SUPPLEMENTARY SUBMISSION TO THE LAW ADMISSIONS CONSULTATIVE COMMITTEE

REVIEW OF ACADEMIC REQUIREMENTS FOR ADMISSION TO THE LEGAL PROFESSION

Basis of supplementary submission

The Council of Australian Law Deans (CALD) wishes to provide additional comments on the Review of Academic Requirements for Admission to the Legal Profession released by the Law Admissions Consultative Committee (LACC). This supplementary submission provides additional comments to CALD’s initial submission to LACC dated 3 March 2015 (Submission). CALD’s aim is to offer practical suggestions on appropriate next steps to create a credible basis for reviewing the education and training standards for newly admitted lawyers.

Summary of supplementary submission

The key points in this supplementary submission are as follows:

1. CALD reiterates that it is not opposed to a comprehensive national consultative review of the Academic Requirements for Admission to the Legal Profession (Academic Requirements) in the context of the broader structure of Australian education. However, we believe that a high quality discussion and consultation process on changing the Academic Requirements must be in place before specific changes can be considered.

2. Over the last few years there have been various questions raised about aspects of the Academic Requirements (for example, whether subjects should be added or deleted from the Priestley 11), modes of delivery (eg on-line, blended learning, hours of teaching per subject) and the role of wider standards (eg whether the CALD standards are appropriately used in accrediting law schools). There are also important questions around the inter-relationships between legal education, PLT and CPD. While the Limited Review raises an important sub-set of questions, CALD recommends that the methods for reviewing the education and training standards for newly admitted lawyers needs to be more evidentiary, comprehensive, and inclusive taking into consideration the current and future needs of legal and non-legal service providers while being mindful of the limited resources that are likely to be provided to undertake such a review or any subsequent accreditation process.
3. In this context, CALD makes in this supplementary submission a series of practical proposals on how a more rigorous review may be conducted to ensure the Academic Requirements meet the needs of all stakeholders. Our proposals include evidence-based research into the current and future needs of the profession, the creation of focus groups to deliver in-depth commentary on collected data, and stakeholder forums to review proposals. We also comment on the related administrative and funding issues that will arise from any evidentiary review.

Proposals

4. Any proposed, comprehensive reforms to the Academic Requirements need to ensure that they are based on a sound understanding of the current and likely future needs of law graduate employers, the needs of the profession more broadly and a realistic understanding of the law school and PLT regulatory environment. Those proposing reforms must engage with a wide variety of stakeholders and have proposals thoroughly examined by them. Otherwise, we run the danger of a continuing series of ad hoc changes that are disruptive to legal education providers and do not address the underlying concerns of those in practice.

5. The reality is that such a process will require a funding commitment from either the government(s) or the profession. While CALD is happy to assist with facilitation and even to make a financial contribution, a proper process will require a serious commitment of resources and time. To facilitate discussion, we outline a proposed plan of action that would be achievable within a 12-18 month period and which is reasonably tight in terms of resources.

Establishment of a Review Committee

6. CALD proposes that a small group of experts be commissioned to review legal education and training in Australia with a view to producing a final set of recommendations about the future directions. The group should be kept to around 3 people to ensure coherence and direction which can become difficult with a larger group. It is critical that these people be ones who are involved currently in a meaningful way in the profession and/or legal education sector. The legal profession and legal education have changed rapidly in the last five years. The legal sector is experiencing pressures and opportunities from digitization, globalization, increasing client expectations and the rise of new entities providing legal advice outside the traditional firm structure. Law schools are likewise facing policy uncertainty, multiple forms of regulation that have developed in recent years, increasing uses of on-line technology and a very difficult employment market for graduates. It is important that the review committee members have an up-to-date understanding of the realities of life in the profession and law schools. Suitable people might be those who have recently stepped down from a position such as dean, law professor specializing in legal education, managing partner, graduate employment/recruitment partner and similarly qualified people. They should be expert and independent of any of the existing stakeholders and capable of engendering respect from those stakeholders.

7. The precise method of running the review would be a matter for the review committee, however, CALD proposes that a dedicated executive officer be employed to run the project and the establishment of a reference group of key stakeholders (eg, a representative from LACC, CALD, APLEC, LCA and ABA). The executive officer will be a senior legal professional who will have primary responsibility for managing the project, including managing the relationships and ensuring appropriate stakeholder inclusion. The first tasks of the executive officer would be to work with the literature review undertaken by LETR to extract key relevant messages for the Australian context and to update this review with particularly reference to relevant materials in Australia. This process will also assist in developing a set of appropriate survey questions. The officer could also produce a background paper explaining the current Admission Requirements, the other forms of regulation or review operating in the legal education sector, and the key findings of the literature review. Such a review and outlining of the key relevant information would assist in creating a more informed discussion of the issues.
Survey of Employers and Other Stakeholders

8. A proper baseline understanding of the needs of both legal and non-legal employers of law graduates is required in order to comprehensively analyse the current Academic Requirements. Employers need to be consulted on what knowledge, skills, and personal attributes they expect from a recently graduated lawyer and for their views on the adequacy of the current graduates. This will require a substantial engagement with legal profession employers, non-legal profession employers (eg government, tax firms, and management consultants) and related stakeholders, including academics, PLT and CPD providers.

9. Inclusive feedback can be achieved by engaging an independent research company to conduct a comprehensive survey of key stakeholders and representative groups. For example, the UK research phase of the LETR involved engaging an independent research team to conduct research to discover both the advantages and disadvantages of the current system including what was necessary and possible for the future. As a result data was collected from online surveys attracting 1100 respondents from the profession and focus groups and interviews with 307 academics and practitioners.

10. CALD suggests that at the first stage of the review of the Academic Requirements an independent research company be engaged to conduct an online survey with 3000 people (2000 legal, 1000 non-legal) with a goal to achieve 800 responses. The survey will specifically ask what knowledge, skills, and personal attributes they expect from a recently graduated lawyer and will build on the work already undertaken by LETR but with an understanding that Australian conditions and current practices differ in some important respects from the UK.

Development of the Proposals

11. At the second stage, CALD recommends that a series of focus groups be created for greater discussion of the survey results. Focus groups allow for a wider range of responses and a deeper analysis of the current issues. The focus groups will involve key stakeholders and representative groups, individual practitioners, law teachers, students/trainees, and academics and will take place Australia-wide. CALD is willing to host these groups and to draw on its extensive network of employers to help ensure a good, representative sample of stakeholders are engaged. If appropriate, there may also be in-depth interviews with particular, key individuals.

12. On the basis of the literature review, the surveys and the focus groups the review committee would settle a draft green paper developed by the Executive Officer. This green paper would include the high level results of the various consultations and would set out a series of proposals (or a range of alternative proposals) for comment by the wider legal community.

13. The green paper would be open for comment to the public through LACC’s webpage but a series of forums discussing the green paper and making recommendations in response to it could also be held in each Australian capital city and major regional centres (to ensure that the particular needs of those living in remote and regional Australia are taken into account). Again, CALD members would be happy to facilitate and host such meetings if that would be of assistance.

14. In addition to the substantive issues of what will need to be taught and what standards should be applicable, these discussions would need to include consideration of different regulatory models for legal education accreditation, the costs of such models and possible sources of funding for accreditation costs. They would also need to consider the roles of other regulators in the system, including TEQSA, university academic boards and any future role for the Australian Law School Standards Committee.

15. After the final set of feedback and discussion, the review committee would draft a White Paper for consideration by the admissions bodies and governments with specific proposals for what changes (if any) are recommended to the Academic Standards and the way that they are applied. Specific recommendations would also be required around a suggested timetable for implementation taking into account issues such as grandfathering provisions for current students and the necessary time to
allow law schools to seek approvals for changes with university bodies and to make the relevant staffing changes.

**Administration and Funding**

16. It is expected that a review of this nature will be at least a 12 month process of proper data collection and consultation requiring a budget to implement. The general associated costs are anticipated as follows:

(a) Payment for members of the review committee

(b) Independent research firm to conduct survey

(c) Executive officer salary

(d) Administrative support (part time)

(e) Flights, accommodation and some incidental expenses.

17. The expenses related to undertaking a thorough review of the Academic Requirements are justifiable in looking to re-set the agenda for legal education and training for the next generation. Such a formal review will benefit students who will know what is expected of them as well as giving employers of law graduates the opportunity to make a meaningful contribution to standards in the profession. It will assist legal education providers in having greater clarity as to the standards that they are expected to meet in order to be accredited and it will give the profession greater security that those who are being admitted to legal practice reach appropriate standards.

18. Many of the law school deans will be happy to give space to hold focus groups, work with alumni networks, and help to disperse the survey to their various stakeholder groups. If it would be appropriate and useful, we can seek a law school to host the executive officer on-site including the provision of administrative, IT and HR support.

19. The funding for such a review is beyond the means of most of those currently involved in the process of determining standards, including CALD. The most likely source of such funding at present might be for a request to be made to the Law, Crime and Community Safety Council to offer to assist if in responding to recommendation 7.1 of the Productivity Commission Access to Justice Report of 2014. As the ‘systematic review’ of legal education and training recommended in 7.1 was to be undertaken in consultation with the legal educators and profession, the process recommended above might allow LACC to offer the Council a relatively cost and time efficient way of discharging this duty if sufficient funding can be provided by the relevant governments.

**Conclusions**

Despite CALD’s criticism of the processes outlined in the LACC consultation paper, we share the commitment of LACC to a serious, national conversation about legal education and training and we are willing to be engaged with this process. The proposal for a methodology going forward is only one way in which a properly consultative and comprehensive process could be carried out. We are not wedded to any particularities of this model but put it forward as one example of a way forward that might be effective in meeting the needs of various stakeholders. We would be happy to contribute to any request to the Law, Crime and Community Safety Council to request funding for an independent review along the lines recommended here.