LACC REVIEW OF ACADEMIC REQUIREMENTS FOR ADMISSION TO THE LEGAL PROFESSION

The Australian Law Students’ Association (ALSA) thanks the Law Admissions Consultative Committee (LACC) for the opportunity to provide a comment on their Review of Academic Requirements for Admission to the Legal Profession.

As the peak representative body of all Australian law students, ALSA is a not-for-profit nonpartisan organisation which represents the national interests of approximately 28,000 Australian law students.

Although we made a national call for contributors to this submission, the time constraints and deadline for this Review did not make it possible for ALSA to comprehensively survey Australian law students for the purposes of collecting their views on the issues canvassed by LACC. ALSA encourages LACC to consider extending the consultation period for the purposes of better engaging Australian law students’ views on this Review.

Nonetheless, in light of LACC’s discussion paper, on behalf of the ALSA Executive and Committee, we make the following submissions:

6.1 Should any or all of the following areas of knowledge be omitted from the Academic Requirements:

ALSA’s key interest is for the Academic Requirements to sufficiently equip law students with the foundational knowledge which would assist them in acquiring graduate employment and allow them to get admitted to the legal profession. We encourage ‘big picture’ teaching, whereby we believe that law students should have the opportunity to be taught a broad range of compulsory courses on various areas of substantive law. We believe this approach to teaching is beneficial as often in practice, lawyers are required to draw on knowledge and skills from a range of different areas of law. In addition, most likely than not, a proper understanding of each of the areas of knowledge is intimately connected and dependent on other areas.

While ALSA acknowledges that some of the current ‘Priestly 11’ subjects are taught during the Practical Legal Training (PLT) program, we believe that it is important to equip students with a foundational knowledge of these areas before entering the PLT program. It is also particularly important that such courses are taught at law school, prior to entering the PLT
program, as there are greater pressures on law students to apply themselves at law school than there is at the PLT stage – particularly as most PLT providers mark on a pass/fail basis.

For these reasons, ALSA objects to the removal of any of the following areas of knowledge from the Academic Requirements:

6.1.1 Civil Procedure
Civil Procedure serves as an integral foundation to law students hoping to gain admission as a legal practitioner, particularly as it provides teachings on the essential procedures and rules upon which our system operates. Of particular note, law schools should take the opportunity to adopt the Productivity Commission’s recommendations about teaching law students about Alternative Dispute Resolution, through the Civil Procedure course. This would form the basis for students who may wish to take deeper studies in this area through electives during their later years.

6.1.2 Company Law
It is well known that when considering employment options, many law students consider opportunities in commercial or corporate law. As such, Company Law or Business Law courses are important as they offer students a basic level of knowledge about company law which may inform their employment choices. Furthermore, Company Law courses serve an integral role in introducing students to important principles such as directors’ duties, principles of insolvency as well as the legal character and structures of companies and corporations. This knowledge is not only integral to students wishing to pursue employment opportunities in corporate or commercial law, it informs students’ wider choices and interests beyond law, equipping students to work in a variety of areas in the commercial sector, domestically and internationally. Company law also contributes to fundamental skill development of law students, including statutory interpretation and reading and understanding highly complex case law.

6.1.3 Evidence
Whether students aspire to practice as legal advocates or not, evidence law serves a pivotal function of informing law students about the process of preparing evidence for a case in court and intricate rules which underpin our Court system. Such knowledge and skills are essential to any training of lawyers-to-be. We encourage law schools to take Evidence courses as an opportunity to also teach students practical advocacy skills – particularly as we are aware that not all students are afforded the opportunity to engage in extra-curricular mooting or advocacy competitions.

6.1.4 Ethics and Professional Responsibility
Ethics and Professional Responsibility is one of the most important areas of knowledge imparted upon law students during their law degrees. However, our anecdotal reports suggest that methods of teaching may be further developed as the subject is often neglected in comparison to other ‘Priestly 11’ subjects.
ALSA believes that questions of ethics occur in many areas of law and as such, students should be introduced to practical scenarios where their ethical judgment would need to be exercised. While we appreciate that Ethics is taught during the PLT program, introducing law students to the foundational ethical rules which guide our profession are important because of the degree to which ethics affects every area of legal practice. Thus, it should be made a priority to be taught to law students from the outset of their law studies.

Furthermore, with regards to teachings relating to Professional Responsibility, we encourage law schools to consider practical opportunities for students to engage with the community or in pro-bono related work, such as through clinical legal education opportunities. Providing students with the opportunity to engage with areas of law affecting vulnerable members of our community, instils a strong sense of social justice in law students and introduces law students with concepts and issues relating to access to justice.

Furthermore, we implore law schools to consider strong mental health resilience training programs and lessons to be incorporated in the Professional Responsibility course. ALSA is concerned about the high degree of mental ill-health among law students and legal professionals, and encourages law schools to take proactive action in combating this issue. We suggest that through this course, law schools should endeavour to equip law students with the tools necessary for them to take preventative measures against mental ill-health during their degree and career. It is also important for students to be informed of support avenues available to them when they are suffering from any form of mental illness or mental ill-health. ALSA believes this forms part of Professional Responsibility teachings, as we are of the view that lawyers cannot diligence serve the needs of their clients, if they are not serving their own needs and in order to ethically execute their roles, lawyers should ensure they are taking care of their mental health.

6.2 If so, why?

Not applicable. Please see submissions above, from 6.1.1 to 6.1.4.

6.3 Should Statutory Interpretation be included as an Academic Requirement?

We are aware that some law schools have undertaken curriculum reviews to ensure a stronger commitment to statutory interpretation teachings and we encourage other law schools to follow these examples. While we believe that statutory interpretation is an integral skill that should be developed at law school, we are not of the view that it should be taught as a stand-alone course. We encourage law schools to embed statutory interpretation in their other compulsory courses, such as those which focus on broad legal reasoning and research as well as introducing first year law students to such skills in their introductory courses.

In cases where law schools are unable to sufficiently incorporate statutory interpretation in the earlier courses of the law degree, we encourage implementing a separate subject which would only use half of the units of a full-course. For example, in universities where one full
course is six units, we encourage a three unit statutory interpretation course to be taught at the beginning of the law degree.

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?

6.5 If so, should any such area be added to the Academic Requirements?

ALSA is particularly concerned with the expansion of law schools and the oversupply of legal graduates in the current employment market and as such are aware that law schools should adapt to the changing market, to ensure law students are equip to consider employment opportunities beyond the legal job market in Australia. We encourage LACC to consider the internationalisation of the law and the importance of teaching law students about how law operates in a global context. In particular, law students should be taught basic principles about comparative and public international law. By providing students with this foundational international law knowledge, it would better equip them when considering or pursuing overseas and international opportunities.

6.6 Should the drafting technique used in the Academic Requirements be amended in any way?

6.7 If so, how?

ALSA appreciates the level of care exercised by LACC in the current wording of the Academic Requirements, but we also encourage LACC to be prescriptive in a way that ensures that law schools adopt and teach the minimum substantive content of the compulsory areas of knowledge. By developing the detail in these requirements, law schools can be held to account when these are or are not being fulfilled. It may also assist with issues of consistency among law schools, as per the concern expressed by questions 6.9 and 6.10.

6.8 In light of the development of the TLOs, should the Academic Requirements be altered or supplemented also to take account of intellectual skills and personal attributes necessary to process and employ the areas of knowledge prescribed by the Academic Requirements in legal practice?

ALSA is firmly against the idea of producing any standards which prescribe certain skills or personal attributes. This is because we believe that such an approach would propagate a certain idea about what a ‘model’ law student or lawyer is – which is particularly harmful and can marginalise certain individuals who do not fit within this mould. The Academic Requirements exist to prescribe the substantive knowledge, legal rules and ethical values which should be taught, rather than seeking to also define or shape students’ personal attributes.
6.9 How might the Academic Requirements be altered or supplemented to resolve some or all of the problems of consistency or standards referred to above?

Law schools should be encouraged to engage in greater dialogue or consultation to ensure that standards are being consistently met throughout. Alternatively an external officer may be appointed by LACC to ensure these standards are being met and enforced nationally. We understand how this latter suggestion may not be practicable, depending on the resources available to LACC.

LACC should also take into consideration the increasing number of law schools adopting the Juris Doctor (JD) program and should encourage a greater push towards ensuring there is a stronger linkage between the TLOs and the AQF position of the JD program as a level 9 qualification. At the current time, many JD students have expressed concern that their degree is not sufficiently differentiated from the LLB, and this is alarming in light of the significantly higher fees being charged for the JD over the LLB. Universities should endeavour to seek to uniformly address this disparity between the standards being met for LLB students over the standards for JD and postgraduate students.

6.10 In particular, how might the Academic Requirements be altered or supplemented to ensure that appropriate and consistent assessment regimes exist to certify that each successful student has demonstrated the common required knowledge and skills in each Academic Requirement to a common minimum standard?

See above in 6.9.

ALSA Contact: Marie Iskander
E: vp_ed@alsa.asn.au
M: +61 424 499 466