



Representing Family Lawyers Throughout Australia

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Law Admissions Consultative Committee
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By email: frances.mcmurray@lawcouncil.asn.au

Dear Committee

REVIEW OF ACADEMIC REQUIREMENTS

Introduction

The Family Law Section of the Law Council of Australia welcomes the opportunity to comment on the limited Review of Academic Requirements for Admission to the Legal Profession (Review) issued by the Law Admissions Consultative Committee (**LACC**).

The Family Law Section (**FLS**) is the largest of the Law Council's specialist Sections. Since its inception in 1985, FLS has developed a strong reputation as a source for innovative, constructive and informed advice in all areas of family law reform and policy development. With a national membership of more than 2300 family law practitioners and judicial officers, FLS is committed to furthering the interests and objectives of family law for the benefit of the community.

Scope of submission

FLS acknowledges and endorses the response of the Law Council of Australia to the Review.

FLS seeks only to respond to the Review in one respect - the question posed at paragraph 6.4:

Is any other area of knowledge, not presently included in the Academic Requirements, now of such basic potential importance to the great majority of practitioners today, that no law graduate should be permitted to practise without it?

In our submission, the answer to that question is "yes" - Family Law.

Question 6.5 asks whether such areas should be added to the Academic Requirements. Noting the observations of the Council of Australian Law Deans and the Law Council as to the desirability of a more comprehensive review in the context of the broader structure of Australian legal education - including University education, Professional Legal Training and Continuing Professional Development, any

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submissions as to the appropriate placement of Family Law within that framework should await that review.

The question posed

A proper consideration of whether a particular area of knowledge is of "such basic potential importance" that "no law graduate should be permitted to practise without it" invites consideration of:

1. The importance of that area of knowledge to the community, both in the context of its potential impact in individual cases, and the breadth of its impact across the community;
2. Whether study of that area of knowledge will not only equip the graduate in respect of that area, but contribute to the delivery of a well-rounded and broad legal education; and
3. Whether study of that area of knowledge lends itself to the development of problem solving and other skills necessary for graduates to effectively transition from "black letter learning" to practice.

The impact of Family Law in the Australian community

Family Law impacts on all separating couples, whether married or de facto, heterosexual or same sex.

The vast majority of Australian adults are in a relationship potentially impacted by Family Law. It is trite that a high proportion of those relationships (something over 40% of marriages, and anecdotally a higher proportion of defacto relationships) end in separation.

By way of simple example:

- The annual report of the Family Court of Australia 2013-2014 records that the Court received 356,004 telephone enquiries that year, and 255,792 counter enquiries (enquiries in person at the premises of the Court);
- The annual report of the Attorney General's Department for the same year made reference to a variety of non-Court based services (including family relationship centres, dispute resolution serves and the like) with a total of some 201,466 "clients".

A very significant proportion of the Australian adult community will at some stage come into contact with the Family Law system. So too will their children.

Adults who come into contact with the Family Law system are almost invariably at a very vulnerable point in their lives, at which the availability of appropriately skilled advice is critical. The children of families coming into contact with the Family Law system are self-evidently vulnerable, and frequently at risk.

It is suggested that both the proportion of the community which will come into contact with the Family Law system, and the importance of the impact of that system on those people, support the proposition that no law graduate should be permitted to practise without an appropriate level of knowledge in the area.

Broader legal education

Family Law is often regarded as a specialist field of practice. Certainly, it is an area of practice which requires special skills, both legal and inter-personal. It is also an area of practice in which change is a constant.

Having said that, practice in Family Law requires the practitioner to have a broad legal knowledge, and Family Law practitioners regularly have to consider issues arising outside what might be regarded as the "specialised" purview of the Family Law Act.

Comments made by Chief Justice Robert French AC in the Peter Nygh Memorial Lecture delivered on 15 October 2012 are apposite. His Honour said:

For myself, I have some scepticism about the notion that Family Law is to be narrowly confined by the designation "specialist". It intersects with a significant variety of areas of the law and, in fact, requires generalist skills on the part of its judicial members. Areas of intersection include Constitutional Law, International Law, Property Law, Corporations Law, Partnership Law, Contract and Torts, Equity and Trusts, Taxation, Insolvency, Evidence and Crime, and judicial process including procedural fairness.

In addition to the breadth of legal knowledge required to practise Family Law, the proper study and practice of Family Law involves:

- Issues of ethics and professional responsibility;
- Advocacy;
- Drafting skills;
- Exposure to and competence in a wide range of alternative dispute resolution approaches;
- Problem solving and "people skills".

All of those, it is submitted, contribute to the development of a well-rounded legal education, appropriately equipping a student for admission to practice.

The Family Law Section of the Law Council looks forward to participating in further discussions arising from the Review.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rick O'Brien', written over a horizontal line.

Rick O'Brien
Chair