

# **AUSTRALIAN LAW STUDENTS' ASSOCIATION**



## **DRAFT POLICY STATEMENT ON ADMISSION TO THE LEGAL PROFESSION**

## **1. Introduction**

The current requirements for admission to legal practice in Australia are a confused and inconsistent patchwork[1]. ALSA supports diversity of the means by which law graduates gain admission to practice. Yet ALSA believes the current system must be improved and simplified to better reflect the rise of the national legal services market.

ALSA submits that:

1. the option for students to choose between articles, legal practice courses or integrated undergraduate programs should be retained in order to enable equity of access and freedom of choice; and
2. minimum competency standards should be introduced to ensure that admission requirements are standardised across Australia and across all forms of pre-admission training.

ALSA has taken a keen interest in both the debate surrounding admission requirements and the development of Practical Legal Training (PLT). ALSA was instrumental in creating a working group on a national admissions authority at ALSA's 1996 Australasian Legal Education Forum. Furthermore, in 1997, ALSA was successful in obtaining an observer's position on the Law Council of Australia's National Advisory Committee on Legal Education and Professional Admission. Since then ALSA has been monitoring the developments closely, considering the issues raised at Council meetings and the 1998 Australasian Legal Education Forum, and liaising with other interest groups such as the Law Council of Australia and the Committee of Australian Law Deans.

## **2. National Standard**

If Australia is to maintain diversity in the means of satisfying admission requirements, there is a need for a national standard to regulate the content and learning outcomes of all programs of PLT leading to admission and articles of clerkship. This is particularly so with uniform admission rules and moves toward a national legal services market.

ALSA supports the introduction of minimum competency standards to ensure that graduates undertaking articles and those in PLT programs in all jurisdictions are

receiving the same standard of pre-admission training. However, we submit that these standards should be sufficiently flexible so as to encourage diversity in law schools and PLT programs.

### **3. A Proposed Model**

ALSA proposes a model similar to that advocated by the Law Council of Australia's National Advisory Committee on Legal Education and Professional Admission.

(i) A National Standard should be set by a National Appraisal Committee

ALSA believes that a national body is needed to set the standards and content of PLT to be given to all graduates across Australia. The implementation of minimum competency standards would ensure that all prospective lawyers are receiving quality training. They would also discourage students from 'forum shopping' for the jurisdiction with the lowest requirements and then returning to practice in other jurisdictions.

(ii) Compliance with the Standard should be monitored by the State and Territory Admitting Authorities

ALSA is concerned that a national standard, if introduced, will not be strictly regulated and enforced. For this reason we believe that the standard should be monitored at a state level by the relevant State and Territory admitting authorities, and the recommendations of the National Appraisal Committee, as to the standard of training should be determinative.

(iii) Funding

The funding of a National Appraisal Committee should be similar to the funding of the Australian Medical Council which is presently funded by a one third contribution from each of the Commonwealth, State and accreditation and assessment fees.

### **4. Composition of a National Appraisal Committee**

ALSA believes that any national body must include student representation.

In its report, Professional Education and Credentialism, the Higher Education Council identifies a model for a 'good practice' course review and accreditation process. This process should be one that is:

- Inclusive of all stakeholders;
- Open, consultative and consensus building about future course developments;
- Transparent to all parties;
- Focused on the achievement of objectives, maintenance of academic standards and good outputs and outcomes rather than on detailed specification of curriculum content; and
- An ongoing cycle of review[2].

ALSA believes that the membership of a National Appraisal Committee should be inclusive of the following stakeholders:

- Admitting Authorities (representatives nominated by the relevant Chief Justices)
- Standing Committee of Attorneys-General (SCAG)
- Committee of Australian Law Deans (CALD)
- Law Council of Australia (LCA)
- Australian Professional Legal Education Council (APLEC)
- Australian Law Students' Association (ALSA)

The major difference between the recommendations of the National Advisory Committee and ALSA is the inclusion of student representation of the Appraisal Committee.

We believe that it would be appropriate for a representative of ALSA to be involved in the process for the following reasons:

- ALSA is a representative of all law students in Australia;
- Students have a vested interest in the quality of PLT courses;
- A student representative will be able to provide a direct form of feedback;
- A student representative would then be able to convey information about admissions back to the Law Students' Societies through ALSA's communication channels;
- Representatives of ALSA are informed and experienced on legal education issues as a result of holding positions on Faculty, Academic Boards, and the National Advisory Committee itself, as well as conducting research in these areas.

## **5. The Benefits of a National Appraisal Committee**

A few of benefits of a National Appraisal Committee include:

- Ensuring a consistent standard of pre-admission training for graduates across Australia;
- Simplification of the national legal services market and providing for inter-state practice with greater ease;
- Increasing competition;
- Increasing education standards; and
- Facilitating internationalisation of the legal services market by making it easier to establish reciprocal arrangements with other countries because of a uniform national standard.

ALSA submits that a National Admitting Committee should be established to regulate a national admission standard. The NAC should be funded by the State and Territory governments, in a scheme similar to that which funds the National Medical Council.

ALSA submits that the NAC should be determinative as a national admitting authority must have the authority to act as a regulator of the national admitting scheme.

Furthermore, an NAC should seek representation from all interested parties, including the Australian Law Students' Association.

## **6. Position on the Wade Proposal**

ALSA supports the recommendation of the "Legal Profession Admission Requirement: Discussion Paper" ("the Wade Proposal") that there needs to be national standard to regulate the content and delivery of training leading to admission. Minimum competency standards across all jurisdictions would ensure that all law students from every state and territory would be receiving the minimum standard of pre-admission training.

Provision of national practicing certificates would not only have spin-off benefits for the law profession, which is consistently being viewed in terms of a national legal services

market, but would redress the inequality between states in gaining eligibility for mutual recognition, and would save the time and expense involved in gaining various practicing certificates across state jurisdictions.

ALSA, however, does not support the recommendations of the Wade Proposal that admission to practice in Australia should be restricted to the one means in the Wade model. ALSA's fundamental opposition to this position is based on the fact that Australian law graduates' career destinations are diverse, with fewer than 50% of graduates entering the private legal profession[3]. The recommendations in the Wade Proposal will have a detrimental effect on graduates who wish to gain accreditation to practice, yet move into an alternative career path after admission to practice.

Furthermore, the standard of training required to gain admission to practice under the Discussion Paper model, and the obligations placed on employers to provide experience for graduates in four separate areas of practice, is too prescriptive and therefore too onerous. ALSA is concerned that such requirements would inhibit all but the largest law firms taking on trainees, thus reducing the number of graduates who will be admitted to practice in Australia.

*ALSA submits that there should be flexibility in the means law graduates undertake pre-admission training. A truly flexible admission system should include articles, practical legal training and integrated undergraduate programs.*

*Furthermore, the standard of pre-admission training should be flexible enough to encourage diversity, rather than being prescriptive.*

#### *Footnotes*

[1] *Report for the National Advisory Committee on Legal Education and Professional Admission on Admission Requirements and Practices in all Australian Jurisdictions, Centre for Legal Education, September 1997*

[2] *Higher Education Council, Professional Education and Credentialism, December 1996 at pp. 68-69*

[3] *Vignaendra, S. Australian Law Graduates' Career Destinations Centre for Legal Education for the Department of Employment, Education, Training and Youth Affairs, 1998 at p.23.*