

7 February 2023

Jobs and Skills Australia Discussion Paper  
Department of Employment and Workplace Relations  
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Dear Team

## Introduction

The Victorian Legal Admissions Board (the Board) welcomes the opportunity to make a submission in response to the Jobs and Skills Australia (JSA) Discussion Paper released in January 2023.

The Board is a statutory body established under the *Legal Profession Uniform Law Application Act 2014 (Vic)* (the Act). The *Legal Profession Uniform Admission Rules 2015* (the Rules) govern the admission of Australian lawyers in Victoria. The Victorian Legal Admissions Board is also responsible for the accreditation, monitoring and reviewing of academic law courses and practical legal training providers. The members of the Victorian Legal Admissions Board are responsible for the governance, management and strategic direction of the regulatory authority and accountable for upholding its functions in accordance with the Act.

The purpose of this submission is to provide support for common themes identified in the discussion paper and to explain how the Board can contribute to advancing the objectives of JSA, insofar as they apply to people who wish to practise law in Victoria (whether they be locally qualified applicants or foreign graduates and lawyers). The Board's submission is confined to issues concerning people interested in pursuing a career as a legal practitioner and need to be admitted to practise law in order to do so. Not every law student wishes to work as a lawyer and not every law graduate needs to be admitted to practise before they can engage in professional law-related activity. The Board's focus is on those who do wish to apply for admission to the legal profession, thereby enabling them to act on behalf of clients. Although the Board participates in the process of policy development, including but not limited to its representation on the Law Admissions Consultative Committee (LACC) and the Admissions Committee of the Legal Services Council (LSC), it has not historically engaged with issues affecting the legal fraternity more broadly. Others, such as the Law Council of Australia, are better positioned to comment on the future of law and innovation in the legal profession, including issues pertaining to workforce planning.

Accordingly, the Board considers it more appropriate for its submission to be made in a narrative format rather than responding to individual consultation questions; many of which are beyond the Board's remit.

## Background

The Board is a member of the Uniform Law scheme, along with New South Wales and Western Australia. It is constituted by five members, who are appointed by the Governor-in-Council. The current Chairman of the Board is the Honourable David Habersberger KC, a retired judge of the Supreme Court of Victoria. The Honourable Bernard Teague AO is the former Chair and current Deputy Chair of the Board. The Board has the functions conferred on it by the Uniform Law.<sup>1</sup> The Board has delegated some of its functions and powers to various sub-committees, to assist the Board in discharging its statutory obligations. The Board is supported by an eleven-member secretariat.

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<sup>1</sup> See section 20 of the Legal Profession Uniform Law Application Act 2014 (Vic). Section 20 also confers powers on the Board under the Act itself, any other Act, and the Uniform Admission Rules.

The Board may grant a compliance certificate to allow the Supreme Court of Victoria to admit a person to the Australian legal profession as an Australian lawyer if the person: has attained the academic qualification prerequisite prescribed in the Rules, has satisfactorily completed the practical legal training prerequisite prescribed in the Rules, and is determined to be a fit and proper person to be admitted to the Australian legal profession. All applications for admission must be made via the online application client portal on the Board's website.

The Board has delegated powers to the Victorian Legal Admissions Committee (the Committee) to consider suitability matters associated with fitness to practise. The matters which guide the Committee in deciding whether to grant or refuse a compliance certificate are:

- the applicant's expression of contrition for past misdemeanours and the sincerity of expression
- the insight demonstrated in relation to the commission of the misdemeanours
- the self-assessment of whether, on reflection, the applicant engaged in inappropriate conduct and whether it can lead to a new understanding of the conduct.

The matters above form the basis of whether the Committee is satisfied, at the time of hearing the application, that the applicant is a fit and proper person to be admitted to the Australian legal profession. It is critical that the applicant make full and frank disclosure, which often requires the applicant to reveal unpleasant and embarrassing aspects of their past and to do so forthrightly. The Board's *Guide for Applicants for Admission as an Australian Lawyer* (the Guidelines) contains a section on fitness and propriety and appendix 2 of the Guidelines discusses the duty of full and frank disclosure in considerable detail (see [Admission Guidelines](#)).

The Board supplements the Guidelines by presentations to universities and practical legal training providers, to improve the education of prospective lawyers so that the public's trust in the legal profession can be enhanced. The Board also assesses applications from people who have wholly or partially completed their law degree outside Australia (foreign graduates) and those who have been admitted overseas (foreign lawyers). The purpose of the qualification assessment is to advise foreign graduates and lawyers what further academic study and/or practical legal training they need to complete in order to become eligible to apply to be admitted to practise law in Australia. Those applications are also made using the Board's online client portal.

### **Linkage with common themes in the discussion paper**

The Board wishes to explain how its role, functions and activities link with the common themes raised by stakeholders for JSA.

1. Involve state and territory governments as major purchasers of training and ensure jurisdictional needs are considered, local information informs analysis and products and more targeted solutions are enabled

The Board is one of eight State and Territory admitting authorities. It is located within the Victorian Department of Justice and Community Safety and provides advice to the Victorian government about issues associated with the admission of lawyers. The Board receives funding from the Victorian Legal Services Board, which administers the Public Purpose Fund (PPF). The PPF includes interest from funds held in trust by lawyers and approved barristers' clerks, investment returns, annual licensing fees paid by lawyers and any fines imposed on lawyers following disciplinary action taken against them in the courts.

The Victorian Attorney-General periodically issues a Statement of Expectations, to which the Board responds by detailing its planned activities. These have included technological advancements to the Board's online admission portal, the formulation of policies between the Board and the New South Wales Legal Profession Admission Board around the assessment of stale qualifications, and new approaches to verifying applicants' English language proficiency. An enhanced program for the delivery of education around key disclosure requirements was also proposed and is discussed in more detail below.

The Chair of the Board is a member of the LACC. The LACC's main role is to forge consensus on admission and admission-related matters nationally, between the bodies represented by its members. The LACC comprises a Chair, the Hon Arthur Emmett AO KC, and 11 members who represent the law admitting authority of each of the eight Australian jurisdictions, the Australasian Professional Legal Education Council, the Council of Australian Law Deans and the Law Council of Australia. It is generally responsible to the Council of Chief Justices of Australia and New Zealand, which appoints the Chair. The Board contributes to LACC's projects as required; a recent example being issues associated with online examinations in law degrees and the use of remote technology to invigilate online exams.

The Chair of the Board is a member of the LSC's Admissions Committee. The Admissions Committee develops the Legal Profession Uniform Admission Rules (which apply to members of the Uniform Law scheme) and provides advice to the Council about admission matters. The Board, at both member and secretariat level, are represented on the Admission Committee's Foreign Lawyers Working Group. The Working Group provides the Admissions Committee with advice on the sufficiency of the Law and the Rules as they pertain to assessing the qualifications of foreign lawyers and the admission of foreign lawyers to practice in Australia. The Working Group has been extensively involved in developing proposed rule amendments to better accommodate the circumstances of experienced foreign lawyers.

The Board supports interjurisdictional cooperation through regular liaison with the other two Uniform Law jurisdictions, New South Wales and Western Australia. Western Australia is a recent member of the Uniform Law scheme and the Board supported its accession through ongoing meetings and consultation around issues such as expectations of membership, approaches to data collection, and the use of technology (in particular, the potential for adaptation of the Board's online client portal).

In order to promote consistency in approach, the Board assesses the qualifications of foreign graduates and lawyers on behalf of the South Australian and Tasmanian admitting authorities, whereby it provides recommendations around further study and practical legal training.

2. Provide more granular data and analysis to inform workplace planning and funding decisions at state and regional levels, and to inform place-based solutions

The Board collects relevant client details through its online portal, which operates according to strict data and information privacy controls.

The Board contributes to the LSC's Admissions Data Mapping Project. The Board submits data using the following parameters:

- gender
- date of birth
- admission status
- type of admission (conditional or non-conditional)
- country of first admission
- admission date
- academic institution attended
- whether qualified as a foreign lawyer

The Board also supplies the LSC with data as requested. For example, the Board provided the LSC with information about applicants for conditional admission and deidentified case studies, to support the LSC's case for legislative amendment to overcome a statutory impediment.

Aggregated data is used in the Board's annual report, in the following categories:

- compliance certificates issued
- total admissions
- supervised legal trainees approved

- applications for concurrent study approved
- disclosures/type of disclosure/attendance at meeting
- qualification assessments
- applications for assessment of foreign qualifications, by number and jurisdiction

3. Better guide Jobs and Skills Councils to improve workforce planning and training product design

As previously mentioned, the Board engages with law schools and practical legal training providers to provide information about the admission process, with an emphasis on disclosure obligations. The Board's ability to undertake enhanced outreach activity is constrained by the amount of funding it receives from the Victorian Legal Services Board.

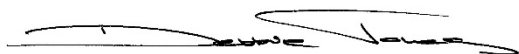
In 2019, the Board sought funding to deliver a dedicated Education Outreach Program. The proposal sought to broaden the delivery of existing presentations on admissions procedure and key disclosure requirements, using outreach educational methods. The program involved the formulation of a targeted training delivery to future legal applicants on various admission requirements, in a methodology that embraced a result driven approach. It included an assessment of extrapolative analysis techniques to identify individuals or groups who may be exposed to particular disclosure types to aid driving transformation in the suitability of upcoming legal practitioners. Production of targeted video tutorials and strategic in person presentations was contemplated, following the identification of unmet areas of need. Although dependent upon the findings emerging from the application of predictive analysis software, the Board anticipated that people living in regional, rural and remote areas and people with a disability would be particularly advantaged by an enhanced outreach program.

A small amount of funding was approved in 2022-2023, however, it was insufficient to deliver the Education Outreach Program proposed and was used for other essential improvements. Accordingly, the Board remains dependent upon the dissemination of written information via its website and, to the limited extent possible, in person presentations to law schools and practical legal training providers.

## Conclusion

The Board acknowledges the JSA's proposed tripartite structure, its focus on stakeholder engagement and its explicit recognition of the importance of higher education in providing economy-wide advice. The Board supports the JSA in its objective of delivering evidence, research and analysis to drive government policy and to inform the choices Australians make about their (legal) education, training and employment, now and into the future. The Board is well placed to collaborate with the JSA in providing information about admission to the legal profession, particularly by those from remote communities or who experience disadvantage. The Board recognises the importance of a diverse, open, and inclusive legal profession and would be pleased to contribute to the achievement of this objective.

Yours sincerely,



Deborah Jones  
CEO  
**Victorian Legal Admissions Board**