’ is ‘a community of educators, regulators, policymakers and
- professionals working in provision of legal services, drawing information from other jurisdictions, other professions and other regulators to identify best practices in [LE&T] and its regulation
- This approach is described by LETR as a more co-operative and coordinated, co regulatory model, useful in its own right and also because it could be more dynamic, reflexive and self-renewing. (para 6.158).¹⁷⁷

In advocating for a regulation model called the ‘shared space’ the UK Legal Education and Training Review Report proposed an approach to sustain development of “a community of educators, regulators, policymakers and professionals working in provision of legal services, drawing information from other jurisdictions, other professions and other regulators to identify best practices in [legal education] and its regulation” (para 6.158).

Is such an approach envisaged in the current reviews or are we destined to a repeat of hierarchical regulation informed by a hyper-critical legal culture? The *Shared Space Regulatory Body* would bring together all stakeholders — legal education providers, professional bodies, regulators and consumer representatives — with the following remit:

- Oversight and expert advice to regulators and the LACC in a continuing review of LE&T regulation
- Maintenance of a clear map to show systems of movement within and between different qualification routes
- Creation and dissemination of advice on standards, qualifications and equivalences, with guidance on educational methods:
 - Quality marks for work placements, and possibly national paralegal (voluntary) accreditation harmonisation of transfer regulations, including accreditation of prior experience, and/or learning for entrants and transferees
 - Data pooling and publication
 - Sustained development of a ‘shared space’ [for enhancement and regulation].



The authors conclude; “[W]hile agile regulatory reform and harmonisation have remained elusive, there is now some reason for optimism that eons of intractable impasse might yet yield to productive professional-academy dialogue in response to disruptive influences, both disciplinary and other-regarding”.¹⁷⁸

In my view the term LE & T should incorporate *learning*, (LLE & T), because, given the current paradigm, learning at work is missing in action

4 Role of Law Schools and PLT in Training New Lawyers: Academic v Practical Tension

"The act of leadership is not always comfortable." (cited in Mirkay and Strand, p.366)

4.1 'Frozen Knowledge'

Kift and Nankano (2023) provide a detailed critique of the Priestley 11 describing them as “*frozen knowledge*”. This submission acknowledges the authors’ comprehensive and thought provoking exposition of Professional Regulation of Australian Legal Education. The diagram in Part D depicts this ‘frozen’ aspect and contrasts it with the healthy alive tree which is growing in strength and materiality.

The authors claim that “any review of the adequacy of legal training for new lawyers should extend beyond the existing PLT approach and should consider how PLT can be better integrated with academic law studies. There is already an impetus to embed practical skills in the foundational law degrees. For instance, the Australian Law School Standards require that (as a minimum) Australian law schools must endeavour to: “provide, so far as practicable, *experiential learning opportunities* for its students, including, but not limited to, clinical programs, internships, workplace experience, and pro bono community service” (Kift and Nankano 2023, p.18).

Additionally, the Higher Education Threshold Standards require “all Australian Universities (i.e., not limited to law schools) to demonstrate: ...engagement with employers, industry, and the professions in areas in which it offers courses of study. This engagement may include...*work-integrated learning*. We acknowledge, of course, that the role of a law school at an Australian university extends beyond that of training new lawyers for professional practice, especially when one considers that many law graduates do not practice law after graduation,” (Kift and Nankano 2023, p.20). [emphasis added].

4.2 Legal Research

Legal research, including in higher degree by research academic programs, is a core function of a law school and, by its nature, that research tends to be more theoretical than practical. In the contemporary Australian university environment, research output (especially publication of journal articles) is an important performance measure for most academics, including legal



academics. This creates a tension and a potential barrier to advancement, for those academics with a more ‘practical’ legal education focus and those academics and other scholars who wish to theorise legal education from an interdisciplinary perspective.

As explained by Hutchinson 2008,¹⁷⁹ it is important for legal scholars in the twenty-first century to embrace social science research methodologies, reflecting the existence of law within a social setting such that:

- A law school’s role in training future lawyers co-exists with the research demands placed on legal academics. *But are these demands mediated?*
- A foundational law degree should teach both theory and practice such that a law graduate is ‘practice ready’. *Does this theory include an epistemology of practice?*
- Theoretical legal research and the practical training of future lawyers both remain core functions of all modern Australian law schools, and one cannot be placed above the other in its importance. *How are the priorities for legal research currently set? What scholarships and funding opportunities are currently provided?*
- It remains the case that law schools must also meet the needs of external stakeholders: the judiciary, the legal profession more generally, and the community. *Here the hyper-critical culture can intervene.*

Kift and Nankano (2023) contend that a move towards a greater focus on practical skills development during an aspiring practitioner’s academic law studies can be achieved as a natural extension of the significant role already played by law schools in preparing graduates for legal practice. However as discussed, empirical research in fields such as, Learning At Work Theory and an epistemology of practice are missing in action.

4.3 Crossroads

Legal education and professional training in Australia is at a critical crossroad, confronting significant challenges that hinder the development and wellbeing of legal practitioners. Despite various reform efforts, the need for a cohesive, integrated approach to legal education and lifelong learning remains vital, to support lawyers throughout their careers.

Core issues include a:

- Persistent disconnect between academic legal studies and practical legal work
- Fragmented and undervalued post-admission professional learning system, and
- Toxic workplace culture, recently described as hyper-critical culture, marked by high rates of gendered violence.

4.4 Disconnect Between Legal Education and Practice

There is a notable and enduring gap between the theoretical focus of law degrees and the realities of legal practice, affecting both new entrants and experienced lawyers. This disconnect contributes to workplace problems, including gendered violence and resistance to cultural change within legal organisations. The absence of a structured, endorsed professional learning framework constituting a lifelong learning continuum exacerbates these issues, creating a



fragmented learning environment that fails to support lawyers' ongoing professional learning and development.

4.5 Practical Legal Training (PLT) and Continuing Legal Education (CLE2)

A commissioned report by the Legal Profession Admission Board NSW has exposed serious concerns regarding the cost and quality of Practical Legal Training (PLT), underscoring the need for systemic reform. Continuing Legal Education (CLE2), which follows PLT on the continuum is undervalued and often disconnected from workplace learning.

The current minimal compulsory professional development requirements foster complacency, undermining the development of a robust lifelong learning culture.

A contiguous professional learning curriculum integrating law degrees, PLT, and CLE2 is necessary to ensure continuous, practice-oriented learning that better prepares lawyers for evolving professional demand.

4.6 PLT and Higher Education Standards Framework HESF (Threshold Standards) 2021

PLT practitioners face challenges balancing the sector's vocational demands with their educational aspirations. Greaves describes his colleagues metaphorically as "soldiers" or "double agents," navigating pressures from various stakeholders while striving to enrich legal education through scholarship and reflective practice.

PLT providers (Greaves, 2015) are enclosed within a vocational framework that marginalises academic critique and limits opportunities for professional agency and development **BUT** bodies such as the College of Law and the Leo Cussen Centre of Law **are registered Higher Education Providers**. Noticeably **both** colleges use the term Practical Legal **Training** rather than education or learning.

4.6.1 The Seven HESF Domains

This submission will focus on the fifth bullet point in Part A Standards for HE Providers. A key consideration is that the "Provider is to ensure that WIL experiences and supervisory arrangements for WIL experiences are quality assured"¹⁸⁰ An essential point to make is that these standards apply equally to the provision of Stage 1 legal education including Clinical Legal Education (CLE1). This issue lies outside the scope of this submission but is noted because the fragmentation of the legal education system and the inconsistencies in quality of delivery across at least Stages 1 and 2 will have a direct impact on the quality of the Practical Legal Training WIL experience of every PLT participant.

"1. Learning TEQSA Guidance Note: Work-integrated learning [WIL]

The HES Framework requires TEQSA to consider the following aspects of a provider's WIL arrangements:

- WIL is well-conceived in design and rationale, educationally sound and its implementation is quality assured and monitored by the provider, irrespective of approach. ***Ideally this should be supported by authoritative educational research and ongoing WIL-related scholarship by staff involved in planning and delivering WIL units***



- WIL forms part of a coherent course of study including through sound constructive alignment between expected learning outcomes of a course of study and methods of assessment and the teaching and learning content of WIL
- WIL is delivered through adequate facilities and infrastructure to support the student's success, including supporting diversity and equity considerations
- the provider has taken effective steps to monitor and support the wellbeing and safety of students engaged in WIL, and has clear student grievance processes capable of resolving issues students may have with the WIL aspects of their course of study, as well as managing critical incidents should they eventuate
- the provider has in place and implements policies and procedures for quality assuring WIL including quality assuring the student experience and external supervision
- WIL that forms part of requirements for professional accreditation is fit for that purpose and is clearly and accurately described in representations made by the provider or its agents."

4.6.1.1 Lack of Research into Legal Supervision in Australia.

Note that the authors Covark, Hewitt, Henderson and Nosworthy (2024), citing Jeff Giddings and Michael McNamara (2014) ¹⁸¹ state that there has been "surprisingly little research into legal supervision practice in Australia," (2024, p.12). They note that supervisor support and mentoring is critical for internship participants "to be able to transfer their academic knowledge to workplace activities" (2024, p.33).

It can be inferred from this situation that the PLT sector has not taken adequate steps to research legal supervision practice. Therefore, caution is required when accepting the survey feedback from the supervisors of PLT participants.

4.6.2 Quality Management System implications

The following issues are raised in the context of a continuous improvement quality management lens. Nothing discussed in this section or elsewhere in this submission should be read as making adverse findings about the status of PLT Providers and law faculties in meeting their regulatory obligations to both LACC and TEQSA.

There is inconsistent educational practice and continuous improvement, in the delivery of formal legal education services, in several important ways:

- When an education practitioner, such as Greaves or Hann, decide to altruistically contribute to the knowledge and practice of the PLT provider sector their efforts are thwarted (Greaves) or even suppressed (Hann).¹⁸²
 - The current reviews underway in NSW and Australia wide have not indicated any interest in accessing our working knowledge to understand these academic contributions because our PhD work has not been valued by the PLT sector or the broader legal education academic sector.
- This is not appropriate behaviour for organisations that are registered higher education providers.
 - For example, there was no arrangement for my PhD to be available in the libraries of registered PLT providers or law faculties for that matter.



- This links directly to the PLT participants feedback about the quality of the delivery of the courses.
 - Many current participants (students) have provided feedback to this review that the current PTL course is not value for money and is overpriced.
 - What would they think about the probable resistance and negative attitude from PLT Providers (and law faculties) towards utilising research including action learning techniques to improve PLT knowledge and practice in delivering quality educational outcomes for them.
- In addition to contributing to this sector as a past Director of a PLT Provider I am also the parent who has, within the past 10 years paid The College of Law PLT full course fee on behalf of my daughter. Not value for money for me.
- As critiqued in detail in this submission there is an absence of legal education (or training) scholarship in Stage 2.

There is an inconsistency between the PLT vocational training frameworks and these bodies holding the standing of a higher education provider where the expectation is that the provider has an educational quality framework benchmarked to higher education such as the '7 Learning Principles of HELF' which include:

Principle 1: [Learning as becoming](#) encompasses how the learning experience transforms learners and how a higher education experience can help learners to integrate knowledge and thinking outside of the learning context.

4.6 PLT Registration and Accreditation

Leo Cussen Centre of Law

FEE-HELP: The Institute is registered on the Australian Qualifications Framework Register of Recognised Educational Institutions. It is registered as a Higher Education Provider (HEP) for the provision of FEE-HELP (Commonwealth) No. 4402.

TEQSA: Leo Cussen has been registered on the [National Register of Higher Education Providers](#) by the Tertiary Education Quality and Standards Agency (TEQSA). The TEQSA Provider Number is: 12155. Its Practical Legal Training course (Graduate Diploma in Legal Practice) has been [accredited](#) by the TEQSA.

CRICOS: The Practical Legal Training (onsite) Commonwealth Register of Institutions and Courses for Overseas Students ([CRICOS](#)) provider code is 02224A and the CRICOS course code is 039593D.¹⁸³

The College of Law

A registered provider with TEQSA, PRV12048¹⁸⁴

Both can also be registered as private higher education providers under the Independent Tertiary Education Council Australia.



Part E Conclusion

Despite my pioneering interdisciplinary research into lawyers' learning and leadership having been undertaken in Australia, there has been a systemic neglect by legal education institutions, professional bodies and SoLE itself to engage with research that recommends transformational change. A number of Law Faculties and PLT Providers now deliver Leadership Courses for Lawyers without having read the only Australian PhD level research into how lawyers learn to lead at work. Is law a scholarly profession that does not value scholarship?

How may individual lawyers need to be supported in learning to manage and lead in legal organisations and institutions where there is no visible workplace curriculum to guide this learning and when their management and leadership work is not always recognised or supported by their organisation or the profession?

This lack of engagement reveals a prevailing mindset that struggles to problematise critical issues such as professional incivility, ineffective and inadequate continuing legal education, and workplace wellbeing.

The legal sector's resistance to embracing change agents and research-based reforms reflects a resolute inability to fearlessly scrutinise its work and learning culture and education practices. This hinders growth and evolution of its culture and practices.

1 Structural and Transformational Challenges

The evolution of legal education in Australia has been marked by tensions between the judiciary, legal profession, and academia. Historically, there has been a preference for apprenticeship models over academic intellectualism, leading to compartmentalisation and undervaluing of PLT and CLE2. These dynamics have reinforced the marginalisation of practical and continuing legal education, limiting critical engagement and improvement.

The prevailing vocational framing of PLT has enclosed it within a non-academic, critique-free domain, thus impeding scholarly inquiry and the development of integrated professional identities for practitioners and educators.

This submission has underscored the urgent need for systemic reform in Australian legal education and professional learning education and training. It advocates for an integrated, research-informed, lifelong learning approach that values practical experience, practitioner led learning, continuing education, and leadership development.

Legal education and professional learning and training in Australia face significant challenges, including a disconnect between academic study and practical legal work, (at least in terms of SoLE scholarship) and a high incidence of gendered violence in legal workplaces. Despite efforts to improve practical legal training (PLT) and continuing legal education (CLE2), ongoing professional learning post-admission remains fragmented and undervalued, hindering lawyers' learning careers and affecting the administration of justice.

An upskill across the legal profession is required for supervisors and others who are work coaches in legal organisations.



This requires:

- Curating the knowledge and practice of effective workplace coaches [Hann 2007]
- Intentional teaching skills
- Being deliberate, purposeful and thoughtful in their decisions and actions
- An appreciation of the need to encourage and assist people to use new skills.
- Skilled educators who can make judgments about how much assistance to provide and when to gradually reduce or remove to facilitate independent thinking and action
- Contributing to modelling progressive reductions of support.

It is noted that there is no such requirement under the Work Experience Rules of the College of Law that the ‘supervisor’ have any coaching or training skills or experience (Rule 7).¹⁸⁵

Addressing cultural issues within legal workplaces, recognising the scholarship of all legal educators including ‘grey’ literature, and fostering collaboration among regulators, educational institutions, and the legal profession are essential steps toward enhancing lawyers’ professional development and wellbeing throughout their careers.

2 Leadership and Legal Workplace Culture

Leadership and organisational culture within legal workplaces significantly influences lawyers’ professional development and wellbeing. Fairness in access to learning opportunities is critical.

2.1 The Need for Collaborative Reform

A pressing call exists for legal stakeholders—including regulators, educational institutions, and the profession—to collaborate in creating a robust, integrated professional learning continuum that supports lawyers throughout their careers.

This collaboration should align the interests of the profession, academia, and society to enhance lifelong learning and workplace wellbeing. Some of the challenges to this being achieved include:

- Challenges in recognition and research integration. There has been a systemic failure to acknowledge or integrate these findings into the working practices of legal education institutions and professional development bodies.
- Professional Incivility and Workplace Wellbeing. Legal professionals often face difficult work environments that hinder their wellbeing and professional growth. The profession's reluctance to support change agents and embrace research-based reforms exacerbates these issues.
- Scholarship and practice in legal education. PLT and CLE2 are marginalised within the broader legal education framework.
- PLT is often treated as vocational training devoid of academic critique, limiting the ability of practitioners to engage in scholarship of teaching and learning (SoTL). This mindset enclosure restricts the development of a professional identity that integrates both legal practice and education, despite the evident need for such integration to improve legal education and practice, (Greaves 2015).



- The Role of PLT Practitioners. PLT practitioners are described metaphorically as "soldiers" or "double agents," (Greaves 2015). who are caught between vocational demands and the aspiration to enrich legal education through research and reflective practice. They face pressures from multiple stakeholders while striving to balance the dual identities of lawyer and educator, often without sufficient institutional support.

3 HELF can HELP

3.1 Seven Principles of Learning HELF

The Higher Education Learning Framework (HELF) is an evidence based model for university learning. The “framework pulls together seven main themes emerging from a rigorous study into higher education learning undertaken by researchers in the Science of Learning Centre”.¹⁸⁶

The framework has seven principles of learning:

1. [Learning as becoming](#) encompasses how the learning experience transforms learners and how a higher education experience can help learners to integrate knowledge and thinking outside of the learning context.
2. [Contextual learning](#) brings the context to the learner and delves into how this makes the learning experience more engaging, motivating, and meaningful to students.
3. [Emotions and learning](#) explores the powerful role that emotions and group emotional states play in the learning process and how they can be harnessed to enhance the learning experience.
4. [Interactive learning](#) delves into the nature of social interactions and social dynamics in learning, the processes behind them, and the value of a sense of belonging in learning.
5. [Learning to learn and higher order thinking](#) focuses on the awareness of thinking processes and learning strategies, when and how to use them, when and how to evaluate their effectiveness, and developing these capacities in learners.
6. [Learning challenge and difficulty](#) centres on the role of learning impasses and error making in learning and how to resolve these to promote strong and healthy connections in learning.
7. [Deep and meaningful learning](#) unpacks building learning on prior knowledge, going beyond surface understanding, and laying the foundations for transferring and using knowledge in novel contexts.
8. This submission’s proposed strategy for Reshaping PLT clearly sits within the HELF learning principles. Given that PLT Stage 2 is delivered in both the university sector and by private higher education providers, applying these principles to the strategic review work currently underway in the Australian legal education sector should ensure that Learning At Work (LAW) finds its voice and is invited to the Working Party table.

This submission’s proposed strategy for Reshaping PLT clearly sits within the HELF learning principles. Given that the delivery of PLT Stage 2 occurs in both the university sector and by PLT Private Higher Education Providers sectors applying these principles to the strategic review work currently underway in our Australian legal education sector should ensure that learning at work (LAW) finds its voice and is invited to the Working Party table.



3.2 Sustained Shared Thinking

‘Sustained shared thinking’ is an educative practice which educators use when teaching kindergarten children how to understand and use concepts in their daily lives. Sustained shared thinking occurs when educators support the development of children’s complex thinking and problem-solving skills by engaging children in open-ended and exploratory conversations (Touhill, 2012).¹⁸⁷

Sustained Shared Thinking is defined as:

“An episode in which two or more individuals ‘work together’ in an intellectual way to solve a problem, clarify a concept, evaluate activities, extend a narrative etc. Both parties must contribute to the thinking and it must develop and extend” (Siraj-Blatchford et al., 2002).¹⁸⁸

Recently the techniques have been extended to adult learning. It is a useful approach when people learn to co-operate in order to develop knowledge and meaning together as they share and clarify their understandings. It foregrounds the importance of engagement in authentic, sustained concentration and intrinsic motivation. Highly involved adults operate at the limit of their capacities, leading to changes in their ways of responding and understanding and to deep level social learning This can lead to a change of mindset.

It is clear that a paradigm shift is necessary for how we design, deliver and evaluate the education and learning epistemology and pedagogy for the PLT stage. We may even conclude that the term, Practical Legal Training, is not an apt description for this educative stage given that it foregrounds ‘practical training’ but makes inadequate reference to education or learning in both its name and content.

My PhD ‘*Lawyers Practising Learning: Re-shaping Continuing Legal Education*’ (Hann, 2007)

can be found at

<https://hdl.handle.net/11343/356594>

<https://independent.academia.edu/DebHann>

A handwritten signature in blue ink, appearing to read "Deb Hann", is shown on a light blue background.

Dr Deborah Hann

1 September 2025.



ENDNOTES

Kindly note that the author is currently preparing an Index of References.

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²² APLEC was incorporated under the name Australasian Professional Legal Education Community Ltd on 2nd of June 2023.

²³ The Law Council generally supports the proposed revisions, subject to the below comments about law courses which are delivered entirely online. The revisions are a timely and appropriate update that reflect the realities of contemporary legal education. We recognise the importance of the university sector being able to evolve with technology and provide digital access to higher education. But we also recognise that that mode of delivery has substantial limitations. Given the broader contextual issues, we endorse a more concentrated approach focussed on the teaching of Priestley 11 subjects, centring core skills and knowledge in graduate attributes, and ensuring the integrity of results.

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- identification of areas in which further work is needed.

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