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VLSB+C Review of CPD in Victoria

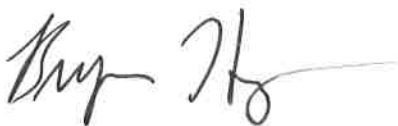
Thank you for forwarding your Issues Paper and Executive Summary relating to Continuing Professional Development (CPD) in the Victorian legal profession and for seeking our input into your review. We have focused our comments on a narrow range of issues set out below:

1. The Faculty of Law is a strong supporter of on-going compulsory CPD in the legal profession. We believe that CPD helps maintain and improve knowledge and skills essential for professional practice. CPD is a standard requirement in many other professions and there is a risk of legal standards dropping, and public perceptions of the legal profession falling, if compulsory CPD is not maintained in the legal profession.
2. As your issues paper notes, practising lawyers are generally required to complete 10 CPD units each CPD year (1 April to 31 March). We note that while solicitors and barristers have broadly similar CPD requirements, there are some differences in the *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015* and the *Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015*.
3. Under the relevant rules, practising lawyers must complete at least one CPD unit in each CPD year in each of the following four subject areas:
 - ethics and professional responsibility;
 - practice management and business skills;
 - professional skills (for solicitors) or barrister's skills (for barristers); and
 - substantive law (for solicitors) or substantive law, practice and procedure, and evidence (for barristers).
4. CPD units relate to CPD activities, and the nature of the activity dictates what makes up a CPD unit. So, for example, under Rule 9 of the *Legal Profession Uniform Continuing Professional Development (Solicitors) Rules 2015*, a CPD unit may consist of: one hour of participation in a seminar or web-based program; research and preparation of 1,000 words for an article in a legal publication; or two hours of service on an eligible legal committee. The rules place caps on the number of CPD units that may be taken into account in relation to particular activities in respect of a CPD year. So, for example, a legal practitioner cannot claim more than 5 CPD units per CPD year for writing articles.
5. The Issues Paper notes that there is a concern that the current CPD scheme focuses on 'points grabbing' and 'box ticking', rather than genuine professional development. It also notes that many lawyers cram some or all of their CPD points into March each year. This suggests many lawyers may be more concerned with compliance than actual learning. We believe that the purpose behind CPD should always be improving skills and knowledge and ensuring lawyers keep up-to-date with the law and practice. The CPD rules should therefore be designed to support and promote this objective.

6. In principle, we believe the 10 CPD unit requirement and the four subject areas are appropriate. However, there is a risk that requiring lawyers to undertake a minimum of one CPD unit in a particular subject area per CPD year may appear to be ‘token CPD’ given that the limited time devoted to the relevant activities does not really allow for deep learning or analysis. If CPD was measured over periods of longer than one year and not all four subject areas were needed to be covered in the same year, this could encourage lawyers to undertake more focused and detailed learning on each subject areas, which may be better for their professional development. So, for example, if CPD was measured over a four year period, lawyers could undertake 10 hours of CPD in one subject area each year and still meet their CPD requirements so long as all four areas were covered over the four years. We would suggest that not all four subject areas would need to have equivalent time spent on them over the four year period. Nevertheless, to ensure broad coverage of the subject areas, it would be appropriate to require lawyers to undertake a minimum number of CPD units (e.g., 6 to 8 units) on each subject area over this period.

7. Lawyers are able to make informed choices about what and how they learn and what types of training best suits their needs. As legal practice is becoming more specialised, a lawyer’s CPD needs may be best served if they pursue formal specialist qualifications (eg by undertaking units in post-graduate courses, such as Graduate Certificates and Masters of Laws degrees, run by universities). Lawyers enrolled in post-graduate units are required to undertake many more hours of study than the mandatory 10 hours of annual CPD. By their very nature, post-graduate units are highly structured and involve deep and focused learning coupled with formal assessment. Furthermore, they are set at knowledge and skill levels that meet the Australian Qualifications Framework Level 8 and 9 requirements, making them highly suitable for the specific needs of qualified legal professionals. Many lawyers may, however, find it difficult to complete such units because of time pressures – especially when they are required to undertake additional CPD activities in other areas. These additional activities would usually be required because the post-graduate unit is unlikely to necessarily cover all four subject areas. We believe that it would improve the regulated CPD framework if lawyers who were undertaking units in post-graduate courses would be able to focus on such units for CPD purposes and be exempted from the requirements to undertake any additional CPD activities during the years they are undertaking such units (provided they successfully complete them). The VLSB+C may wish to accredit certain units and courses specifically for this purpose and only grant the exemption for those units and course that have been accredited. In addition, the VLSB+C may also wish to consider allowing certain accredited ‘microcredential’ courses, which qualify for credit towards postgraduate units, to be treated in a similar way for CPD purposes.

Yours Sincerely



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