

Council of Australian Law Deans



Standards for Australian Law Schools

Final Report

Prepared by Christopher Roper, with input
from the CALD Standing Committee
on Standards and Accreditation

[Note: the Standards set out in Chapter 5 were adopted in principle by CALD on 4 March 2008, subject to certain conditions set out in the adopting resolution – see p120 of this report.]

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Abbreviations

AALS	American Association of Law Schools
ABA	American Bar Association
ABA Standards	American Bar Association Section of Legal Education and Admissions to the Bar, <i>Standards and Rules of Procedure for Approval of Law Schools, 2006-07</i>
APLEC	Australasian Professional Legal Education Council
AQF	Australian Quality Framework
CALD	Council of Australian Law Deans
Joint Statement	A Joint Statement issued by the Law Society and the General Council of the Bar on the Completion of the Initial or Academic Stage of Training by Obtaining of an Undergraduate Degree
LACC	Law Admissions Consultative Committee
MCEETYA	Ministerial Council on Education, Employment, Training & Youth Affairs

Introduction

A recurrent feature of the discussions of Australia's law deans, in meetings of the Council of Australian Law Deans (CALD), is the issue of how to ensure and protect the quality, and hence the reputation, of Australian law degrees. This issue arises in various guises, two of which are the interlinked issues of standards for, and accreditation of, law schools. In an era of tertiary deregulation and national admission rules, the deans consider it is appropriate that these issues should be addressed in order to ensure that there can continue to be a confident reliance on the quality of the law degree offered by all Australian law schools.

However, there are contrary views as to whether there should even be a standard and/or whether law schools should be accredited.

One view is that there is no need for any standard to be set for the purposes of accreditation as there are already two processes in place. The law admitting authorities in the various Australian jurisdictions have common requirements in regard to the content and length of the law degree in order for the degree to be recognised for the purposes of admission to practice as a legal practitioner. There is a view that this process has been relatively non-intrusive, and there would be no purpose in doing anything which might change this situation. The other process is the internal quality assurance mechanisms to be found in all Australian universities, whereby the law program is subject to regular reviews to ensure it meets required tertiary education standards.

Another view held by some law deans is that law schools should be proactive in this regard and thereby anticipate, and help set the terms, for the inevitable consideration of this issue by government and the legal community. A proposal to establish a minimum standard for Australian law schools is seen as inevitable for several reasons –

- There could be pressure for development of a standard for law schools because the Australasian Professional Legal Education Council (APLEC) is currently working on a similar standard for practical legal training courses.¹ A standard in regard to the content of practical legal training courses already exists and that standard has been incorporated into the admission rules in all Australian jurisdictions.² As that standard relates almost completely to the content of what is taught, it parallels the requirements in regard to academic content found in the admission rules in the various Australian jurisdictions.
- In discussions with overseas countries to seek recognition of Australian legal qualifications, the absence of a minimum standards for Australian law schools could inhibit a successful outcome. Most recently there has been an approach to the United States authorities for recognition of Australian academic legal qualifications as part of the recognition of Australian legal professional qualifications for the purposes of admission to the bar in the United States.³ In respect of countries, such as the United States, where there is already a system in place to ensure standards are maintained, it will

¹ The work is being undertaken by Ms Ainslie Lamb, formerly of the University of Wollongong. Apparently her report has not yet been considered by APLEC.

² For a discussion of the requirements in regard to practical legal training, see section 2.8 of this report.

³ In fact that submission was successful and at its February 2007 meeting the United States Conference of Chief Justices resolved to urge “each state supreme court to consider permitting individuals who have graduated from an Australian University and have been admitted to practice in Australia, and who meet the state requirements regarding experience, character, and fitness, to sit for the bar examination and if they pass that examination, to be admitted to the practice of law in the state”.

most probably be necessary to show that Australia also has a robust system for ensuring minimum standards, possibly expressed in a system of accreditation for law schools.

- The development of a national legal profession in Australia is now well advanced. One outcome is that legal practitioners are able to move freely throughout the country, carrying with them their qualifications. The effect is that no one jurisdiction is able, through its own mechanisms, to ensure that those practising in that jurisdiction have received, what it regards, as a minimum standard of legal education. There is no real purpose in a jurisdiction setting standards for legal education if they can be circumvented under the national legal profession regime. As a result, there may well be pressure to establish a national standard for law schools.
- At the same time, it cannot be assumed that consideration would be confined to the content of the various law degrees. There seems to be an increasing awareness of the disparities between some law schools. Comparisons would inevitably be made between the resources which the various law schools can draw upon, human, physical and financial, leading to a desire to go beyond the mere specification of content in such a standard.

Such a move is foreshadowed in the Australian Law Reform Commission's report published in 2000, *Managing Justice; a review of the federal civil justice system*, where it is proposed that, in the medium to long term, the public interest may be better served by the establishment "of a body which sets (appropriately high) national minimum standards for legal education". The Commission went on to state that "once developed, such standards should be accorded great weight in determining whether a degree from a particular institution will be accepted for admission purposes".⁴

The law deans, at their meetings in Hobart and Brisbane in 2006, decided that they should not pursue the specific issue of accreditation of law schools but should take on a project to develop minimum standards for law schools in Australia.

This report seeks to aid the consideration of this matter by law deans. It discusses a number of underlying or foundational issues before outlining various standards in other comparable jurisdictions. It then discusses what might constitute a standard before proposing a draft standard as a starting point for discussion.

If there were to be a standard the question of how that standard would be applied and administered would inevitably arise. A final chapter discusses what might be

⁴ *Managing Justice: a review of the federal justice system*, Australian Law Reform Commission, Canberra, 2000 at para 2.76.

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involved in administering the standard, both its initial establishment and on an ongoing basis.

Chapter 1 Law schools and law programs

Throughout Australia there are about 30 university-based law schools whose law degrees are recognised under the admission rules as satisfying the academic requirements for admission to practice as legal practitioners. Although this statement describes the reality of the current situation, in fact, the admission rules do not specify requirements in regard to law schools but rather in regard to “tertiary academic courses”. Nor do the rules anticipate that all those seeking admission will have even necessarily completed a law degree as they refer to “a tertiary academic course, whether or not leading to a degree in law”.⁵

This being so, it is, in fact, feasible that a law school could meet all of the standards proposed later in this report but be, in effect, ‘bypassed’ by the law admitting authorities insofar as a person could present themselves for admission to practice with –

- an assemblage of courses completed other than in the law school of the university, in whole or partially, in the required areas of knowledge, and/or
- a tertiary academic course in law but with a number of the courses of study in the required areas of knowledge having been completed outside the institution offering that tertiary academic course, possibly in a private non-university institution.⁶

Furthermore, until more recent times, law has invariably been taught in Australia in faculties of law, although they were, and are, often referred to as ‘law schools’. Now it is not uncommon for the law school to be part of a larger faculty or division within the university, although still designated as a separate school. A problem with this development, so far as the proposals in this report are concerned, is that the law school often has very limited powers and control over its resources. The result is that the law school itself could well have very limited capacity to ensure it complied with the standards proposed in this report.

Hence, the initial question which arises for consideration in this report is whether the establishment of standards for law schools will effectively help to ensure that the quality of the academic training of those seeking admission to practice in Australia is warranted or guaranteed, if it is possible for domestic applicants for

⁵ For example, rule 95(1)(a) of the New South Wales Legal Profession Admission Rules 2005.

⁶ In addition, there are the examinations conducted by the Legal Practitioners Admission Board in New South Wales, and the courses of study offered by the Law Extension Committee of the University of Sydney for those intending to undertake those examinations. They represent an additional route to admission to practice in New South Wales. The proposals in this report do not seek to encompass those examinations and courses, although the standards should desirably also extend to them.

admission to practice to obtain their academic qualifications outside the law schools to which the proposed standards would apply.

The approach adopted by the law deans is that these standards apply to those law schools whose deans or heads of school are members of the Council of Australian Law Deans. As will be argued later in this report, the law deans' position is that a law degree should be taught in the university by an institutionally separate law school with sufficient powers and control over its resources to enable it to implement all of the standards proposed in this report.

However, for the purposes of this report, the following definitions are adopted –

Law school is broadly defined to mean any university unit principally responsible for offering a degree in law, completion of which is recognised by at least one Australian admitting authority as satisfying most or all of that authority's academic requirements for admission to legal practice.⁷

Law course means a course of study, whether undergraduate or postgraduate, which satisfies the academic requirements for admission as a lawyer in at least one Australian jurisdiction.

There is a symbiotic relationship between a law school and its law course. The standards proposed later in this report recognise that the course itself cannot be separated from the setting in which it is taught – both are elements which contribute to its quality and the reliance which can be placed on it.⁸ The standards encompass both.

It is interesting to note that the Australian Medical Council's approach is to accredit medical schools.⁹

⁷ This is the definition of "law school" in the Constitution of the Council of Australian Law Deans, para 2.2.

⁸ For example, it is questionable whether a highly developed course of study which otherwise satisfied the admission requirements but was unsupported by an adequate law library or appropriately qualified law teachers, would be one that should lead to admission to practice.

⁹ See *Assessment and Accreditation of Medical Schools: Standards and Procedures*, 2002.

Chapter 2 Underlying or foundational issues

2.1 Minimum standards and benchmarks

An initial question, the answer to which will shape both the content of the standards and how they are used, is whether the intention is to make a statement of minimum standards or to set a benchmark of what should ideally be achieved.

It is fairly clear what is meant by minimum standards. A law school can be 'assessed' against them and, to the extent that it does not achieve the minimum standard in regard to any particular aspect of its program or operations, it should make efforts to overcome the deficit.

A benchmark, on the other hand, is more aspirational in that it sets standards which all law schools would seek to achieve. It would be recognised that some law schools, in respect of some of the standards, were still on the way to achieving them.¹⁰ But the statement of those ideal or aspirational standards would nevertheless contribute to an increase in the quality of legal education by encouraging the attainment of 'state of the art' outcomes in regard to the law program and the law school. Law schools could regularly benchmark themselves against those standards and measure their success in reaching or exceeding them. How those benchmarks might be expressed would still need to be dealt with carefully. For example, a law school operating in more than one place in a multi-campus institution might not benchmark well against a standard which assumed a single campus law school.

Another way of seeing the standards as benchmarks might be to see them as best practice indicators. There is some work being done in the Australian tertiary education sector in developing such indicators.

It may be that a statement could be developed which set both minimum and aspirational standards. It is interesting to note that most of the American Bar Association Standards for Approval of Law Schools (ABA Standards) are mandatory (and therefore minimum standards) but some are expressed as goals that an approved law school should seek to achieve. They are, therefore, a mixture of minimum and aspirational standards, but predominantly the former. It would be possible that, for some matters, a decision was made that a minimum standard was needed, and that for others a benchmark was appropriate.

¹⁰ An example of an aspirational standard could be that the integrity of the discipline of law demanded that it should be organised as a separate faculty within a university. It would be recognised that many law schools do not, because of decisions made outside the school, conform to this standard.

2.2 How standards might be developed

There are three approaches to developing a set of standards, which are not mutually exclusive. These approaches could suggest how the setting of standards might be approached and/or what the standards might encompass.

2.2.1 Comparative standards

These would be standards which were set by reference to best practice, probably in an international context, in law schools generally or indeed including by reference to other disciplines, such as medicine. In effect, they would mirror, to the extent that it was appropriate, similar standards found in other countries which had the highest standards of legal education and which were otherwise comparable to Australia. The most obvious countries would be the United Kingdom, the United States, Canada and New Zealand. Insights from other disciplines would also be taken into account.

The process of developing such standards would essentially involve the consideration and adaptation of standards found elsewhere to Australian conditions. The most obvious choice would be the ABA Standards insofar as they are the most comprehensive. As an alternative, the Australian Medical Council's Standards for Medical Schools could provide a comparative model of what might be encompassed. Those standards deal with the medical school's –

- Mission and objectives
- The medical curriculum
- Assessment of students
- Students – admission, selection, student support, etc.
- Academic staff and clinical teachers
- Educational resources
- Course evaluation
- The nexus between teaching and research
- Governance and administration
- Continuous renewal.

Of course, part of the debate accompanying that adaptation would be about how wide, deep and detailed the standards should be.

2.2.2 Functional standards

These would be standards which reflect what law schools want to be. Their starting point, or foundation, would be a general statement of the functions of a law school. At an individual law school level, the starting point would be its mission statement or statement of objectives or something similar.

The standards would represent the functions necessary to implement the mission statement or objectives or functions of the law school. For example, if the law school were to state that its law program sought to promote analytical and critical thinking, then a relevant standard, suggesting what needed to be in place to achieve that objective, could be that the school provides small-group teaching and has the human and financial resources to do so.

At a sector-wide level, functional standards would emanate from, or be based on, a general statement of what legal education was and sought to do. There is no such current statement by CALD. In 1987 the Australian law deans, for the purposes of the Pearce Review into Legal Education, made a submission and within it are some paragraphs which, if combined, could be such a statement. Extracts from the law deans' submission are in Annex A.

If CALD were to agree on such a statement it could then be the basis for a complementary set of standards which set out what needed to be in place to achieve the ideal in the more general statement. There is, of course, a question of whether there could be agreement on such a general statement, and that it could be worded to reflect adequately the diversity of legal education as it is now offered. If, however, such a statement could be agreed upon the advantage would be that there would be logical arguments for what was proposed as it would emanate from the more general statement of principle.

2.2.3 Tactical standards

These would be standards which reflected what law deans wanted – what they felt was both essential and achievable. Such standards might be developed by comparing where law sits in comparison with other disciplines. There would be a thin line between standards developed in this way and comparative standards. Tactical standards might place greater emphasis on what was in reality achievable.

However, it is true to say that standards which were seen by others as purely tactical in nature might be of limited usefulness and effectiveness.

2.3 What the Standards might encompass

As was partly addressed in chapter 1, there are at least three possibilities as to what the standards might encompass. They are not mutually exclusive, and are

–

- the law program itself, *ie.* the law degree – at present it is defined in terms of its doctrinal content and its length
- the law school as an institution – similar to the ABA Standards and encompassing areas such as the financial support for the law school, staffing, teacher: student ratios, the library, and so on
- the processes whereby quality is assured for the law school – usually by means of internal university processes.

This is a fundamental and early question which needs to be addressed.

2.3.1 The law program itself

In regard to the law school program itself, it could well be argued that the time is ripe to review the so-called Priestley requirements, now embedded in the admission rules in all jurisdictions. There could, for example, be questions about whether the 11 chosen areas of knowledge remain the areas to be specified, the specifications in regard to each of them, and/or whether the requirement should continue to be confined to legal knowledge or might be extended to skills and/or other matters.

Of course, even if a new and improved standard were to be developed, the process of implementing it, without amendment, in the admission rules of all the jurisdictions would be a major task.

2.3.2 The law school as an institution

This would entail deciding what aspects of the institution should be subject to the standards, and why. This decision might more easily be made if a statement could be developed as to the underlying purpose of the standards, and hence the inclusion of each element could be justified in terms of that statement.

Thus, for example, the basic requirement of the ABA Standards is that a law school should demonstrate that its program is consistent with sound legal education principles. Each of the ABA Standards ought to be capable of justification in terms of that basic requirement. The term 'sound legal education principles' is, of course, so vague that a prolonged debate could ensue on what should or should not be covered. Indeed some of the ABA Standards seem only remotely related to this basic requirement.

There are some fairly obvious aspects which might be dealt with apart from the law program itself. They could include –

- the law school's staffing, in terms of numbers, qualifications and processes for appointment and advancement
- the law school's financial resources
- the law school's teaching facilities
- the law library.

But it could well be argued, following the ABA Standards, that the standards might extend beyond these areas to areas such as governance and administration, student admission policies and support services, and others.

Another approach could be to reflect existing more broadly based Australian standards. An example could be the revised National Protocols for Higher Education Approval Processes, as approved by the Ministerial Council on Education, Employment, Training & Youth Affairs (MCEETYA).¹¹ The relevant ones, adapted to law school purposes, suggest the basis for the standards might be –

- A law school should have a clearly articulated purpose that includes a commitment to and support for free intellectual inquiry in the school's academic endeavours.
- A law school should deliver teaching and learning that engages with advanced knowledge and inquiry.
- A law school should have governance arrangements, quality assurance processes and a staffing profile appropriate to its goals and academic purposes.
- A law school should have sound financial and business management practices and sufficient financial and other resources to sustain the delivery of the school's programs into the future.
- A law school's degrees and other qualifications should comply with the Australian Quality Framework (AQF) higher education titles and descriptors.
- A law school's academic staff should be active in scholarship that informs their teaching, and in research.
- A law school should have sufficient support and infrastructure for effective student learning.

2.3.3 Quality assurance processes

¹¹ See www.mceetya.edu.au/verve/_resources/RevisedNationalProtocols20081.pdf for the protocols from which these suggestions emanate.

There is also a view that, given there are already institutionally-driven reviews within all universities, the standards might rather encourage such reviews, and the standards would propose what a proper review and its mechanisms might be. The standards, in this case, would suggest not what the answer should be in the quality assurance processes, but what questions should be asked and how the review should be undertaken.

2.4 What would be done with the standards?

If a set of standards were to be developed, the question arises as to whose standards they would be. Would they be CALD's standards, similar perhaps to the American Association of Law Schools Requirements for Membership? In that case, would compliance with them be a condition of membership of CALD? Presumably not.

Would they, on the other hand, be proposed by CALD to LACC, as APLEC did in regard to the Competency Standards for practical legal training? In that case, the standards would either be 'jointly owned' by CALD and LACC or be, in effect, handed over to LACC by CALD for implementation in the admission rules of the various jurisdictions.

Alternatively, the standards could simply be regarded as a discussion document, in the public domain to stimulate discussion and, more importantly, to drive standards up.

2.4.1 Admission to practice as legal practitioners

What distinguishes law schools in the university setting is that they train lawyers, and they are, in effect, 'accredited' to do that. How do law schools respond to that responsibility? One way is to undertake their work by measurement against a set of standards which are chosen and set at a certain level in order to maintain an appropriate standard for admission to practice as a legal practitioner.

The standards could aid, and perhaps guide, the existing situation whereby law degrees are 'recognised' by the law admitting authorities as part of their regulation of the process of admission to practice of legal practitioners.

This is what drives the ABA Standards. The Preamble to them states¹² -

The [ABA Standards] are founded primarily on the fact that law schools are the gateway to the legal profession. They are minimum requirements ... for the purpose of advancing the basic goal of providing a sound program of legal education. The graduates of approved law schools can become members of the

¹² ABA Standards, p. viii.

bar in all United States jurisdictions, representing all members of the public in important interests.

The Preamble then goes on to propose that the implications of this for an approved law school is that it –

... must provide an opportunity for its students to study in a diverse educational environment, and in order to protect the interests of the public, law students, and the profession, it must provide an educational program that ensures that its graduates:

- (1) understand their ethical responsibilities as representatives of clients, officers of the court, and public citizens responsible for the quality and availability of justice;
- (2) receive basic education through a curriculum that develops:
 - (i) understanding of the theory, philosophy, role, and ramifications of the law and its institutions;
 - (ii) skills of legal analysis, reasoning, and problem solving; oral and written communication; legal research; and other fundamental skills necessary to participate effectively in the legal profession;
 - (iii) understanding of the basic principles of public and private law; and
- (3) understand the law as a public profession calling for performance of pro bono legal services.

Even if the standards were not incorporated into the admission rules, a statement of standards might usefully be referred to by admitting authorities when accrediting or reaccrediting a law school. Reaccrediting is likely to be a more important issue in the future, as some admitting authorities are changing their rules to make this process more regular and rigorous.¹³

If the admitting authorities were to set more rigorous and wide-ranging requirements, there could be a benefit for law schools in that there would be pressure from outside the university to drive up, for example, the funding of the library, staff numbers and perhaps even salaries.

2.4.2 To improve standards

The development of a set of standards, with accompanying argumentation, would be part of a movement to drive standards up. The discussion would be more informed, the arguments better put, and decision-makers would have a yardstick against which to judge the quality of their own institution. Law schools are acutely aware of the reduction in resources available to them and would benefit from argumentation to support their submissions for adequate and appropriate funding and other support.

¹³ See, for example, Rule 44 of the New South Wales Legal Profession Admission Rules 2005.

The maintenance of standards has been highlighted by the recent moves towards a national legal profession and the mutual recognition of qualifications in all Australian jurisdictions. A ramification is that there is now the danger of a lowest common denominator standard intruding into a jurisdiction unless there is some national standard which applies to all jurisdictions. In the new environment, because of the mutual recognition regime, a standard for one's own jurisdiction is effectively meaningless without there being an overall national standard.

2.5 The audiences for a set of standards

There are six potential audiences for such a document –

- university administrators
- the admitting authorities
- the legal profession
- colleagues in law
- government and the community
- bodies providing funding for research and development activities in legal education.¹⁴

The standards would be of potential interest and value to all of them in different contexts but perhaps the primary audience would be the law admitting authorities.

In regard to university administrators, it is observable that internal reviews of law schools almost inevitably raise resource issues but universities characteristically exclude resources from the purview of reviews. By putting resources squarely at the centre of standards for law schools, a set of standards could help ensure that funding was seen as fundamental and could not be bypassed in any consideration of what is essential for a fully functioning law school.

There is another potential audience and that is those who are considering the establishment of a new law school. The United Kingdom Quality Assurance Agency's Law Benchmark Statement, issued in 2000, notes –

Subject benchmark standards are used for a variety of purposes. Primarily, they are an important external source of reference for higher education institutions when new programmes are being designed and developed in a subject area. They provide general guidance for articulating the learning outcomes associated with the programme but are not a detailed specification of the curriculum in the subject. Benchmark statements provide for variety and flexibility in the design of programmes and encourage innovation within an agreed overall framework.

¹⁴ Such as the Carrick Institute.

Subject benchmark statements also provide support to institutions in pursuit of internal quality assurance. They enable the learning outcomes specified for a particular programme to be reviewed and evaluated against agreed general expectations about standards.

Finally, subject benchmark statements are one of a number of external sources of information that are drawn upon for the purposes of academic review and for making judgements about threshold standards being met. Reviewers do not use subject benchmark statements as a crude checklist for these purposes however. Rather, they are used in conjunction with the relevant programme specifications, the institution's own internal evaluation documentation, together with primary data in order to enable reviewers to come to a rounded judgement based on a broad range of evidence.

2.6 Dangers and difficulties in having a standard

There are several dangers in establishing standards, be they minimum or aspirational, for law schools.

2.6.1 Setting arbitrary standards

An initial danger is to set standards which are arbitrary, in that whilst clear and definite they do not apply to all situations. An example of such an arbitrary standard could be one specifying the minimum annual expenditure for the law library – as it would not take into account a whole range of factors, such as whether one university was able to take advantage of discounts to which another university did not have access.

2.6.2 Not meeting the standards

The most obvious danger is that not all law schools may meet the standard, and indeed be capable in the immediate future of doing so. What does this mean for those law schools? The standards could have a very negative impact on them. Of course, it might be said that this is exactly what having standards is meant to do – that an institution which does not meet an appropriately set standard should not be offering a program. But for many law schools a number of the elements of a standard would be outside their control. For example, the funding available for the law library, the level of staffing of the law school, or its teaching facilities might all be under the control of the university's central administration, with very little input from the law school. The law school could be in an invidious situation and have little control over how the situation might be alleviated.

Equally, such a law school could be at risk. There may be some who would want to use the non-achievement of the standard against that law school in some way. At the same time, in an environment where law schools find themselves

increasingly in competition with each other, a school's inferior status to another, as judged against the standard, might be used in marketing and in other ways to discourage students from attending that law school.

2.6.3 Exceeding the standards

There is also a danger for law schools which exceeded the standard that there could be pressure on them, perhaps from within their university, to conform down to the standard. The argument could be advanced that the law school did not need to have as many resources as it was receiving as it was exceeding a national standard and, in a world of limited resources, it could afford to lose some.

2.6.4 Ranking of law schools

There are some in Australia who want to rank law schools. This is already a major issue in the United States where the *US News & World Report* ranking of law schools has apparently had a dominant influence on the choice of law school for many students.¹⁵ It is described as a "Complete Guide to Law Schools" and includes a ranking of, what it calls, all top law schools.

More recently, the Melbourne Institute at the University of Melbourne has been developing a methodology for measuring the international standing of disciplines within universities. They are seeking perceptions of Australian law schools from senior academics in the area, both internationally and domestically. These perceptions are to be combined with a variety of quantitative measures of academic performance to provide overall ratings.¹⁶ For many, this is seen as a retrograde development. The development of standards could be used to assist in this ranking law schools.

2.6.5 Allowing for the diversity of law schools

A very obvious difficulty in developing a meaningful standard is how it would reflect the diversity there is, and should be, between law schools and the institutions in which they are found. How can there be a single standard in that situation without it being too vague?

There is no single all-embracing model of a law school such as, for example, where the school is situated at more than one campus. Are there, therefore, elements which law schools do have in common, are there enough of them to make the exercise worthwhile, and are they elements for which it is worth setting

¹⁵ See www.usnews.com/usnews/edu/grad/rankings/law/lawindex_brief.php.

¹⁶ See letter from Professor Ross Williams, Director of the IRAP Project of the Melbourne Institute to selected deans of July 2006.

standards insofar as they do have a direct impact on enabling a 'sound legal education' (to use the ABA term)?

Diversity is seen, for example, in the fact that some law schools are stand-alone faculties and others a part of a larger faculty. In that situation, a minimum standard which presents a concept of the functions of a contemporary law school (to use the Australian law deans' 1987 term) could be very valuable as it could help maintain the essential elements of a law school.

It may be that a way around this difficulty would be to create several models of standards which applied depending on the situation of the law school.

2.6.6 Deciding what a standard should encompass

Just how intrusive should a standard be? There are some matters, for example, what qualifications should be held by a person being appointed as a dean, which could well be seen as internal university matters.

How would it be decided where to draw the line? Could the test be, for example, that every standard should relate directly to sound legal education (whatever that may mean) or the Carrick Institute's mission of enhancement of teaching and learning.¹⁷

From a somewhat different perspective, there is also the question of how detailed a standard should be. Having decided that a particular matter should form part of the standard, to what degree of detail should that standard be expressed? A good example of this is the law library. For example, should a standard specify what the minimum collection should comprise?

This issue is dealt with in greater detail in chapter 4.

¹⁷ The support of initiatives by the Carrick Institute will depend on whether they pursue that goal. It may be that it would be desirable that the standards could all be justified in terms of that goal.

Chapter 3 Comparable statements of standards

In this chapter a number of statements, most of which do not use the term 'standard' to describe themselves, are outlined and analysed. This analysis provides a setting and possibly some ideas and examples.

3.1 The Australian academic requirements for admission to practice

The starting point for any consideration of standards for Australian law schools is, of course, the existing requirements found in the rules in each Australian jurisdiction in regard to the requirements for qualification for admission to practice as a legal practitioner. These requirements are often referred to as the Priestley requirements or Priestley 11, reflecting the surname of the chairman of the committee that initially drafted them.

There are minor differences between the various jurisdictions but essentially the requirements are the same nationwide. For example, the New South Wales the Legal Profession Admission Rules provide –

- a law school can apply to the Legal Profession Admission Board for “accreditation” of its degree¹⁸
- the degree will be accredited if it requires “the completion of the equivalent at least three years full-time study of law”¹⁹ and “a satisfactory level of understanding and competence” in the following areas of knowledge²⁰ –

- Criminal Law & Procedure
- Torts
- Contracts
- Property
- Equity
- Company Law
- Administrative Law
- Federal & State Constitutional Law
- Civil Procedure
- Evidence
- Professional Conduct.²¹

¹⁸ Rule 43(1), Legal Profession Admission Rules.

¹⁹ Rules 43(4)(b) & 95(1)(a).

²⁰ Rule 43(4)(a).

²¹ In regard to trust accounting, although part of the requirements, generally it does not have to be done as part of the academic course of study provided it is undertaken as part of practical training. See, for example, rule 11 (2) of the Queensland Legal Practitioners Admission Rules.

In respect of each of these areas of knowledge, the Rules include a synopsis of the area in a schedule, which specify a range of topics for each area or, as an alternative, requires that topics, of such breadth to satisfy a more general guideline, are taught. Those synopses are in Annex B to this report.

There are some variations between the States and Territories. For example –

- The New South Wales Rules also include a provision that gives the Board the option of accrediting a degree “only in respect of a holder of the degree who has taken one or more designated elective subjects within the degree”.²² This requirement is not to be found in the South Australian or Queensland Rules.
- The Queensland, Victorian and Northern Territory Rules also include requirements that the course must be conducted in Australia.
- In Victoria the Board of Examiners may “endorse any subject in a course of study” as providing understanding and competence in an area of knowledge, and may at any time withdraw its endorsement.²³

Essentially, the existing minimum standards for Australian law schools, insofar as their degrees are accredited or recognised for the purposes of admission to practice as a legal practitioner, are –

- they must require completion of the equivalent of three years of full-time study of law
- they must require a satisfactory level of understanding and competence in the designated 11 areas of knowledge.

3.2 England

3.2.1 The requirements – outline and comments

The Law Society and the General Council of the Bar are authorised to lay down “qualification regulations for those seeking to qualify as solicitors or barristers”.²⁴ They have indicated that they will “recognise a course of study leading to the award of an undergraduate degree” if it satisfies the requirements as set out in their 2002 *Joint Statement issued by the Law Society and the General Council of the Bar on the Completion of the Initial or Academic Stage of Training by Obtaining of an Undergraduate Degree* (Joint Statement). This Statement, therefore, is effectively the statement of standards for English law schools. It is

²² Rule 43(4)(b) of the Legal Profession Admission Rules 2005.

²³ Rule 2.03 of the Legal Practice (Admission Rules) 1999.

²⁴ By the *Courts and Legal Services Act 1990*.

somewhat unusual in that it incorporates, by reference, the Quality Assurance Agency's Benchmark Standard for Law. Both are discussed below.

There are seven conditions in the Joint Statement and, in brief, they relate to –

- learning resources
- the status of the higher education institution
- the standards of achievement expected of students, expressed in terms of knowledge and skills
- the length of the course of study
- the content or coverage of the course of study
- the structure of the course of study
- knowledge and general transferable skills.

The English conditions are –

1 *Learning resources*

Adequate learning resources must be provided to support the course of study. This reflects provisions in the Law Society's Training Regulations and the Bar's Consolidated Regulations which enables them to have "regard to the provision of adequate learning resources" when recognising qualifying law degrees. A body known as the Joint Academic Stage Board has issued a document, *Guidance on the determination of learning resources for recognised law programmes*, which sets out the matters on which the professional bodies must be satisfied.²⁵ The requirements, which are referred to as precepts, fall into four categories - human resources, physical resources, student support and franchise arrangements. Following each precept are a number of questions which a validation or review panel should ask when seeking to determine to what extent the precept has been adhered to. The precepts and questions are set out in full in Annex C. In brief they are –

The basic requirement

Institutions should provide sufficient resources for any recognised law programme for which they are responsible, either directly or indirectly, to enable students enrolled upon the programme to gain the knowledge and acquire the skills set out in Schedules One and Two of the Joint Statement and the QAA Law Subject Benchmark.

The precepts

Human resources

²⁵ Published in August 2005.

The institution should ensure that its law school has sufficient appropriately qualified members of the teaching staff to meet the needs of the recognised law programme.

The institution should provide adequate clerical administrative and technical support for its recognised law programmes, including adequate support for its teaching methods.

All members of the teaching staff should have the opportunity to engage in appropriate staff development including research and scholarly activities.

Physical resources

The institution should make available to the law school sufficient physical accommodation to enable students to achieve the outcomes of its recognised law programmes

In planning and developing its law library and information technology provision, a institution offering qualifying law degree(s) is expected to take into account the current version of *A Library for the Modern Law School: A statement of standards for university law provision in the United Kingdom*.

The institution should ensure that those responsible for the law library etc participate in the BIALL/SLS Academic Law Library Survey undertaken under the auspices of the Society of Legal Scholars.

The institution should ensure that adequate library and information technology provision is available to all students studying on recognised law programmes whether full-time, part-time or distance learning.

Student support

The institution should provide students on a recognised law programme with sufficient formal tuition to enable them to gain the knowledge and acquire the skills set out in Schedule One and Two of the Joint Statement and the QAA Law Subject Benchmark. A significant part of the formal tuition should be provided in small group sessions.

The institution should ensure that its careers advisory service is able to provide students enrolled upon a recognised law programme with full information about prospects and other relevant matters in respect of careers in the legal profession.

Franchise arrangements

An awarding institution should ensure that, where any part of its recognised law programme is taught at another institution under a collaborative arrangement, the level of resources available to support the programme satisfies the minimum levels set out in this Guidance and the responsibilities for resources are clearly defined in the agreement between the two institutions.

The documentation which has to be provided when a law program is being validated indicates how these precepts are applied. The documentation is²⁶ –

the programme specification

- a matrix mapping how the programme outcomes cover the QAA benchmarks
- a matrix mapping how the programme outcomes cover the Joint Statement knowledge and transferable skills in Schedule One
- a table which lists those subjects which are intended to cover the Foundations of Legal Knowledge set out in Schedule Two of the Joint Statement with their credit rating
- the module descriptors for the law subjects to be delivered
- a resource statement to include: the annual (or last year's) library budget/expenditure for law materials broken down into periodicals (law reports and journals); electronic material; looseleaf publications; textbooks and monographs; human resources and IT provision
- the CVs of the academic staff who will be teaching the law subjects
- the assessment regulations
- the assessment criteria
- the Student Handbook
- a description of/policy on pastoral support and careers.

Comment:

These requirements are quite extensive and mirror in some respects the United States requirements, as discussed below. They certainly go far beyond the current Australian situation. They are expressed in quite general terms but when the questions which a validation panel would use are also taken into account, the overall statement is quite detailed. The requirements include precepts in regard to the library.

2 *The status of the higher education institution*

The higher education institution awarding the degree must have degree awarding powers granted by the Privy Council.

Comment:

In Australia all bodies offering law degrees have degree awarding powers.

3 *Standards of achievement*

²⁶ Joint Academic Stage Board, of the Bar Standards Board and Solicitors Regulation Authority, *Qualifying Law Degrees*, February 2007.

The standards of achievement expected of students are set at or above the minimum level of performance as outlined in the Quality Assurance Agency's Benchmark Standard for Law Degrees in England, Wales and Northern Ireland.

The level of performance specified is that a student has satisfactorily demonstrated achievement in each of the following areas of performance in order "to give confidence that they have the ability or skill which is claimed for graduates in law" –

Subject-specific abilities

- 1 Knowledge: Students should demonstrate a basic knowledge and understanding of the principal features of the legal system(s) studied, namely they should be able:
 - o to demonstrate knowledge of a substantial range of major concepts, values, principles and rules of that system
 - o to explain the main legal institutions and procedures of that system
 - o to demonstrate the study in depth and in context of some substantive areas of the legal system.
- 2 Application and problem-solving: Students should demonstrate a basic ability to apply their knowledge to a situation of limited complexity in order to provide arguable conclusions for concrete problems (actual or hypothetical).
- 3 Sources and research: Students should demonstrate a basic ability:
 - o to identify accurately the issue(s) which require researching
 - o to identify and retrieve up-to-date legal information, using paper and electronic sources
 - o to use primary and secondary legal sources relevant to the topic under study.

General transferable intellectual skills

- 4 Analysis, synthesis, critical judgement and evaluation: Students should demonstrate a basic ability:
 - o to recognise and rank items and issues in terms of relevance and importance
 - o to bring together information and materials from a variety of different sources
 - o to produce a synthesis of relevant doctrinal and policy issues in relation to a topic
 - o to make a critical judgement of the merits of particular arguments
 - o to present and make a reasoned choice between alternative solutions.
- 5 Autonomy and ability to learn: Students should demonstrate a basic ability, with limited guidance:
 - o to act independently in planning and undertaking tasks in areas of law which they have already studied
 - o to be able to undertake independent research in areas of law which they have not previously studied starting from standard legal information sources

- to reflect on their own learning, and to seek and make use of feedback.

Key skills

- 6 Communication and literacy: Both orally and in writing, students should demonstrate a basic ability:
- to understand and use the English language proficiently in relation to legal matters
 - to present knowledge or an argument in a way which is comprehensible to others and which is directed at their concerns
 - to read and discuss legal materials which are written in technical and complex language.
- 7 Other key skills: numeracy, information technology and teamwork: Students should demonstrate a basic ability:
- where relevant and as the basis for an argument, to use, present and evaluate information provided in numerical and statistical form
 - to produce a word-processed essay or other text and to present such work in an appropriate form
 - to use the World-wide web and e-mail
 - to use some electronic information retrieval systems
 - to work in groups as participants who contribute effectively to the group's task.

Comment.

This condition goes well beyond what is found in Australia. What this condition actually requires is that the law school must set standards of achievement which equal or exceed those specified by the Quality Assurance Agency. How this is administered is not clear.

The requirement in regard to knowledge is stated differently to the wording used in Australia – this is discussed below under condition no. 5.

More particularly, it has an extensive set of requirements in regard to intellectual skills; there are no equivalent requirements in regard to skills in the Australian admission rules. The conditions go beyond this and also encompass skills such as communication and numeracy, and even extend to the use of technology.

It is not clear, however, how law schools demonstrate an adequate level of performance in these skills. Do they form an essential component of the process whereby the two professional bodies in England determine if law schools are 'accredited' or are they, in effect, aspirational?

4 *Length of course of study*

The course of study includes the study of legal subjects for the equivalent of not less than two years out of a three year or four year course of study.

Comment:

The Australian requirement is similar, except that it requires the equivalent of three years full-time study of law.

5 *Content or coverage*

The coverage of those legal subjects referred to as the Foundations of Legal Knowledge must involve not less than 1½ years of study (180 credits). Those Foundations are –

- Public law, including Constitutional Law, Administrative Law and Human Rights
- Law of the European Union
- Criminal Law
- Obligations, including Contracts, Restitution and Tort
- Property Law
- Equity and the Law of Trusts
- In addition, training in legal research.

The remaining half year (60 credits) in law must be achieved by the study of legal subjects. A legal subject means the study of law broadly interpreted.

Comment:

The list of areas of knowledge is overall more confined than the Australian list. Areas of knowledge on the Australian list but not found on the English list are Criminal and Civil Procedure, Company Law, Evidence and Professional Conduct. On the other hand, the English requirements which are not found explicitly in the Australian requirements are Human Rights, Law of the European Union and training in legal research.

There is no synopsis of each area of knowledge as there is in Australia.

6 *Structure of course of study*

The course of study will normally be spread over the full duration of the degree course. Some study of legal subjects will be expected to take place in the final year of the degree course.

Comment:

There is no equivalent Australian requirement but in fact this requirement, if it were an Australian requirement, is met by all law schools.

7 *Required knowledge and general transferable skills*

The external examiners of the degree programme of which the course of study forms part must be satisfied that, in addition to the Areas of Performance set out in the Benchmark Standards, the students should have acquired the following knowledge and be able to exercise the following general transferable skills –

Knowledge

Students should have acquired –

- 1 Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales particularly in the Foundations of Legal Knowledge.
- 2 A basic knowledge of the sources of that law, and how it is made and developed; of the institutions within which that law is administered and the personnel who practise law.
- 3 The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and to explain the relationship between them in a number of particular areas.
- 4 The intellectual and practical skills needed to research and analyse the law from primary resources on specific matters; and to apply the findings of such work to the solution of legal problems.
- 5 The ability to communicate these, both orally and in writing, appropriately to the needs of a variety of audiences.

General Transferable Skills

Students should be able –

- 1 To apply knowledge to complex situations.
- 2 To recognise potential alternative conclusions for particular situations, and provide supporting reasons for them.
- 3 To select key relevant issues for research and to formulate them with clarity.
- 4 To use standard paper and electronic resources to produce up-to-date information.
- 5 To make a personal and reasoned judgement based on an informed understanding of standard arguments in the area of law in question.
- 6 To use the English language and legal terminology with care and accuracy.
- 7 To conduct efficient searches of websites to local relevant information; to exchange documents by email and manage information exchanges by email.
- 8 To produce work-processed text and to present it in an appropriate form.

Comment:

This condition is somewhat odd in that it requires the external examiners for the degree to be satisfied that the student should have acquired the specified knowledge and skills. The requirement in regard to knowledge is stated in more general terms than that in condition 5. The requirement in regard to skills largely overlaps with that in condition 3. Overall it is not clear how these overlapping requirements are in fact

monitored.

3.2.2 General discussion of requirements

The similarities and dissimilarities between the English and Australian requirements are –

Similarities

- The length of the course of study is specified.
- The status of the institution in which the course is taught is specified.
- Specified areas of knowledge are required, but the areas differ somewhat and the Australian specification is more prescriptive.

Dissimilarities

- In England there is a requirement that there be adequate learning resources; in Australia there is no such requirement.
- In England there are detailed requirement in regard to legal and general intellectual and other skills; the Australian requirement makes no mention of skills.

3.2.3 The English requirement in regard to Knowledge

The knowledge requirement is found in two of the conditions. It is helpful to put them beside each other to identify how they sit together –

<i>Condition 3: Standards of achievement</i>	<i>Condition 7: Required knowledge</i>
<p>1. <u>Knowledge</u>: Students should demonstrate a basic knowledge and understanding of the principal features of the legal system(s) studied, namely they should be able:</p> <ul style="list-style-type: none">○ to demonstrate knowledge of a substantial range of major concepts, values, principles and rules of that system○ to explain the main legal institutions and procedures of that system○ to demonstrate the study in depth and in context of some substantive areas of the legal system.	<p><i>Knowledge</i></p> <p>Students should have acquired –</p> <ol style="list-style-type: none">1 Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales particularly in the Foundations of Legal Knowledge.2 A basic knowledge of the sources of that law, and how it is made and developed; of the institutions within which that law is administered and the personnel who practise law.3 The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and

	<p>rules of English law and to explain the relationship between them in a number of particular areas.</p> <p>4 The intellectual and practical skills needed to research and analyse the law from primary resources on specific matters; and to apply the findings of such work to the solution of legal problems.</p> <p>5 The ability to communicate these, both orally and in writing, appropriately to the needs of a variety of audiences.</p>
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It can be seen that there is overlap and it is not clear why the requirements in regard to knowledge are split between the two conditions. Also, it is odd that the last two of the requirements in Condition 7 in fact refer to skills, not knowledge, particularly bearing in mind that the rest of that condition deals with skills.

3.2.4 The English requirement in regard to Skills

There is a similar overlap or repetition in regard to skills as shown in the following comparison of the conditions –

<i>Condition 3: Standards of achievement</i>	<i>Condition 7: Required general transferable skills</i>
<p><i>Subject-specific abilities</i></p> <p>1 <u>Application and problem-solving</u>: Students should demonstrate a basic ability to apply their knowledge to a situation of limited complexity in order to provide arguable conclusions for concrete problems (actual or hypothetical).</p> <p>2 <u>Sources and research</u>: Students should demonstrate a basic ability:</p> <ul style="list-style-type: none"> ○ to identify accurately the issue(s) which require researching ○ to identify and retrieve up-to-date legal information, using paper and electronic sources ○ to use primary and secondary legal sources relevant to the topic under study. 	<p><i>General Transferable Skills</i></p> <p>Students should be able –</p> <ul style="list-style-type: none"> ○ To apply knowledge to complex situations. ○ To recognise potential alternative conclusions for particular situations, and provide supporting reasons for them. ○ To select key relevant issues for research and to formulate them with clarity. ○ To use standard paper and electronic resources to produce up-to-date information.

<p>6 <u>Other key skills: numeracy, information technology and teamwork:</u> Students should demonstrate a basic ability:</p> <ul style="list-style-type: none">○ where relevant and as the basis for an argument, to use, present and evaluate information provided in numerical and statistical form○ to produce a word-processed essay or other text and to present such work in an appropriate form○ to use the World-wide web and e-mail○ to use some electronic information retrieval systems○ to work in groups as participants who contribute effectively to the group's task.	<ul style="list-style-type: none">○ To produce work-processed text and to present it in an appropriate form.○ To conduct efficient searches of websites to locate relevant information; to exchange documents by email and manage information exchanges by email.
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It can again be seen that there is considerable overlap. The two sets of requirements are stated differently. Condition 3 does not set out but rather incorporates by reference the Quality Assurance Agency's Benchmark Standard for Law whereas Condition 7 explicitly lists the requirement in regard to general transferable skills but, in a somewhat roundabout way and rather oddly, requires that the external examiners must be satisfied in regard to them.

3.2.5 The Society of Legal Scholars standards in regard to law library provision

A *Statement of Standards for University Law Library Provision* has been drawn up by a consultative group established by the Libraries Committee of the Society of Legal Scholars. The Standards cover the whole range of issues relating to the operation of a law library including its relationship with the law school, its management, collections, space, and equipment. The Standards are supported by an annual survey of university law library provision conducted in collaboration with the British and Irish Association of Law Librarians. The accumulated research data from these surveys is seen to provide the basis not only for realistic benchmarks and targets in the Statement but also for a series of analytical research reports which monitor trends in university law library provision.

The Standards can be found at the Society's website, www.legalscholars.ac.uk. The standards, without the introductory remarks and the comments in regard to each standard, are at Annex D.

3.3 United States

In the United States the standards are found in the American Bar Association's *Standards and Rules of Procedure for Approval of Law Schools* (ABA Standards). The Council of the ABA's Section of Legal Education and Admissions to the Bar is approved by the United States Department of Education as the recognised national agency for the accreditation of programs leading to the first professional degree in law. The majority of the highest courts of the states rely on ABA approval of a law school to determine whether the jurisdiction's legal education requirement for admission to the bar is satisfied.

The American Association of Law Schools (AALS) also has a regulatory role insofar as member law schools must meet its requirements for membership, but the AALS is not recognised by the Department of Education as an accrediting agency, and none of the jurisdictions in the United States require that a student has graduated from an AALS member law school in order to be eligible for admission to the bar.

3.3.1 The requirements – outline and comments

The basic requirement for approval is that a law school must demonstrate that "its program is consistent with sound legal education principles". It does that by establishing that it is being operated in compliance with the Standards.²⁷

The Standards are set out in full in Annex E. (It may be necessary to refer to Annex E to follow the discussion in this section.)

In particular the Standards deal with –

General purposes and practices; definitions

- 101 Basic requirements for approval
- 102 Provisional approval
- 103 Full approval
- 104 Seek to exceed requirements
- 105 Major change in program or structure
- 106 Definitions

Comment:

This section of the Standards is a mixture of basic requirements and procedural matters. The two basic requirements are that a law school's program should be consistent with sound legal education principles and that a law school should seek to exceed the minimum requirements of the Standards. Thus, it can be seen, the ABA

²⁷ ABA Standard 101.

Standards see themselves as minimum standards, not aspirational benchmarks.

The other standards in section 1 deal with the processes for provisional approval and for situations where there is a major change in a law school's program or structure during the period of approval.

Organisation and administration

- 201 Resources for program
- 202 Self study
- 203 Strategic planning and assessment
- 204 Governing body of an independent law school
- 205 Governing body and law school authority
- 206 Dean
- 207 Allocation of authority between dean and faculty
- 208 Involvement of alumni, students and others
- 209 Non-university affiliated law schools
- 210 Law school-university relationship
- 211 Non discrimination and equality of opportunity
- 212 Equal opportunity and diversity
- 213 Reasonable accommodation for qualified individuals with disabilities

Comment:

This section deals with a number of somewhat disparate matters, none of which are reflected in the Australian requirements. They are principally –

- the need for adequate financial resources for the law school²⁸
- that the law school has a strategic planning process in place
- how the law school should be governed
- provisions in regard to the dean – full time, selected by and responsible to the governing body, with tenure, and the faculty's role in regard to the appointment of a dean
- the role of the dean and the faculty
- the relationship between the law school and the university
- non discrimination and equality of opportunity for faculty and other staff
- equal opportunity and diversity in the student body
- accommodation for students with disabilities.

Some of these standards have a direct correlation with the provision of a program based on sound legal education principles, such as the need for adequate financial resources. Others implement principles related to the governance of a law school or social policy, such as in regard to equality of opportunity.

²⁸ It is not clear if the second part of this Standard refers only to financial resources or is broader.

The program of legal education

- 301 Objectives
- 302 Curriculum
- 303 Academic standards and achievements
- 304 Course of study and academic calendar
- 305 Study outside the classroom
- 306 Distance education
- 307 Participation in studies or activities in a foreign country
- 308 Degree programs in addition to J.D.

Comment:

This is where the ABA Standards come closest to the Australian requirements. The Australian requirements have two elements – a reasonably detailed prescription in regard to content and a minimum length of study (three years full-time or equivalent). The ABA Standards have equivalent, but different, requirements as follows –

- There is an ABA specification of content but it is in much more general terms than those in Australia, namely substantive law that is “generally regarded as necessary to effective and responsible participation in the legal profession”.
- There is an ABA requirement in regard to professional conduct but it is far more extensive than the Australian requirement.
- There is an ABA requirement in regard to the length of the course of law study.

However, there are significant differences. They are principally –

- The quite specific ABA requirement that the law program should prepare its students for admission to the bar and participation the legal profession.
- The additional ABA requirements in regard to intellectual legal skills, legal writing and other professional skills “necessary for effective and responsible participation in the legal profession”.
- The ABA requirements that there be substantial opportunities for clinical work, pro bono activities and small group work.
- The ABA requirement that there be processes in place to ensure the maintenance of high academic standards by students.
- The ABA requirement in regard to the length of the academic year and student load.
- The ABA requirements in regard to study away from the law school.
- The ABA requirements in regard to distance education and studies in a foreign country.

The faculty

- 401 Qualifications

- 402 Size of full-time faculty
- 403 Instructional role of faculty
- 404 Responsibilities of full-time faculty
- 405 Professional environment

Comment:

There are no Australian requirements in regard to the academic staffing of the law school. If any of the ABA requirements were to be reflected in Australian standards they could deal with the qualifications and experience required for appointment to the law school, the size of the law school's academic staffing, the instructional role of the full-time faculty and the role of adjunct teachers, and the responsibilities of full-time academic staff in regard to teaching, scholarship, law school administration and professional activities.

There are also no Australian requirements which mirror the ABA requirements in regard to academic freedom and tenure, including for clinical and legal writing teachers.

Admissions and student services

- 501 Admissions
- 502 Educational requirements
- 503 Admission test
- 504 Character and fitness
- 505 Previously disqualified applicant
- 506 Applicants from law schools not approved by the ABA
- 507 Applicants from foreign law schools
- 508 Enrollment of non-degree candidates
- 509 Basic consumer information
- 510 Student loan programs
- 511 Student support services

Comment:

There are also no Australian requirements in regard to admission policies and practices, or student services. There may, in some universities, be university-wide policies which are applied in the law school.

If there were to be Australian requirements which reflected the ABA Standards they could extend to –

- the establishment and maintenance of admission policies and practices
- minimum admission requirements for students
- the requirement that students undertake an admission test
- admission and readmission of previously disqualified students
- the granting of credit or advanced standing to students from foreign law schools.

There are also a few somewhat unusual ABA requirements which would probably not be regarded in Australia as standards to be met for accreditation as a law school. They include that the law school –

- advise applicants of the requirements in regard to character and fitness for admission to the bar prior to admission to the law school.
- seek to minimise student loan defaults
- provide basic student services.

Library and information resources

- 601 General provisions
- 602 Administration
- 603 Director of the law library
- 604 Personnel
- 605 Services
- 606 Collection

Comment:

There is no current Australian standard or statement in regard to minimum library requirements.²⁹ There is undoubtedly considerable difficulty in developing a standard which encompassed all situations in which law schools operate without being so general to be meaningless. Thus, for example, the general ABA requirement is that the law library be “an active and responsive force in the educational life of the law school” and that it should have “sufficient financial resources to support” the law school’s programs of teaching and research. What this means can be gleaned, at least in part, in the Interpretations.

So far as the collection is concerned, the specific standard remains very broad – simply a requirement to have a core collection of essential materials. However, one of the Interpretations (606-5) contains a quite detailed list of what should comprise the core collection. There is no current CALD statement of an equivalent core collection prescription.

Similar quite broad provisions are found in regard to the library’s staff and the services it provides – they must be of an appropriate range and depth to reflect the law school’s teaching, research and other programs.

The Standards then go on to deal with quite specific matters such as the law school’s administrative control over the use of the library’s resources, the role of the dean and library director in regard to policy, personnel, provision of services, the collection and

²⁹ In 1995 the Centre for Legal Education published, on behalf of the Committee of Australian Law Deans, *Australian Law School Libraries: a Position Statement and Standards*. This statement is no longer on the CALD website and is presumably not, if it ever was, an official document.

budget.

There are a number of quite specific ABA requirements in regard to the library's director – full-time, selected by the law school, qualifications and tenure.

Facilities

- 701 General requirements
- 702 Law library
- 703 Research and study space
- 704 Technological capacities

Comment.

There are no Australian requirements in regard to facilities. If there were to be requirements which reflected the ABA Standards they would include requirements that there be –

- adequate physical facilities for current use and growth in the immediate future
- sufficient law library physical facilities
- sufficient seating space on-site for quiet study, research and group study
- adequate technological capacities for the current educational program and anticipated changes in the immediate future.

Council authority, variances, and amendments

- 801 Council authority
- 802 Variance
- 803 Amendments

Comment.

This part of the Standards relates to procedure, which would only be of interest in Australia if a process for assessing law schools against minimum standards were to be instituted.

3.3.2 General discussion of requirements

The ABA requirements, as has already been noted in several contexts, far exceed those in Australia. If they were to be a model for Australian requirements, it would be worth noting–

- Their focus on legal education as preparation for entry to the legal profession, which is not always the case in Australia, although is understandable in the American context.
- Their marked difference from the current Australian requirements in regard to the content of the law degree. It may be that this is explicable given that the state bar examinations have considerable influence on the curricula of the law schools, as most students intend to undertake those examinations.
- In contrast, the ABA requirements are reasonably specific about the teaching of intellectual and other skills which are appropriate for lawyers – a topic on which the Australian requirements are silent.
- Both the United States and Australia have requirements in regard to the minimum length of the period of law studies.
- The ABA Standards are an interesting mix of almost micro-managed requirements in some instances and very general or broad requirements in others.
- However, the ABA Standards are not to be read alone, but also contain the Interpretations. In a number of cases, the interpretations convert a quite general requirement into a quite specific one.
- As a process, the use of Interpretations is an interesting device which might be usefully adopted in Australia. This, however, would require a standing body to develop them over time as occasions arose, and to administer the standards – which will be discussed further in a later chapter.

3.4 New Zealand

In New Zealand there are no minimum standards established by the law schools themselves or a body similar to CALD. The only requirements, which could effectively be regarded as standards, are those in the Council of Legal Education's Professional Examinations in Law Regulations 1987.

Those Regulations provide that, as part of a law degree, a candidate for admission as a barrister and solicitor must have passed the following subjects –

- The Legal System
- Contracts
- Torts
- Criminal Law
- Public Law

Property Law³⁰
Legal Ethics.³¹

The content of these subjects is prescribed, as is done in Australia. That prescription, which is in a schedule to the Regulations, is set out in Annex F to this report.

There are both similarities and dissimilarities between the Australian and New Zealand requirements. The similarities are –

- What are effectively minimum standards are set out in regulations dealing with admission to practice.
- A brief description of what is to be dealt with in each area of knowledge is set out, although in New Zealand that description is briefer.

The dissimilarities are –

- The New Zealand list is shorter and does not include Equity as such (although there is a reference to equitable title in property under Property Law), Company Law, Administrative Law (although there is a reference to judicial review under Public Law), Civil Procedure and Evidence.
- The New Zealand list does include The Legal System which is somewhat oddly missing from the Australian list.
- The prescription for The Legal System incorporates some legal skills, in particular legal reasoning and statutory interpretation.

3.5 Canada

There are no Canadian national standards as such. It has been many years since standards for Canadian law schools have been evaluated. The setting of standards, or more accurately the requirements for call to the bar, is a responsibility of individual Canadian law societies, as they set the entry requirements for the respective provincial or territorial bar admission process. Collectively, there has been an agreement amongst law societies that the Federation of Law Societies of Canada would co-ordinate the process through its National Committee on Accreditation, although decisions can only be made by individual law societies.³²

³⁰ The subjects of Land Law and Equity and Law of Succession are treated as the equivalent of Property Law. (R. 3(1)(b)(ii))

³¹ Regulations 3(1)(b) and (d) of the Professional Examinations in Law Regulations 1987.

³² There is no role for the Canadian Bar Association. The Canadian Bar Association's involvement would be inappropriate, because law societies have the statutory mandate to govern all aspects of regulation of the legal profession.

New activity has, however, just begun to occur. The Law Society of Upper Canada (the law society for the province of Ontario) has recently received a report as a result of an application by Lakehead University in Ontario to be approved as a law degree provider.³³ In order to deal with this application, the Convocation of the Law Society of Upper Canada has voted to review its law program requirements with a view to establishing modern, relevant criteria.

The Upper Canada requirements were last amended in 1969 and are set out in Annex G to this report. These requirements have been followed informally and somewhat loosely across Canada in all the common law jurisdictions.³⁴

The requirements have the following features –

- A long list of courses which should be offered by a law school is given – it is not clear how closely this requirement is enforced.
- There are seven required subjects for the purposes of call to the bar – it is shorter than the Australian equivalent.
- There are additional prescriptions in regard to the program itself –
 - the course is to be three years full-time or equivalent
 - the sequence in which courses are taught is a decision for the law school itself
 - the academic year is to be not less than 30 teaching weeks
 - students are to be ‘under instruction or supervision’ for 15 hours per week
 - the number of hours allotted to each course is a decision for the law school itself.
- There are two requirements in regard to the teaching staff –
 - the minimum number of teaching staff is prescribed
 - the maximum teaching load of staff is recommended.
- The single requirement in regard to the library is that the Law Society requires to be assured that adequate facilities, including library books and reading space, are available to the students and the faculty.

The Federation of Law Societies of Canada has created a task force to consider matters related to common law degrees issued by Canadian law schools, but that it is only in the initial stage of work.

³³ The Law Society of Upper Canada, *Professional Development, Competence and Admissions Committee: Report to Convocation*, January 2007.

³⁴ Advice has been received that at the time of these requirements being made, the other law societies were willing to let the Law Society of Upper Canada handle the approval process.

3.6 Hong Kong

In Hong Kong both the Law Society and the Bar Association have, what they call, benchmarks which relate to entry to the Postgraduate Certificate in Laws, which is more or less the equivalent to an Australian practical training course. Completion of that program is one of the prerequisites for qualification for admission to practice

The Law Society's Benchmarks require that students should be accepted into the PCLL (and hence move along the path of qualification for admission) if "they have satisfactorily demonstrated competence in a number of core subjects which are very similar to those required in Australia. In addition, for those undertaking their degree outside Hong Kong, they must also demonstrate competence in several "top-up subjects", namely –

Core subjects

Contract
Tort
Constitutional Law
Criminal Law
Land Law
Equity
Civil Procedure
Criminal Procedure
Evidence
Business Associations
Commercial Law

Top-up subjects

Hong Kong Constitutional law
Hong Kong Legal System
Hong Kong Land Law

The Bar Association's benchmark does not have an equivalent list although it does require knowledge to be displayed in the areas of Evidence and Civil Litigation.

3.7 Singapore

There are no minimum standards for approval of law schools in Singapore. With the opening of a second law school, at the Singapore Management University, it may be that the authorities have begun to consider this issue. However, at present the only effective standard is the requirement in the Legal Profession (Qualified Persons) Rules 2001 that a person with a degree from the National University of Singapore is a qualified person, subject to satisfaction of some

other non academic requirements such as in regard to character, for the purposes of admission to practice.

Therefore, it could be said that the compulsory core of the law curriculum at the National University of Singapore is the effective minimum standard, but of course confined only to the content of the academic program of study. The compulsory core comprises –

- Law of Contracts
- Law of Torts
- Legal Writing, Analysis & Research
- Singapore Legal System
- Criminal Law
- Introduction to Legal Theory
- Principles of Property
- Company Law
- Comparative Legal Traditions
- Introduction to Trial Advocacy
- Equity & Trusts
- Public Law
- Legal Case Studies
- Evidence and Procedure.

3.8 Malaysia

There are no standards for legal education in Malaysia. The Legal Profession Qualifying Board is responsible for admissions to practice but does not specify the standards and quality of law subjects taught at the universities. There is a document known as *Quality Assurance Code of Practice in Public Universities of Malaysia*, produced by the Ministry of Higher Education, but it is general in nature and does not deal with law specifically.³⁵

3.9 The Australian National Competency Standards for Entry Level Lawyers

The so-called Competency Standards for practical legal training for entry level lawyers were jointly developed by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC). They were published in 2000, in a document entitled *Competency Standards for Entry Level Lawyers*. Since then they have been incorporated into the rules governing admission to practice in all Australian jurisdictions.

³⁵ www.apps.emoe.gov.my/qad.

The Competency Standards seek to describe the observable performance required of entry-level lawyers at the point of admission to practice, in a number of key areas. Those key areas are –

Skills	Practice Areas	Values
Lawyer's Skills Problem Solving Work Management and Business Skills Trust and Office Accounting	Civil Litigation Practice Commercial and Corporate Practice Property Law Practice <i>One of:</i> Administrative Law Practice Criminal Law Practice Family Law Practice <i>And one of:</i> Consumer Law Practice Employment and Industrial Relations Practice Planning & Environmental Law Practice Wills and Estates Practice	Ethics and Professional Responsibility

For each of these areas, a “competency standard” is specified. An example of such a standard, the competency standard for Civil Litigation Practice, is in Annex H to this report.

In addition to these requirements in regard to the content of what is taught in practical training courses, there are also some other statements in *Competency Standards for Entry Level Lawyers* which could be regarded as part of a standard for practical training courses. In particular so far as is relevant to the issue of minimum standards, the document states that “the Law Admissions Consultative Committee considers that” –

- An applicant should generally have undertaken the relevant practical legal training either in the final year of a law degree or after completing that degree, or a combination of both of them.
- The practical legal training should be provided at a level equivalent to post-graduate training. It should build on the knowledge and understanding of the law, the legal system and of legal practice which a graduate should have acquired by the end of an undergraduate law degree.
- Diversity in the ways in which practical legal training is given should be encouraged, provided that the quality of that training is not compromised and remains the paramount consideration.

These statements of the LACC's views have been inconsistently incorporated into the relevant admission rules in the various jurisdictions in Australia.³⁶

There are several aspects of these competency standards which are notable –

- They were developed jointly by APLEC, the professional body of practical training courses, and LACC. Although initially the work was done by APLEC, during the process LACC became involved.
- Thus there was cooperation between the teaching and admission bodies.
- They are based on the assumption that competencies can be written for various aspects of legal work. It would not be appropriate to define requirements in regard to the content of the law degree in terms of competencies, except perhaps in respect of skills if that were to be part of the requirements.
- They are reasonably prescriptive, although it was not intended that the Performance Criteria for each area of practice should be a point-by-point prescription of what should be in the syllabus of a practical training course.³⁷
- For each of the competency standards there is an explanatory note which amplifies the requirement.

³⁶ In some instances, the whole of the *Competency Standards for Entry Level Lawyers* document is found in the Rules, but as an Attachment which is specifically stated to be not part of the Rules. However, for example in the case of Queensland, R. 7(4) states that in applying subrule (3) (which prescribes that a course of practical training must require competence and understanding in the specified skills, values and practice areas), “regard must be had to the matters set out in the Preface”, which is where the LACC's statement of its considerations is to be found. They are thus, in effect, incorporated into the Rules in Queensland. In New South Wales, the whole *Competency Standards for Entry Level Lawyers* document is in Schedule 6 to the Rules but there is no equivalent of the Queensland R. 7(4) and the relevant New South Wales rule (R. 96) only states that “a synopsis of the competencies ... is set out in the Sixth Schedule”.

³⁷ Unfortunately the Queensland Legal Profession Admission Board has mistakenly understood the performance criteria to be such a detailed prescription, and has required providers of practical training to provide ‘chapter and verse’ evidence of where every performance criterion is taught. It may be that some at least of the other admitting authorities are beginning to take a lead from Queensland, thus compounding the misunderstanding.

Chapter 4 Discussion of various aspects of the proposed standard

In this chapter there is a discussion of all the many and various aspects which might be dealt with in a standard. As has been anticipated earlier in this report, this discussion envisages that both the law school and the law program would be encompassed by the standard. No recommendations or proposals are made in this chapter.

4.1 Strategic direction of the law school

An initial question is whether it is appropriate for a standard to encompass governance issues. Should a standard be requiring a law school to have a strategic plan and a strategic direction? Is there a sufficient nexus between that and the course of study offered by the law school?

The ABA Standards are the only standards which make reference to this aspect; there is no mention in the English or Canadian requirements. The ABA standard is –

Standard 203 Strategic planning and assessment

.... a law school shall demonstrate that it regularly identifies specific goals for improving the law school's program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

It may be that, with a number of law schools now to be found within larger faculties, this is more important, so that the law school can argue for strategic issues distinctive to the delivery of a law program on the basis of the standard.

Another issue is whether a standard should, in effect, specify a sector-wide vision and goals which would be implemented by individual law schools or simply require that a law school had achieved the goals it has set for itself.

In a number of universities, the identification of graduate attributes, in terms perhaps of knowledge, skills and attitudes, has been required. That statement of graduate attributes could form a basis for the strategic plan.

The options are –

- (a) Develop sector-wide standards in regard to strategic direction.

- (b) Develop a standard which requires that a law school has a strategic plan and means of monitoring its implementation, but not specify the content of that plan.
- (c) Have no standard in regard to strategic direction.

4.2 The course of study offered by the law school

4.2.1 The content of the course of study

There is already an Australian 'standard' in regard to the content of a recognised law degree, as outlined in section 2.1 above. The current 'standard' is a list of areas of knowledge with each area amplified by a reasonably broad listing of topics or, as an alternative, a general description.

Assuming that the content of the course of study is to remain a part of the standard (and it is very unlikely that a standard would be accepted without such an element), the options are –

- a) Retain the existing prescription (the Priestley 11) without change
- b) Retain the existing 11 areas of knowledge but change the amplifying lists or general descriptions
- c) Change the 11 areas of knowledge by removing existing and/or adding new areas
- d) Shortening the list to a 'core of the core', as in England, Canada or New Zealand.

Summary of requirements in England, Canada and New Zealand

<i>England</i>	<i>Canada</i>	<i>New Zealand</i>
		The Legal System
Public law including Constitutional Law, Administrative Law and Human Rights	Constitutional Law of Canada	Public Law
Law of the European Union		
Criminal Law	Criminal Law and Procedure	Criminal Law
Obligations including Contracts, Restitution and Tort	Contracts Torts	Contracts Torts
Property Law	Personal Property Real Property	Property Law
Equity and the Law of Trusts		

Legal research		
	Civil Procedure	
		Legal Ethics

- e) Restructure some areas of knowledge or describe the areas in a different way, eg. the use of the descriptor *Obligations* in the English list.
- f) In addition to, or instead of, the list of areas of knowledge have a more general statement, perhaps similar to the English or ABA statements in regard to Knowledge.³⁸

English statement in regard to Knowledge

Students should have acquired –

- o Knowledge and understanding of the fundamental doctrines and principles which underpin the law of England and Wales particularly in the Foundations of Legal Knowledge.
- o A basic knowledge of the sources of that law, and how it is made and developed; of the institutions within which that law is administered and the personnel who practise law.
- o The ability to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and to explain the relationship between them in a number of particular areas.
- o The intellectual and practical skills needed to research and analyse the law from primary resources on specific matters; and to apply the findings of such work to the solution of legal problems.
- o The ability to communicate these, both orally and in writing, appropriately to the needs of a variety of audiences.

The ABA Standards requirement is that “a law school shall require that each student receives substantial instruction in the substantive law generally regarded as necessary to effective and responsible participation in the legal profession”.

- g) Add a requirement in regard to intellectual and perhaps other skills which an Australian law school should seek to develop, possibly drawing on the English requirement (but perhaps simplifying it and making it more realistic) or the Australian law deans’ 1987 statement to the Pearce Review.

English statement in regard to Skills

Subject-specific abilities

Application and problem-solving: Students should demonstrate a basic ability to apply their knowledge to a situation of limited complexity in order to provide arguable conclusions for concrete problems (actual or hypothetical).

³⁸ Although it should be noted that the English requirement also includes a list of areas of the law in its Foundations of Knowledge.

Sources and research: Students should demonstrate a basic ability:

- to identify accurately the issue(s) which require researching
- to identify and retrieve up-to-date legal information, using paper and electronic sources
- to use primary and secondary legal sources relevant to the topic under study.

General transferable intellectual skills

Analysis, synthesis, critical judgement and evaluation: Students should demonstrate a basic ability:

- to recognise and rank items and issues in terms of relevance and importance
- to bring together information and materials from a variety of different sources
- to produce a synthesis of relevant doctrinal and policy issues in relation to a topic
- to make a critical judgement of the merits of particular arguments
- to present and make a reasoned choice between alternative solutions.

Autonomy and ability to learn: Students should demonstrate a basic ability, with limited guidance:

- to act independently in planning and undertaking tasks in areas of law which they have already studied
- to be able to undertake independent research in areas of law which they have not previously studied starting from standard legal information sources
- to reflect on their own learning, and to seek and make use of feedback.

Key skills

Communication and literacy: Both orally and in writing, students should demonstrate a basic ability:

- to understand and use the English language proficiently in relation to legal matters
- to present knowledge or an argument in a way which is comprehensible to others and which is directed at their concerns
- to read and discuss legal materials which are written in technical and complex language.

Other key skills: numeracy, information technology and teamwork: Students should demonstrate a basic ability:

- where relevant and as the basis for an argument, to use, present and evaluate information provided in numerical and statistical form
- to produce a word-processed essay or other text and to present such work in an appropriate form
- to use the World-wide web and e-mail
- to use some electronic information retrieval systems
- to work in groups as participants who contribute effectively to the group's task.

4.2.2 The length of the course of study

There is already a requirement in regard to the length of the course of study – three years full-time or equivalent. There are similar requirements in other countries, not always of three years. For example, the English requirement is the study of legal subjects for the equivalent of not less than two years out of a three year or four year course of study. The ABA requirement is successful completion of a course of study in residence of not fewer than 58,000 minutes instruction

time, and at least 45,000 of these minutes are to be by attendance in regularly scheduled class sessions at the law school.

The options are –

- (a) Retain the existing requirement.
- (b) Shorten or lengthen the requirement.
- (c) Express the requirement in a different way, eg. in terms of teaching hours.

4.2.3 The sequence of the course of study

The sequence in which areas are taught is not prescribed elsewhere, although there is a reference to it in the Law Society of Upper Canada requirement.

The options are –

- (a) Have no prescription as to the sequence in which areas are taught, as at present.
- (b) Have a prescription which presumably would be based on an argument as to how an undergraduate law degree should be structured.

4.2.4 Clinical legal education

There is an ABA requirement that –

A law school shall offer substantial opportunities for live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence.

There is no similar requirement elsewhere, and there has been no real move for a requirement for Australian law schools that clinical legal education be part of every student's law school experience. If there were to be such a requirement, some law schools would have difficulty in resourcing such a development. Others may consider that it did not reflect their approach to legal education.

This is an example of what might be included as an aspirational standard rather than a minimum standard. If there were to be a standard, there would be a variety of views on how it should be expressed.

The options are –

- (a) Have no prescription as to clinical legal education.
- (b) Have a prescription, possibly as an aspirational standard.

4.3 Teaching methodology

Clinical legal education is an example of one of a number of teaching methodologies. There is a question of whether a standard should encompass a law school's teaching methodologies. Issues which might be dealt with are –

- The place for small group teaching, and what size the groups should be.
- Class sizes generally.
- Whether clinical legal education should be part of every law school's range of offerings.
- Whether there should be any conditions applied to distance education.

In England, for example, one of the requirements is that a significant part of the formal tuition should be provided in small group sessions.³⁹ The ABA Standards require that there be substantial opportunities for students to engage in “small group work through seminars, directed research, small classes, or collaborative work”.⁴⁰

There are no doubt other issues. If there were to be a standard, the first step would be to decide what aspects of teaching methodology should be encompassed by the standard. Options are not provided as this question needs first to be considered.

4.4 Granting of academic credit

This is an area in which law deans have concerns. There could well be a place for a statement as to the basis upon which credit, or advanced standing will be granted, and the maximum amount of credit which can be granted. A first step to develop such a standard might be to collate existing policies.

The options are –

- (a) Have no prescription as to the granting of academic credit.
- (b) Have a prescription, which might either be in general terms or could be more specific.

³⁹ Precept no. 8 of the requirements in regard to learning resources. See Annex C.

⁴⁰ Standard 302.

4.5 Teaching staff

4.5.1 *Number of teaching staff or size of the law school*

It is clear that the quality of a law program does depend, in part, on how many teachers are available to teach. The 1979 Law Society of Upper Canada requirements include a calculation of what should be the minimum number of teaching staff, based on the courses being taught. Such a requirement could also be based on the number of students to be taught, *ie.* a staff:student ratio, or on both and perhaps other factors. The ABA Standard recognises that there are a number of factors which will vary from law school to law school. It states the requirement in these general terms –

A law school shall have a sufficient number of full-time faculty to fulfil the requirements of the Standards and meets the goals of its educational program.

There is a similar requirement in England that “the institution should ensure that its law school has sufficient appropriately qualified members of the teaching staff to meet the needs of the recognised law programme”.⁴¹

If there were to be such a standard in Australia, how that statement was to be interpreted would be clearly a matter of debate.

The options are –

- (a) Have no prescription as to number of teachers or minimum size of the law school.
- (b) Have a prescription, which could be expressed in general terms or calculated in some way, *eg.* by reference to the size of the undergraduate student body, the number of courses taught, or in some other way.

4.5.2 *Qualifications of teaching faculty*

At present there is no Australian requirement as to what qualifications law teachers should have. All universities do have such requirements, which are normally university-wide although, in some cases, the law school may have some distinctive requirements. It may be the case that the law admitting authorities have relied on these internal university requirements as the means of ensuring those teaching are sufficiently qualified to do so.

The ABA Standard is that –

⁴¹ Precept no. 11 of the requirements in regard to learning resources. See Annex C.

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and to maintaining a program of legal education consistent with the requirements of Standards 301 and 302. The faculty shall possess a high degree of competence, as demonstrated by its education, experience in teaching or practice, teaching effectiveness, and scholarly research and writing.

In England there is a requirement of “appropriately qualified staff”.

If there were to be an Australian equivalent, each law school would, presumably, have to demonstrate compliance by providing details in regard to each member of staff. There is always, of course, a turnover of staff and so the demonstration of compliance could only be at a particular point in time.

The options are –

- (a) Have no prescription as to the qualifications of those teaching in the law school, relying instead on the internal university requirements.
- (b) Have a prescription for different levels of appointment, which could either be quite general or might set a minimum in terms of, for example, the teacher’s academic qualifications and/or other experience.

4.5.3 Recruitment and promotion criteria and processes

The ABA Standards have several requirements which primarily relate to equality of opportunity. If there were to be an Australian requirement it might relate also to matters such as transparency, open advertising and so on. As with qualifications for appointment, all universities have well developed criteria and procedures in this regard and it could be argued that there would be no purpose in developing another set of criteria and processes, particularly if the law school had no option but to comply with its own university’s requirements.

Such a standard, so far as it reflected equal opportunity principles, would be primarily implementing socially desirable outcomes. It can be argued that the make-up of the teaching faculty will impact on the quality of the program offered to students, but this is only an indirect effect.

The options are –

Have no prescription as to recruitment and promotion criteria and processes.

Have a prescription, which might be quite general in order to allow for each university’s own specific criteria and processes.

4.5.4 Research opportunities and support

In England there is a requirement that all members of the teaching staff should have adequate opportunities to engage in appropriate on-going staff development, including research and scholarly activities.⁴² There is no equivalent standard in other countries, but it is conceivable that there could be a standard that, for example, all members of full-time teaching staff should be given adequate time, resources and support to engage in significant research. Any such standard could be expressed either in quite general terms or could specify a minimum amount of non-teaching time and what resources and support might be provided.

The options are –

- (a) Have no prescription as to research opportunities and support for the teaching faculty.
- (b) Have a prescription, which might be in general terms or might contain some specific minimum requirements.

4.5.5 Academic freedom and tenure

Standard 405 of the ABA Standards requires that a law school have an established and announced policy with respect to academic freedom and tenure. It also has similar provisions for clinical faculty members and teachers of legal writing.

There could also be provisions in regard to conditions of employment generally, such as in regard to allocation of administrative responsibilities within the law school, study leave entitlements, and so on.

The options are –

- (a) Have no prescription as to conditions of employment.
- (b) Have a prescription, which might be in general terms or might contain some specific minimum requirements.

4.6 Criteria and procedures for entry to law school

There are no such requirements in Australia or elsewhere, except in the ABA Standards. Such requirements could be said to impact on the quality of the course of study, but the stronger argument is that the quality of the output of law

⁴² Precept no. 2 of the requirements in regard to learning resources. See Annex C.

schools should be assured and one means of achieving this is to govern the quality of the students coming into the law course.

Those ABA Standards which could provide a model for what might be in an Australian standard deal with –

- sound admission policies and practices
- not admitting applicants not capable of completing the program
- a minimum educational qualification for entry to law school
- completion of a law school admission test
- applicants with qualifications from foreign law schools
- the provision of student services such as student records, provision of academic advice and career counselling.

The options are –

- (a) Have no prescription as to criteria and procedures for entry to law school.
- (b) Have a prescription, which might either be in general terms or could be more specific.

4.7 The law library

4.7.1 The 1995 CALD Position Statement and Standards

In 1995 the Committee of Australian Law Deans (as CALD was then known) published *Australian Law School Libraries: a Position Statement and Standards*. The statement and standards were developed in conjunction with the Committee of Australian University Librarians and the law librarians within the universities.

That document is not now posted on the CALD website and it presumably no longer reflects CALD policy. However, it is useful to outline those standards, in a somewhat edited and abbreviated form, as a point of departure for discussion –

Standard 1 Human resources [edited]

The law library should be administered by a full-time law librarian whose principal activities include the development and maintenance of the law library and the furnishing of library assistance to faculty and students.

Standard 2 Management and planning [edited]

The law library must be a responsive and active force within the educational life of the law school and the university. Its effective support of the law school's teaching and research programs requires a direct, continuing and informed

relationship with the faculty and management of the law school and university library management.

Standard 3 Information resources and the core law library collection

The law library collection must be at least adequate to support the teaching and research of the school.

A law library shall also provide, through ownership or guaranteed access, additional collections, equipment and services which are sufficient in quality, level, scope, quantity and currency to support full the law school's programs.

The law library should contain or provide appropriate access to additional publications and information services necessary for the proper conduct of the law school's educational and research programs. Any arrangements for sharing of these publications and information services shall be in writing and adequate to ensure ease of access and availability of materials when and where needed.

Standard 4 Teaching duties and responsibilities [edited]

In recognition of the way in which each law library functions as a deeply integral part of the law school it services, teaching duties and responsibilities are included within the Standards.

Standard 5 Technical support services

Because of the diverse nature of legal materials, and their topicality, it is essential that, where technical services for a law library are done outside the law library, they will be carried out by staff who possess expertise with respect to the technical services associated with legal materials.

The law librarian should be involved in contributing to technical services policies and practices insofar as they relate to the law library.

Standard 6 Client services [edited]

The law library should provide services which are relevant and responsive to the teaching and research requirements of its law school and university.

The client services should take into account opening hours, resource sharing, information services, reader education and value added services.

Standard 7 Building/Accommodation [edited]

It is recognised that the state of law library accommodation varies considerably between the various law schools and within their institutional settings.

Space should be provided for the law library, sufficient in size, location and design in relation to the school's programs and enrolment, to accommodate the library's users, collections, staff, equipment and services to a satisfactory minimum level.

Standard 8 Equipment

Suitable equipment should be installed and available for library staff and users. Attention should be given to ensure that a safe and healthy work environment is maintained including those of an ergonomic nature in line with developments in information technology.

For each of the standards, there is a guideline. The guidelines are more detailed. For example, in regard to *Standard 3: Information Resources and the Core Law Library Collection* there are very detailed suggestions which, with developments in information technology, may now be in need of revision. By way of illustration, the guideline for core primary materials is –

- (a) All series of reports of Commonwealth, State and Territorial courts and tribunals including relevant unreported judgments of all Australian and New Zealand jurisdictions.
- (b) All statutory materials including sessional acts, regulations, reprints, bills and explanatory memoranda of Commonwealth, State and Territorial jurisdictions and accompanying annotators and indices.
- (c) All legislative materials including parliamentary debates, parliamentary papers, votes and proceedings, journals, minutes, gazettes of Commonwealth, State and Territorial jurisdictions.
- (d) Other relevant official publications particularly those pertaining to the development of legislation, legislative drafting, papers affecting administration of justice and other legal matters.

4.7.2 The English Statement of Standards

There is an English standard for law libraries, known as *A Library for the Modern Law School: a Statement of Standards for Law Library Provision in the United Kingdom*. A revised version of that statement was issued in 2003.⁴³ It describes itself as a comprehensive and flexible set of standards providing authoritative guidance, representing a broad consensus of views, for law schools and law libraries.

The Statement reflects

the distinctive requirements for library provision resulting from the aims of University legal education, notably the need for law graduates to be competent in the identification, collation, analysis, application and evaluation of primary and secondary legal materials.

⁴³ A copy of this statement is at the website of the Society of Scholars, www.legalscholars.ac.uk.

The standards are expressed in general terms and are designed to allow for interpretation by law schools and law libraries in the light of their own specific academic circumstances and objectives. Each standard is accompanied by a commentary illustrating the application of the standard and relating it, where appropriate, to actual levels of provision as reported by law schools and libraries from time to time.

The Statement states that “the standards recognise the diversity of legal education both in general terms, by relating requirements of library provision to the research and teaching objectives of each law school and, more specifically, by linking minimum collection standards to the nature of the legal education provision offered by the school”.

The document is too extensive for inclusion in this report.

4.7.3 General discussion

The fundamental question is whether a standard could be developed in regard to the law library which was sufficiently detailed to be useful but which reflected the diversity which now exists as a result of aspects such as multi-campus, use of web-based learning and information retrieval, and the varying requirements of researchers.

There are some particular issues which remain to be resolved –

- whether a standard can feasibly reflect the fact that much information is now available in electronic databases and access to the information can take various forms
- how a standard can apply to both a law collection housed within a larger collection and a separate law library, in relation to matters such as the financial arrangements, sharing of staff, etc.

The options are –

- (a) Revise and update the 1995 CALD Standards, probably in conjunction with the Committee of Australian University Librarians and university law librarians.
- (b) Develop afresh a new standard for law libraries, possibly drawing on overseas statements, in particular the English Statement of Standards.
- (c) Develop a standard expressed in quite general terms which can encompass the various situations in which law libraries find themselves.

- (d) Attempt to develop specific minimum standards in regard to matters such as –
 - o the collection
 - o financial support for the library
 - o staffing of the library
 - o housing of the library
 - o technical supportand other matters.
- (e) Develop variations within the standard – eg. for stand-alone law libraries and law libraries forming part of larger university libraries, and for single and multi-campus law libraries.

4.8 Teaching resources and facilities

There is no current Australian requirement but this is an area of concern to many law deans.

Resources and facilities could include –

- o financial resources – how much money is made available to the law school in terms of its requirements for its programs
- o the law school building
- o the law library (but see below in section 3.8)
- o the teaching rooms available and the teaching resources in those rooms
- o computer availability for students.

The English requirement is that the institution should make available to the law school sufficient physical accommodation to enable students to achieve the outcomes of its recognised law programmes.⁴⁴ When it is being determined whether this precept has been achieved, the questions asked are –

- o What teaching rooms are made available to students on the programmes? Are they sufficient to permit reasonable schedule of classes? To what extent do the rooms made available permit the use of the teaching activities necessary for the achievement of the learning outcomes of the programme?
- o What teaching aids are available in various types of teaching rooms?
- o Do any parts of the programme require special accommodation and, if so, will it be available?
- o Is there adequate accommodation available to enable all teaching staff to provide academic and pastoral guidance to students on the recognised law programme(s)?

It can be seen that the requirement becomes quite specific.

⁴⁴ Precept no. 7 of the requirements in regard to learning resources. See Annex C.

The ABA requirement is, in general terms, that a law school shall have physical facilities that are adequate both for its current program of legal education and for anticipated growth in the immediate future. The more specific requirements, apart from the library (which is dealt with below), relate to –

- sufficient quiet study and research seating, and space which is suitable for group study and other forms of collaborative work
- “technological capacities” that are adequate for both the school’s current program and for program changes anticipated in the immediate future.

The options are –

- (a) Have no prescription as to teaching resources and facilities.
- (b) Have a prescription but in general terms.
- (c) Have a detailed prescription which could encompass any of –
 - the law school building
 - the amount of teaching space available
 - the quality of the teaching space
 - the teaching aids available
 - space for students for study and collaborative work.

4.9 Quality assurance processes

The reality is, so far as the identification and achievement of standards are concerned, the primary process is the internal university processes to which all law schools are subject. It may be that the most effective input which CALD can make is to propose requirements for those processes, which reflect what should be recognised as distinctive so far as law schools are concerned.

As a starting point, there could be a standard that a law school is regularly reviewed and ‘reaccredited’ in some way; usually be an internal university process.

The standard could also encompass aspects of that process such as how regular it should be, who should be involved, and what input the law school and others, eg. the profession, ought to be able to make.

The options are –

- (a) Develop a standard in regard to institution-based quality assurance processes.

- (b) Have no such standard.

4.10 The law school's postgraduate and research programs

In no other jurisdiction is there a requirement that a law school, in order to be recognised, should have a postgraduate program in addition to the program, usually at undergraduate level, which provides instruction in the required areas of knowledge.⁴⁵ Nor is there a requirement that the law school must have a creditable or substantial research program.

There does not appear to be any proposal from any source for such requirements.

4.11 Governance of the law school

Governance is another aspect where it may be necessary to show that there is a nexus between good governance and the quality and suitability of the course of study. Again, it is only the ABA Standards where governance is dealt with. In brief, the ABA standards which might provide some ideas are –

Standard 205 Governing body and law school authority

- (a) A governing body may establish general policies that are applicable to a law school if they are consistent with the Standards.
- (b) The dean and faculty shall formulate and administer the educational program of the law school, including curriculum; methods of instruction; admissions; and academic standards for retention, advancement, and graduation of students; and shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of the faculty.

Standard 206 Dean

- (a) A law school shall have a full-time dean, selected by the governing body or its designee, to whom the dean shall be responsible.
- (b) A law school shall provide the dean with the authority and support needed to discharge the responsibilities of the position and those contemplated by the Standards.
- (c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure.
- (d) The faculty or a representative body of it shall advise, consult, and make recommendations to the appointing authority in the selection of a dean.

Standard 207 Allocation of authority between dean and faculty

⁴⁵ Some law schools now have JD programs which are treated as postgraduate programs.

The allocation of authority between the dean and a law faculty is a matter for determination by each institution as long as both the dean and the faculty have a significant role in determining educational policy.

Standard 208 Involvement of alumni, students and others

A law school may involve alumni, students, and others in a participatory or advisory capacity; but the dean and faculty shall retain control over matters affecting the educational program of the school.

Standard 210 Law school-university relationship

- (a) If a law school is part of a university, that relationship shall serve to enhance the law school's program.
- (b) If a university's general policies do not adequately facilitate the recruitment and retention of competent law faculty, appropriate separate policies should be established for the law school.
- (c) The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education.
- (d) A law school shall be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing body for adoption.

As with strategic direction, for those law schools which form part of larger faculties or divisions, there may be value in having some externally proposed standards in regard to the governance of the law school and, in particular, the role of the dean.

The options are –

- (d) Develop sector-wide standards in regard to strategic direction and governance.
- (e) Develop a standard which requires that a law school has a strategic plan and means of monitoring its implementation, but not specify the content of that plan.
- (f) Have no standard in regard to strategic direction and governance.
- (g) Have a standard in regard to the role and responsibilities of the dean, and the dean's interaction with the teaching faculty and the university.
- (h) Have no standard in regard to the dean.

4.12 Managing and enforcing the standards

A number of issues arise in regard to the management and enforcement of whatever standards might be developed. Issues to be considered include –

- What body should manage and enforce the standards? How would it be constituted? From whence would it derive its power?
- What should happen if a law school met the standards initially but later failed to meet them?
- What should be the process to enable a law school to make a significant change after accreditation and prior to the next re-accreditation?⁴⁶
- Should there be a capacity for provisional ‘accreditation’?
- Should the standards be complemented, over time, with interpretations – as is the case with the ABA Standards?
- What should happen if a law school did not meet the standards?
- Would it be necessary to meet all of the standards?
- How frequently should there be a ‘reaccreditation’?

There are no doubt other issues to consider.

⁴⁶ See Standard 105 of the ABA Standards.

Chapter 5 The proposed Standard, with commentary

Note: The sources drawn upon in developing this Standard are in Annex I.

Definitions

Law course⁴⁷ The course of study leading to a degree which is recognised by the law admitting authority in the jurisdiction as providing the academic requirements for the purposes of admission to practice as a legal practitioner. In some institutions this would be known as “law program” and the term “course” would refer to individual units or subjects within the program.

Law school⁴⁸ Any university unit principally responsible for offering a degree in law, completion of which is recognised by at least one Australian admitting authority as satisfying most or all of that authority’s academic requirements for admission to legal practice.

1. Fundamental issues, mission and objectives

1.1 Academic autonomy

1.1.1 The law school has the responsibility, authority and capacity to be able to design, develop and deliver a law course which meets these Standards.

1.2 Aspiration in regard to these Standards

1.2.1 The law school seeks to exceed the requirements of these Standards.

1.3 Statement of mission and objectives

1.3.1 The law school has defined its mission and the objectives of the law course, and has made them known to students and other stakeholders.

⁴⁷ The definition of *Law course* links the course to the requirements for admission to practice. This approach has been adopted as it is the one adopted in the CALD Constitution for defining a law school.

⁴⁸ The definition of *Law school* is the same as that in the CALD Constitution.

- 1.3.2 The law school's mission encompasses teaching, research and community engagement.
- 1.3.3 The law school's mission encompasses a commitment to the rule of law, and the promotion of the highest standards of ethical conduct and professional responsibility.⁴⁹

2. The law course

2.1 Educational outcome

- 2.1.1 The law school has identified, defined and disseminated the attributes that law students should exhibit on graduation.

2.2 Curriculum design and educational methods

- 2.2.1 The law school has a curriculum model and teaching and learning methods that promote the educational objectives of the law course.
- 2.2.2 The teaching and learning methods encourage students to be active participants in the learning process and to engage with the law in an analytical and critical way.
- 2.2.3 Appropriate tuition, either face to face or electronically, is provided to enable students to develop the knowledge, understanding and skills set out in Standard 2.3.1.

2.3 Curriculum content

- 2.3.1 The curriculum includes coverage of all of the academic requirements specified for the purposes of admission to practice as a legal practitioner in Australia,
- 2.3.2 General requirements: The curriculum seeks to develop knowledge, understanding, skills and values: knowledge of the law; understanding of legal principle and of the context within which legal issues arise; skills of research, analysis, reasoning, problem-solving, and communication; and the values of ethical legal practice and professional responsibility.

⁴⁹ See object (e) of the Australian Academy of Law which is –
“To promote the highest standards of ethical conduct and professional responsibility amongst all members of the legal community, including the use of legal skills not merely for material personal reward but also in the service of society.”

2.3.3 In particular, the curriculum, seeks to develop –

- a. knowledge and understanding of –
 - the fundamental doctrines, concepts, principles, and values of Australian law
 - the fundamental areas of the substantive law
 - the sources of that law and how it is made and developed, and of the institutions within which that law is administered
 - the theory, philosophy, and role of law, and the dynamics of legal change
 - the broader context within which legal issues arise, including, for example, the political, social, historical, philosophical, and economic context
 - international and comparative perspectives on Australian law and of international developments in the law
 - the principles of ethical conduct and the role and responsibility of lawyers, including, for example, their *pro bono* obligations.
- b. the intellectual and practical skills needed to research and analyse the law from primary sources, and to apply the findings of such work to the solution of legal problems.
- c. the ability to communicate these findings, both orally and in writing.
- d. internalisation of the values that underpin the principles of ethical conduct and professional responsibility.

2.4 Course duration

2.4.1 The law course requires the completion of the equivalent of at least three years full-time study of law.

2.5 Curriculum dissemination

2.5.1 The law school publishes a description of the content and structure of the curriculum and duration of the course that guides both staff and students on the level of knowledge and understanding, skills and attributes expected of students at each stage of the course.

2.6 Granting of credit and recognition of prior learning

2.6.1 The law school has published policies in regard to the granting of status or credit and the recognition of prior learning.

- 2.6.2 The policies do not undermine the integrity of the law degree or the capacity of the law school to comply with these Standards.

2.7 Course management

- 2.7.1 The law school has the responsibility, authority and capacity to plan, implement and review the curriculum to achieve the objectives of the law course.
- 2.7.2 In respect of the curriculum, the law school consults widely in the professional and other environments in which graduates will be expected to work.

3. Assessment of students

3.1 Assessment methods and standards

- 3.1.1 The law school has defined, documented and published the methods used for assessment, including the criteria for progression in the course.
- 3.1.2 The reliability and validity of assessment methods are evaluated and new assessment methods are developed where required.
- 3.1.3 The law school in its assessments requires all students to achieve an appropriate academic standard.

3.2 Relationship between assessment and learning

- 3.2.1 The assessment principles, methods and practices are appropriate for the educational objectives of the law course.

4. Academic staff

4.1 Staff numbers, profile and duties

- 4.1.1 The law school has sufficient members of academic staff to meet the needs of the law course and otherwise to fulfil its mission and the requirements of these Standards.
- 4.1.2 The profile of the law school's academic staff reflects an appropriate range of experienced members.

4.1.3 The profile of the law school's academic staff reflects an appropriate number of full-time staff or an appropriate mix of full-time staff and those with other arrangements.

4.1.4 The teaching load expected of staff is consistent with the law school being able to achieve its aspirations in regard to research and community engagement.

4.2 Staff qualifications

4.2.1 Members of the law school's academic staff have qualifications and experience appropriate to fulfil the mission of the law school and to meet the requirements of these Standards.

4.3 Staff appointment, promotion and development

4.3.1 The law school has published appointment and promotion policies that recognise and reward meritorious achievement.

4.3.2 The law school's employment practices are non-discriminatory.

4.3.3 Members of academic staff have the opportunity to engage in appropriate staff development.

4.4 Academic freedom

4.4.1 The law school has published policies, or is subject to its university's published policies, in regard to the maintenance of academic freedom.

4.5 Employment conditions

4.5.1 The law school has published policies, or is subject to its university's published policies, in regard to fair and reasonable conditions of employment.

4.6 Part time and casual teaching staff

4.6.1 The law school has defined the role and responsibilities of part time and casual teachers who contribute to the delivery of the law course and the responsibilities of the law school to those teachers.

5. The law library or law collection

In this section the term “law library” also refers to the “law collection” where there is not a distinct law library but there is a distinctive and identifiable law collection in the university’s library.

5.1 General provisions

Recognising that the law library has a distinctive role in the university, and is appropriately described, to underline the parallel with the essential equipment of the scientist, as “the lawyer’s laboratory” –

- 5.1.1 The law library is able to be an active and responsive force in the educational life of the law school, effectively supporting the school’s teaching, research and service programs.
- 5.1.2 The law library has sufficient, and a consistent supply of, financial resources to support the law school’s teaching, research and service programs.
- 5.1.3 The law library uses up-to-date information technology.
- 5.1.4 Adequate library and information technology provision is available to all students studying in the law course, whether full-time, part-time, face to face, on line, or by distance learning, as appropriate.

5.2 Administration of the law library

- 5.2.1 The law school is able to participate effectively in the growth and development of the law library and the use of its resources.
- 5.2.2 The law library has a manager who is appropriately qualified to manage a law library and whose primary responsibility is the management of the law library.
- 5.2.3 The law library has competent and appropriately qualified staff, sufficient in number to provide appropriate library and informational resource services and support for the law school's programs.

5.3 Law library services and facilities

- 5.3.1 The law library provides an appropriate range and depth of reference, instructional, bibliographic and other services to meet the needs of the law school's teaching, research and service programs.

5.3.2 The physical facilities for the law library are sufficient in size, location, and design, in relation to the law school's programs and enrolment, to accommodate the law school's students and teaching staff and the law library's services, collections, staff, operations, and equipment.

5.4 The collection

5.4.1 The collection of the law library is, as a minimum –

- a. all public general Acts of the Commonwealth of Australia and of the jurisdiction in which the law school is located, in official or reprint form
- b. all statutory instruments and other secondary legislation of the Commonwealth of Australia and the jurisdiction in which the law school is located, in original or reprint form, relevant to the subjects taught
- c. all reported decisions of the superior courts of Australia and of the jurisdiction in which the law school is located that are relevant to the subjects taught, together with such decisions of other courts as are necessary to the understanding of those subjects
- d. parliamentary materials of the Commonwealth of Australia and of the jurisdiction in which the law school is located, including Bills, parliamentary papers, and reports of parliamentary proceedings, appropriate to the subjects taught
- e. such other official publications of the Commonwealth of Australia and the government of the jurisdiction in which the law school is located as are necessary to support the teaching and research objectives of the law school
- f. where teaching is provided in the law of any legal system other than that of Australia and of the jurisdiction in which the law school is located, primary legal materials and official publications from that legal system, sufficient to support the objectives of such teaching
- g. such secondary works (including textbooks, monographs and periodicals) relating to the law of the Commonwealth of Australia and of the jurisdiction in which the law school is located
- h. primary and secondary comparative material from other legal systems which are the subject of study in the law school, and as are adequate to support the school's teaching and research program
- i. those tools, such as general law encyclopedias, citators, periodical indexes, and current awareness services, which are necessary for the identification and updating of primary and secondary legal materials for the legal systems in which teaching and research are undertaken.

5.4.2 The collection is accessible in printed form or electronically, or both.

6. Resources and infrastructure

6.1 Generally

6.1.1 The law school has adequate resources and infrastructure to enable it to fulfil its mission.

6.2 Physical facilities

6.2.1 The law school has sufficient physical facilities, for both staff and students, to ensure that its educational and research objectives can be achieved.

6.2.2 The law school has sufficient facilities to enable quiet study and research by students and staff.

6.2.3 The learning environment for students is reviewed and updated regularly to reflect developments in educational practices.

6.3 Information technology

6.3.1 The law school has sufficient information and communication technology facilities, for both staff and students, to ensure the law course can be delivered adequately.

6.3.2 The law school has adequate information and communication technology to support its educational, research and community outreach programs.

7. Course evaluation

7.1 The law school has course evaluation procedures that regularly monitor the curriculum, quality of teaching and student progress, and identify and address concerns.

7.2 Measures of, and information about, graduate attributes are used as feedback to course development.

8. The nexus between teaching and research

8.1 The law school fosters the relationship between research and teaching.

8.2 The interaction between research and teaching is reflected in the curriculum. This interaction influences teaching, and encourages and

prepares students to engage in legal research and the development of the law.

9. Governance and administration

9.1 The institution in which the law school is situated

9.1.1 The law school is part of a university or, if not, is part of an institution which has power to award degrees.

9.2 Governance

9.2.1 The law school's governance structures and functions are defined, including the school's relationships within the university or institution.

9.3 Academic leadership

9.3.1 The title of the academic head of the law school is 'dean'.

9.3.2 The responsibilities of the dean are clearly stated.

9.3.3 The dean has the authority and support needed to discharge the responsibilities of the position and those necessitated by these Standards.

9.4 Budget and resource allocation

9.4.1 The law school has a dedicated operational budget and the responsibility for managing it.

9.4.2 The law school has sufficient autonomy to direct resources in order to achieve its mission.

9.5 Administrative staff and management

9.5.1 The law school has appropriate administrative staff to support the implementation of the school's educational program and other activities, and to manage and deploy its resources.

9.6 Interaction with the legal profession

9.6.1 The law school seeks to engage with the legal profession and the legal sector generally.

10. Continuous renewal and improvement

- 10.1 The law school has procedures for regular reviews and updating of its structure and functions to rectify deficiencies and to meet changing needs.
- 10.2 The process of renewal is capable of leading to revisions of policies and practices of the law school in accordance with past experience, present activities and future perspectives.
- 10.3 The law school's teaching and research programs are responsive to legal and social change.

Chapter 6 The administration of the Standards

It is proposed that the following Rules be adopted by CALD.

1 The Law Schools Standards

- 1.1 The Council of Australian Law Schools (CALD) shall publish a set of standards for Australian law schools, called *The Australian Law Schools Standards* (“Standards”).
- 1.2 The Standards may be altered only by CALD at a meeting at which there is a quorum and for which adequate notice of the proposed alteration has been given.
- 1.3 The Standards may be altered by CALD only after the proposed alteration has been considered by the Law Schools Standards Committee.
- 1.4 Commentaries to the Standards may be developed and amended by the Law Schools Standards Committee or by CALD. All commentaries or their changes shall be approved by CALD at a meeting for which adequate notice has been given of the proposed commentary or change of commentary.

2 Law Schools Standards Committee

- 2.1 CALD shall establish a committee, to be known as the Australian Law Schools Standards Committee (“Standards Committee”).
- 2.2 The Standards Committee shall comprise at least five persons of whom at least two shall be from outside the law school sector.
- 2.3 Members of the Standards Committee shall hold office for three years, and are eligible for re-appointment.
- 2.4 CALD shall provide secretariat and administrative support to the Standards Committee.
- 2.5 The Standards Committee may establish panels (see clause 4.3 below), comprising members of the Committee and augmented by other suitably qualified persons as appropriate.

3 Function of the Law Schools Standards Committee

- 3.1 The Standards Committee, in its deliberations and decisions, will operate independently of direction from CALD.
- 3.2 The Standards Committee's functions are –
- To consider applications from law schools for approval as complying with the Standards.
 - To keep the Australian Law Schools Standards under review and to propose amendments, additions and deletions from time to time.
 - To develop and amend commentaries on individual standards from time to time and as circumstances require.
 - To do all consequential things which are necessary to carry out these functions, including the making and amending of these or other procedural rules.
- 3.3 The Standards Committee may approve a law school as complying with the Standards, not approve a law school because of failure to comply with the Standards, approve a law school subject to conditions, or hold an application over pending compliance with conditions.
- 3.4 A decision of the Standards Committee pursuant to clause 3.3 is not reviewable by CALD. However, the Standards Committee shall report its decisions in regard to applications for approval to the next meeting of CALD held after its decision has been made, and the report shall include its reasons for the decision.

4 Approval of law schools as complying with the Law Schools Standards

- 4.1 A law school may of its own volition apply to the Standards Committee for approval as complying with the Standards. A law school is not obliged to seek approval.
- 4.2 Best endeavours will be made to coordinate any application to the Standards Committee with other relevant intra-university or externally-imposed reviews.
- 4.3 The Standards Committee shall normally appoint a panel to consider and advise the Committee on the application. The panel shall normally comprise at least one person from outside the law school sector.
- 4.4 A law school seeking approval shall provide to the Committee such documentation and assistance as is required by the Committee.

- 4.5 The panel appointed by the Standards Committee shall normally, as part of its consideration of an application for approval, visit the law school and meet with members of staff and other appropriate people.
- 4.6 The panel shall provide to the law school a draft of its report and recommendations, and shall consider any response from the law school, before making its recommendation to the Standards Committee in regard to that law school.
- 4.7 The cost of processing an application for approval shall be borne by the law school seeking approval. The Standards Committee shall publish, from time to time, the basis upon which the cost is calculated, so that a law school shall know in advance what the cost of making an application for approval would be.
- 4.8 In accordance with clause 3.3, the Standards Committee may grant unconditional or conditional approval. The Standards Committee will prescribe a process whereby the law school may establish that it has met the condition/s, and should it successfully do so, it would then be granted unconditional approval.
- 4.9 A law school which has been given unconditional approval shall be designated as *An Approved Law School*.
- 4.10 Unconditional approval shall be for a period of five years.

5 Changes subsequent to approval as An Approved Law School

- 5.1 If changes occur during the five year period of approval which, in the law school's opinion, materially could alter its approval, it shall report those changes to the Standards Committee.
- 5.2 The Standards Committee shall consider the law school's report and decide whether to recommend that unconditional approval should continue or whether conditions should be imposed, or whether approval should be withdrawn, or whether any other appropriate action should be taken.
- 5.3 The Standards Committee shall report its decision to the next meeting of CALD, together with reasons for that decision.

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Educating Lawyers: Preparation for the Profession of Law, Jossey-Bass

Annex A Extracts from the submission of Australian law deans to the Assessment Committee for the Discipline of Law (Pearce Committee) 1987

The following extracts from the submission of Australian law deans to the Pearce Committee indicate what deans, at that time, considered to be the functions of contemporary law schools.⁵⁰

Knowledge

A student must be exposed to the institutional processes involving, in particular, the executive, parliament and the courts, by which rules and doctrines are established and developed. Further, the student must be acquainted with the concepts and principles which underlie the major branches of the law and which shed light on its entire fabric. These major branches may be characterised generally as –

- the relationship between the state and the individual, or public law (including criminal law and administrative law)
- the relationship between one individual and another, or private law (including contract, torts, equity, property, voluntary associations)
- in a federal system, the relationship between one parliament and one judicial system and another (constitutional law).

Skills

The major skills which law students should acquire during the primary law degree course are –

- the ability to locate, understand and analyse all source materials relevant to a legal rule or concept or to the resolution of a problem and, in particular:
 - analyse judicial decisions
 - distinguish situations of law or fact
 - use and interpret words and phrases encountered in judicial decisions or statutes
 - comprehend the relative importance of each of the source materials to the formulation of the rule or concept or the resolution of the problem.
- the ability to characterise a fact situation as involving particular legal concepts or rules

⁵⁰ *Australian Law Schools: a discipline assessment for the Commonwealth Tertiary Education Commission*, vol. 3, Appendix 3, pp 6 – 9, Australian Government Publishing Service, Canberra, 1987.

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- the ability to compose a legal opinion or argument, having regard to relevant case-law, statutes and equitable and social policy considerations, and to communicate that opinion or argument with precision and clarity.
- The ability to explain a legal concept or rule in terms of its history and social, economic or political purpose and the social values inherent in it.
- The ability to evaluate critically the suitability of a legal concept or rule for its stated social, economic or political purpose and in the light of principal legal theories.
- The ability to suggest improvements to a regulatory system or rule.

Annex B The academic requirements for admission to practice in Australia

Criminal Law and Procedure

1. The definition of crime
2. Elements of crime
3. Aims of the criminal law
4. Homicide and defences
5. Non-fatal offences against the person and defences
6. Offences against property
7. General doctrines
8. Selected topics chosen from:
 - attempts
 - participation in crime
 - drunkenness
 - mistake
 - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
 - classification of offences
 - process to compel appearance
 - bail
 - preliminary examination
 - trial of indictable offences.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the general doctrines of the criminal law and in particular examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

Torts

1. Negligence, including defences
2. A representative range of torts (other than negligence) and their defences
3. Damages
4. Concurrent liability
5. Compensation schemes

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The potential compass of this areas is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation scheme.

Contracts

1. Formation, including capacity, formalities, privity and consideration
2. Content and construction of contract
3. Vitiating factors
4. Discharge
5. Remedies
6. Assignment

OR

Topics of such breadth and depth as to satisfy the following guidelines.

Some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their performance and discharge, available remedies, together with an understanding of the broad theoretical basis of contract would be expected.

Property

1. Meaning and purposes of the concept of property
2. Possession, seisin and title
3. Nature and type (*ie.* fragmentation) of proprietary interests
4. Creation and enforceability of proprietary interests
5. Legal and equitable remedies
6. Statutory schemes of registration
7. Acquisition and disposal of proprietary interests
8. Concurrent ownership
9. Proprietary interests in land owned by another
10. Mortgages

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity. Statutory schemes or registration for both general law land and Torrens land should be included. A variety of other topics might be included eg fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

Equity

1.
 - (a) The nature of equity
 - (b) Equitable rights, titles and interests
 - (c) Equitable assignments
 - (d) Estoppel in equity
 - (e) Fiduciary obligations
 - (f) Unconscionable transactions
 - (g) Equitable remedies

2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included, as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts.)

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts; the rights, duties, powers of trustees; the consequences of breach of trust. Apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts.)

Company Law

1. Corporate personality
2. The incorporation process
3. The corporate constitution
4. Company contracts
5. Administration of companies and management of the business of companies
6. duties and liabilities of directors and officers
7. Share capital and membership
8. Members' remedies
9. Company credit and security arrangements
10. Winding up of companies

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing - by the issue of shares and by debt, and the processes of winding up a company.

Administrative Law

1. Organisation and structure of the administration
2. Administrative law theory
3. Common law and statutory avenues of judicial review at Commonwealth and State level
4. Grounds of judicial review
5. Remedies
6. Crown immunity
7. Administrative Appeals Tribunal
8. Statutory review
9. Freedom of information

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

Federal and State Constitutional Law

1. State constitutions and constitutional systems
2. The Commonwealth Constitution and constitutional system
3. The constitution and operation of the legislature, executive and judiciary
4. The relationship between the different institutions of government and the separation of powers
5. The relationship between the different levels of government

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the manor principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

Civil Procedure

1. Court adjudication under an adversary system
2. The cost of litigation and the use of costs to control litigation
3. Service of originating process - as foundation of jurisdiction, including service out of the relevant State or Territory and choice of forum
4. Joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdicts

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5. Defining the questions for trial - pleadings, notices to admit and other devices
6. Obtaining evidence - discovery of documents, interrogatories, subpoena and other devices
7. Disposition without trial, including the compromise of litigation
8. Extra judicial determination of issues arising in the course of litigation.
9. Judgement
10. Appeal
11. Enforcement

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should embrace the general study of rules of civil procedure relevant in the State or Territory. Rules concerning jurisdiction, the initiation and service of process, the definition of issues through pleadings and judgment and enforcement should all be included.

Evidence

1. Introduction
2. Competence and compellability
3. Privilege
4. The examination of witnesses
5. Disposition and character
6. Similar fact evidence
7. The accused as a witness
8. Burden and standard of proof
9. Documentary evidence.
10. Opinion evidence and prior determination.
11. Hearsay:
 - the exclusionary rule
 - the common law and statutory exceptions
12. Admissions and confessions in criminal cases
13. Illegally obtained evidence and confirmation by subsequent fact
14. Res gestae
15. Corroboration

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include examination of both the sources and acceptability of evidence, including rules concerning the burden and standard of proof and technical rules concerning such matters as hearsay, admissions and confessions, illegally obtained evidence and res gestae.

Professional Conduct (including basic Trust Accounting)

Professional and personal conduct in respect of practitioner's duty:

- (a) to the law

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- (b) to the Courts
- (c) to clients, including a basic knowledge of the principles of trust accounting; and
- (d) to fellow practitioners

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles of trust accounting.

The aims of the trust account segment of Professional Conduct are:

- (a) To impart an understanding of the legal requirements on solicitors for dealing with trust property.
- (b) To help students obtain a level of competence in, and understanding of, the recording requirements for trust accounts and other trust dealings.

Areas covered should included:

- (a) Provisions of the relevant State or Territory legislation governing the legal profession which relate to the handling of trust money and other trust property.
- (b) Legislative provisions which enable the proper identification of trust moneys.
- (c) The ramifications of breach of trust.
- (d) Methods of maintaining trust accounts records. This includes class exercises in recording of receipts, payments and direct payments of trust moneys and of investments (including mortgage investments) by solicitors on behalf of their clients.
- (e) A detailed study of any relevant legislation, regulations or rules relating to trust accounting.

Annex C *Joint Academic Stage Board's Guidance on the determination of learning resources for recognised law programmes*

Introduction

1. In 1999 the Law Society and the General Council of the Bar (the professional bodies) issued a Joint Statement setting out the minimum requirements which have to be complied with before an undergraduate degree is recognised as satisfying the first or academic stage of training for entry into the legal profession. The Statement has been approved by the Lord Chancellor under Schedule 4 of the Courts and Legal Services Act 1990. In addition to defining content, the Statement requires an institution to satisfy “the professional bodies that adequate learning resources are provided to support the course of study”⁵¹. This reflects provisions in both the Society’s Training Regulations and the Bar’s Consolidated Regulations which enables us to have “regard to the provision of adequate learning resources” when recognising qualifying law degrees.
2. Following a review and consultation last year, we have agreed to work in partnership with institutions in respect of quality assurance of qualifying law degrees. This document, which deals with the complex issue of resources, should be seen in that context. We hope that it will be of assistance when developing and reviewing recognised law programmes. It has been developed to be used as a tool by validation and review panels⁵² in order to help them identify whether or not the resources provided for the programme are adequate to satisfy our requirements for a law programme to be a “recognised law programme”. In determining the level of resources to be devoted to any programme for which recognised status is sought, we expect universities to take into account the guidance in this document and any other guidance, which may be issued by us from time to time. It is accepted that recognised law programmes may be delivered on a full-time; part-time or distance learning basis and that the precepts set out in this Statement will need to be addressed in the context of the particular mode of delivery.

Format

3. In this document the requirements are identified through a series of precepts with which we expect an institution to be able to demonstrate that it is seeking to achieve. The precepts are grouped into four sections dealing with human resources, physical resources, student support and franchise arrangements. Following each precept are a number of questions which a validation or review panel should ask when seeking to determine to what extent the precept has been adhered to. Because the academic

⁵¹

Paragraph 2 (i)

⁵²

It applies to all panels whether appointed by an institution or the professional bodies or jointly between the two.

stage of training is set at undergraduate degree level, we expect the level of resources to be at the level provided in higher education even where the programme, or part of it, is delivered in a further education institution or in any other institution.

4. This document deals only with resources. It is planned to issue further guidance on other aspects of quality assurance in due course. Further it is only concerned with minimum levels of resources. **We would encourage all universities offering recognised law programmes to be committed to exceeding the precepts set out in this document.**

Definitions

“Academic stage of training” means the initial stage of training for entry into the legal profession in respect of which the Law Society and Bar Council act jointly.

“Collaborative arrangement” shall have the meaning placed upon it by QAA.

“Law school” means the group of academic staff within a institution who are responsible for the teaching of a qualifying law degree.

“Materials” in relation to library provision includes printed sources, microforms, audio-visual works and electronic information sources.

“The professional bodies” means the General Council of the Bar of England and Wales and the Law Society of England and Wales.

“Qualifying law degree” means a course of study which leads to the award of an undergraduate degree and is recognised by the professional bodies as satisfying the academic stage of training.

“QAA” means the Quality Assurance Agency for Higher Education or its successor.

“Recognised law programme” means an undergraduate law degree, senior status degree, diploma in law or CPE course recognised by the professional bodies as satisfying the academic stage of training.

“Scholarly activity” means an activity undertaken by a teacher, other than the teaching of a course, which is undertaken to enhance and develop the competence of the teacher.

“Teachers” and “teaching staff” means persons employed by the institution on a full-time or fractional contract and includes postgraduate students who undertake teaching duties.

“Institution” means a higher education institution which has degree awarding powers conferred by the Privy Council or which provides a law programme which is recognised by the professional bodies as satisfying the requirements of the Academic Stage of training.

The basic requirement

An institution should provide sufficient resources for any recognised law programme for which they are responsible, either directly or indirectly⁵³, to enable students enrolled upon the programme to gain the knowledge and acquire the skills set out in Schedules One and Two of the Joint Statement and the QAA Law Subject Benchmark.

In determining whether this basic requirement has been met, we will take into account, inter alia:

- Guidance etc published by us and by responsible bodies with an interest in higher education and undergraduate/post-graduate law programmes such as QAA, SLS and BILETA;
- National standards set for higher education, for example, in respect of teaching staff contact hours;
- The outcomes of the institution's own procedures in respect of its corporate or business plan and its own validation processes. For new providers, in determining the weight to be placed upon an institution's own process, we will place considerable emphasis on the involvement of external specialist advisers in both the planning and validation procedures.

The specific precepts

Section One - Human Resources

Staffing - Teachers

- 1. The institution should ensure that its law school has sufficient appropriately qualified members of the teaching staff to meet the needs of the recognised law programme.**

When seeking to determine whether this precept has been achieved, the following questions should be asked:

- What is the total number of teaching staff which the institution devotes to its recognised law programme(s)? How many are full-time, fractional appointments and hourly paid?
- What is the past and anticipated weekly teaching load of individual staff teaching on the recognised law programme? Does the weekly teaching load fall within the current norms in national contracts for staff employed in higher education?
- In determining the number of teaching staff to be devoted to the law programme, a panel should seek the following information:
 - i. The number of formative and summative assessments.
 - ii. The number of subjects an individual member of staff is expected to teach.
 - iii. The extent of personal tutoring and other required guidance.

⁵³ e.g Through a franchise arrangement with any other institution or college.

- iv. The extent to which the need for staff teaching at or above undergraduate level to update their legal knowledge and to engage in scholarly activity has been recognised.
 - v. The extent to which the need for at least some of those teaching on senior status degrees and graduate conversions courses to have had appropriate experience of teaching students who already hold a degree in another subject.
 - vi. The additional support required by part-time and hourly paid staff.
 - vii. Are the current teaching staff appropriately qualified to teach and assess on an honours degree programme or postgraduate programme?
- In the case of a new programme, the following additional questions should be asked:
 - i. What is the planned initial intake and the planned total enrolment when the recognised programme is fully operational?
 - ii. What is the total number of teaching staff which the institution proposes to devote to the programme when it is fully operational?
 - iii. What provisions have been made to recruit staff? Is there a suitable timetable for the recruitment of new staff?
 - iv. What teaching methods are proposed for the programme? Is the proposed number of appropriately qualified staff sufficient?

Continuing Staff Development

- 2. All members of the teaching staff should have adequate opportunities to engage in appropriate on-going staff development, including research and scholarly activities.**

When seeking to determine whether this precept has been achieved, the following questions should be asked:

- What is the institution's policy on staff development? What are its priorities? How is the policy implemented and its implementation monitored?
- What resources are made available to support these activities? How are the resources distributed?
- What part does the course team play in identifying and responding to staff development needs?
- Does staff development activity contain a suitable balance between pedagogy and the advancement of legal knowledge?
- To what extent are staff on fractional appointments and hourly paid covered by the institution's staff development policy?
- What training is provided to teaching staff in matters relating to teaching and learning?
- What role do research and scholarly activities have in supporting the recognised law programmes?
- Are adequate resources available to support staff development?

Staffing – Support Staff

3. The institution should provide adequate clerical administrative and technical support for its recognised law programmes including adequate support for its teaching methods.

When seeking to determine whether this precept has been achieved, the following questions should be asked:

- How is clerical, administrative, library and technical support allocated to the programme?
- What role is currently played or envisaged for clerical and administrative staff in the recruitment and assessment procedures?
- What clerical and administrative support is provided to course leaders, admissions tutors, year and subject leaders?
- What demands are made on library and technical staff by the current or proposed teaching methods?
- To what extent have resource requirements for the library and technical staff been considered in the on-going development of the programme?

Section Two - Physical Resources

Library and Information Technology Provision

4. In planning and developing its law library and information technology provision, an institution offering a recognised law programme(s) is expected to take into account the current version of “A library for the modern law school: A statement of standards for university law provision in the United Kingdom” (‘The Statement’), a copy of which can be downloaded from the website of the Society of Scholars – www.legalscholars.ac.uk.

When seeking to ensure whether this precept has been achieved, the following questions should be asked:

- Who has formal responsibility for the management of the law library? Does that person participate fully in the development of the law library’s policy?
- What provision has been made for reviewing periodically the adequacy, currency and appropriateness of the law library provision? What steps are taken to ensure that out-of-date materials are not readily available to students without clear guidance?
- How are the resource requirements for new teaching identified and provided for?
- Does the law library provide the minimum materials set out in paragraph 4.3 of the Statement (2003 Revision) or the corresponding paragraph in any subsequent revision of the Statement? If not, what strategy has been adopted to seek to achieve these minimum levels?
- What is the balance between electronic information sources and printed sources?
- What is the policy in respect of multiple copies?
- Is there sufficient seating provided for the expected number of users of the law library in close proximity to the law collection?
- Has adequate equipment been made available to access, use and copy all information in whatever formats represented in the law collection?
- What action is taken to ensure that students have the necessary expertise and experience to access material?

- In the case of new law schools:
 - i. Is there a plan to develop the collection etc to comply with the guidance in the Statement? How is that to be funded?
 - ii. Are there appropriate back-runs of older issues of serials? If not, how will the needs of students be met?
- 5. The institution should ensure that those responsible for the law library etc participate in the BIALL/SLS Annual Academic Law Library Survey undertaken under the auspices of the Society of Legal Scholars.**

When seeking to determine whether this precept has been achieved, the following questions should be asked:

- Do the library staff participate in the annual survey? If not why not?
- 6. The institution should ensure that adequate library and information technology provision is available to all students studying on recognised law programmes whether full-time, part-time or distance learning.**

When seeking to determine whether this precept has been complied with, the following questions should be asked:

- Do the Law Library opening hours meet the needs of users?
- Are enquiry desks staffed for adequate periods of time during the week to ensure that the different needs of students are met?
- Is the law stock placed on loan periods to suit the study needs of all students on recognised programmes? Are book loan services available for adequate periods of time during the week? Are special provisions made to meet the needs of part-time students?
- Can users access electronic resources from outside the institution campus? Are there adequate licensing agreements in institutions covered by collaborative arrangements?

Teaching and Related Accommodation

- 7. The institution should make available to the law school sufficient physical accommodation to enable students to achieve the outcomes of its recognised law programmes**

When seeking to determine whether this precept has been achieved, the following questions should be asked:

- What teaching rooms are made available to students on the programmes? Are they sufficient to permit reasonable schedule of classes? To what extent do the rooms made available permit the use of the teaching activities necessary for the achievement of the learning outcomes of the programme?

- What teaching aids are available in various types of teaching rooms?
- Do any parts of the programme require special accommodation and, if so, will it be available?
- Is there adequate accommodation available to enable all teaching staff to provide academic and pastoral guidance to students on the recognised law programme(s)?

Section Three - Student Support

Student Contact Hours

- 8. The institution should provide students on a recognised law programme with sufficient formal tuition to enable them to gain the knowledge and acquire the skills set out in Schedule One and Two of the Joint Statement and the QAA Law Subject Benchmark.**

When seeking to determine whether this precept has been achieved the following questions should be asked:

- What is the number of contact hours on the course for each level of study?
- What teaching and learning methods are to be deployed to enable the student to achieve the learning outcomes of the programme?
- How are the needs of students on different modes of attendance met?
- How much instruction and on going training will students receive in research methods? Is this sufficient to satisfy the requirements of the Joint Statement?

Careers Advice

- 9. The institution should ensure all students enrolled upon a recognised law programme can access a careers advisory service able to provide students enrolled upon a recognised law programme with full information about prospects and other relevant matters in respect of careers in the legal profession.**

When seeking to determine whether this precept has been complied with, the following questions should be asked:

- Is there a person within the institution's careers advisory service with specific responsibility for students on recognised law programme?
- Is there a member of the law school with specific responsibility for advising students on careers in the legal profession?
- Does the institution and its law school participate in the Law Careers Advice Network?
- What links does the institution and law school have with the legal profession both nationally and locally? How do these links assist in informing its law students?

Section Four – Collaborative Arrangements

- 10. An awarding institution should ensure that, where any part of its recognised law programme is taught at another institution under a collaborative**

arrangement the responsibilities for resources are clearly defined in the agreement between the two institutions.

When seeking to determine whether this precept has been complied with, the following questions should be asked:

- What are the terms of arrangement between the institution and the other institution?
- What provision is made in the agreement in respect of the provision of resources? Are the respective responsibilities of the two institutions clearly defined?
- How is the equivalence of the students' teaching and learning experience between the two institutions assured?
- How does the institution monitor the level of resources provided by the other institution? Do the resources available to the programme ensure that all students have an equivalent experience wherever they are based?
- Do the students have convenient and reliable access to a law library which satisfies the requirements of the library standards referred to above?

March 2005

Annex D Society of Legal Scholars standards in regard to law library provision

1 Policy, management and staffing

- 1.1 The core function of the Law Library is to provide services, premises, facilities and collections sufficient in quality and quantity to permit the attainment by the Law School of its teaching and research objectives.
- 1.2 In its arrangements for the management and direction of library and information services, the University should identify one person (the Law Librarian) who has formal responsibility for the management of the Law Library, and should ensure that that person can participate fully in the determination of Law Library policy.
- 1.3 The Law Librarian should be appointed only after consultation with the Head of the Law School, should be properly qualified for the discharge of the responsibilities of the post, and should hold an appointment on an academic grade or one of equivalent responsibility.
- 1.4 The Law Librarian should be assisted by staff who are properly qualified and adequately experienced, and sufficient in numbers, to provide library services appropriate to the size and mission of the Law School and to the forms of provision it offers.
- 1.5 There should be effective formal machinery for communication and liaison between the Law Librarian, the Head of the Law School and the academic staff of the Law School so that all decisions affecting the Law Library are properly informed by the academic programme of the Law School, and *vice versa*.
- 1.6 In particular, there should be adequate means for ensuring that Law Library resource requirements of new teaching and research developments are identified, and adequately provided for, in advance; and for reviewing periodically the adequacy and appropriateness of Law Library provision for continuing teaching and research activities and for addressing any resource requirements or other matters disclosed by such reviews.
- 1.7 There should be effective means of obtaining and considering the views of users of the Law Library.

2 Services

- 2.1 The Law Library's opening hours should be adequate to meet the needs of users.
- 2.2 The Law Library should maintain a comprehensive and up-to-date catalogue of its holdings, conveniently accessible to users.

- 2.3 The Law Library should, having regard to the teaching and research objectives of the Law School, formulate a loans policy distinguishing the types of material available for loan from those for use within the library only, and specifying loan periods and conditions for different types of loanable material. The policy should be subject to periodic review.
- 2.4 There should be adequate means of providing assistance to users and answering enquiries.
- 2.5 The Law Library should provide users with appropriate information about the services available to them and, by agreement with the Law School, with appropriate induction or training in the use of those services.
- 2.6 The Law Library should make available to users information about other services which may be used to supplement its own direct provision.
- 2.7 The Law Library should provide support services (such as conservation, binding and repair of paper sources, and technical fault-finding for electronic sources) which are of sufficient quality and availability to sustain the Law School's teaching and research objectives.

3 Space and physical facilities

- 3.1 The extent of the Law Library's premises should be sufficient, and their layout appropriate, to accommodate its services, collections, staff operations and equipment in a manner consistent with the teaching and research mission of the Law School and the consequent needs and practices of its users.
- 3.2 Sufficient seating should be provided for Law Library users, in close proximity to the law collections.
- 3.3 The Law Library should provide adequate equipment to access, use and, within legal limits, copy all information in whatever formats are represented in the collection.

4 Collections

- 4.1 The Law Library's collections must be adequate, in terms of range and quantity, to permit the Law School to attain its teaching and research objectives.
- 4.2 Where the law school offers only **service or subsidiary provision**, the law library should provide, as a minimum,
 - 1. a selection of Public General Acts in official or reprint form appropriate to the subjects taught;
 - 2. leading reported decisions of the superior courts of the United Kingdom, relevant to the subjects taught;
 - 3. a selection of European Union primary materials (treaties, legislation and caselaw) appropriate to the subjects taught;
 - 4. such secondary works as are needed to support the teaching of the subjects offered.

- 4.3 Where the law school offers **provision of qualifying degree teaching**, or **postgraduate course provision**, or both, the law library should provide, as a minimum,
1. all Public General Acts from 1831 to date in official or reprint form;
 2. all Statutory Instruments and other secondary legislation, in original or reprint form, relevant to the subjects taught;
 3. the treaties and legislation of the European Union in original or reprint form;
 4. all reported decisions of the superior courts of the jurisdiction in which the law school is located that are relevant to the subjects taught, together with such decisions of other courts as are necessary to the understanding of those subjects;
 5. all reported decisions of the European Court of Justice relevant to the subjects taught;
 6. Parliamentary materials of the United Kingdom and its constituent jurisdictions, to include Bills, Parliamentary Papers, and reports of Parliamentary proceedings, appropriate to the subjects taught;
 7. such other official publications of the United Kingdom and its constituent jurisdictions as are necessary to support the teaching and research objectives of the School;
 8. where teaching is provided in the law of any legal system other than that of the European Union and of the jurisdiction in which the law school is located, primary legal materials and official publications from that legal system, in official or reprint (including, where appropriate, translated) form, sufficient to support the objectives of such teaching;
 9. such secondary works (including textbooks, monographs and periodicals) relating to the law of the jurisdiction in which the law school is located, of the European Union, and of other legal systems which are the subject of study, to comparative law, legal history, jurisprudence, and analyses and critiques of law and laws by other disciplines, as are necessary to support the teaching and research objectives of the school;
 10. those tools, such as general law encyclopedias, citators, periodical indexes, and current awareness services, which are necessary for the identification and updating of primary and secondary legal materials for the legal systems in which teaching and research are undertaken.
- 4.4 Where the law school offers **provision of LPC or BVC teaching**, or, in Scotland, of teaching for the DLP or for subjects recognised by the Conveyancing and Executry Services Board, the law library should provide, as a minimum, in addition to the materials specified in 4.3 above (to the extent that they are not already included in 4.3.9), an appropriate range of practitioner works (treatises, encyclopedias, precedents) in the most common areas of practice of the relevant branch of the legal profession.
- 4.5 Where the Law School offers **postgraduate research provision**, the holdings of the Law Library, taken with those of the University Library as a whole and those of any other readily accessible library with which formal collaborative arrangements exist for this purpose, should be sufficient to provide the principal research resource in any field of law in which the School offers supervision.

- 4.6 Materials which are likely to be required for simultaneous use by significant numbers of users should be held by the Law Library in multiple copies. The Library should draw up a policy for the acquisition of multiple copies, which should be kept under review within the framework of the machinery referred to in standard 1.5 above. In justifying its level of provision of multiple copies of any given material, the Law Library should show evidence of having taken into account
1. the number of persons who may be expected to need simultaneous access to the material;
 2. the nature of the material and its importance to the teaching objectives of the School;
 3. the availability of the material in different formats;
 4. the extent to which the material is made available outside the framework of library services, e.g. through inclusion in study packs;
 5. copyright law and practice.
- 4.7 The collections of the Law Library should be held in the format, or combination of formats, that best serves the needs of its users and the teaching and research objectives of the Law School.

5 Franchising and distance learning

- 5.1 Where the legal education provision made by a University is secured, wholly or in part, through teaching or other services furnished by other educational institutions, whether in the United Kingdom or abroad ("franchising"), it is the responsibility of the University ("the franchisor"), by agreement with those institutions ("the franchisees"), to ensure, in consultation with the Head of its Law School, that at all stages of the relevant course or courses of study students enjoy convenient and reliable access to a Law Library whose services, premises and collections satisfy the requirements of these standards, as judged by reference to the teaching and research objectives of its Law School in respect of the relevant stage of the course of study.
- 5.2 Law Schools which deliver degrees or diplomas, falling within the definitions of legal education provision to which these standards apply, and for which students prepare through distance learning or privately arranged studies, should ensure that those students enjoy access to legal materials, and advice and instruction in their use, functionally equivalent to that afforded to students on equivalent attendance-based courses by the provision of a Law Library in accordance with the foregoing standards.

Annex E ABA Standards for Approval of Law Schools

1 General purposes and practices; definitions

Standard 101 Basic requirements for approval

A law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards.

Standard 102 Provisional approval

[not included in this document]

Standard 103 Full approval

[not included in this document]

Standard 104 Seek to exceed requirements

An approved law school should seek to exceed the minimum requirements of the Standards.

Standard 105 Major change in program or structure

Before a law school makes a major change in its program of legal education or organizational structure it shall obtain the acquiescence of the Council for the change. Subject to the additional requirements of subsections (1) and (2), acquiescence shall be granted only if the law school establishes that the change will not detract from the law school's ability to meet the requirements of the Standards.

- (1) If the proposed major change is the establishment of a degree program other than the J.D. degree, the law school must also establish that it meets the requirements of Standards 308.
- (2) If the proposed major change involves instituting a new full-time or part-time division, merging or affiliating with one or more approved or unapproved law schools, acquiring another law school or educational institution, or opening a branch or satellite campus, the law school must also establish that the law school is in compliance with the Standards or that the proposed major change will substantially enhance the law school's ability to comply with the Standards.

Standard 106 Definitions

[not included in this document]

2 Organisation and administration

Standard 201 Resources for program

- (a) The present and anticipated financial resources of a law school shall be adequate to sustain a sound program of legal education and accomplish its mission.
- (b) A law school shall be so organized and administered that its resources are used to provide a sound program of legal education and to accomplish its mission.

Standard 202 Self study

Before each site evaluation visit the dean and faculty of a law school shall develop a written self study; which shall include a mission statement. The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in the light of the school's mission, set goals to improve the program, and identify the means the realize the law school's unrealised goals.

Standard 203 Strategic planning and assessment

In addition to the self study described in Standard 202, a law school shall demonstrate that it regularly identifies specific goals for improving the law school's program, identifies means to achieve the established goals, assesses its success in realizing the established goals and periodically re-examines and appropriately revises its established goals.

Standard 204 Governing body of an independent law school

A law school that is not part of a university shall be governed by a governing body composed of individuals dedicated to the maintenance of a sound program of legal education.

Standard 205 Governing body and law school authority

- (a) A governing body may establish general policies that are applicable to a law school if they are consistent with the Standards.
- (b) The dean and faculty shall formulate and administer the educational program of the law school, including curriculum; methods of instruction; admissions; and academic standards for retention, advancement, and graduation of students; and shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of the faculty.

Standard 206 Dean

- (a) A law school shall have a full-time dean, selected by the governing body or its designee, to whom the dean shall be responsible.
- (b) A law school shall provide the dean with the authority and support needed to discharge the responsibilities of the position and those contemplated by the Standards.
- (c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure.
- (d) The faculty or a representative body of it shall advise, consult, and make recommendations to the appointing authority in the selection of a dean.

Standard 207 Allocation of authority between dean and faculty

The allocation of authority between the dean and a law faculty is a matter for determination by each institution as long as both the dean and the faculty have a significant role in determining educational policy.

Standard 208 Involvement of alumni, students and others

A law school may involve alumni, students, and others in a participatory or advisory capacity; but the dean and faculty shall retain control over matters affecting the educational program of the school.

Standard 209 Non-university affiliated law schools

If a law school is not part of a university or, although a part, is physically remote from the rest of the university, the law school should seek to provide its students and faculty with the benefits that usually result from a university connection, such as by enlarging its library collection to include materials generally found only in a university library and by developing working relationships with other educational institutions in the community.

Standard 210 Law school-university relationship

- (a) If a law school is part of a university, that relationship shall serve to enhance the law school's program.
- (b) If a university's general policies do not adequately facilitate the recruitment and retention of competent law faculty, appropriate separate policies should be established for the law school.
- (c) The resources generated by a law school that is part of a university should be made available to the law school to maintain and enhance its program of legal education.
- (d) A law school shall be given the opportunity to present its recommendations on budgetary matters to the university administration before the budget for the law school is submitted to the governing body for adoption.

Standard 211 Non discrimination and equality of opportunity

- (a) A law school shall foster and maintain equality of opportunity in legal education, including employment of faculty and staff, without discrimination or segregation on the basis of race, color, gender or sexual orientation, age or disability.
- (b) A law school shall not use admission policies or take other action to preclude admission of applicants or retention of students on the basis of race, color, gender or sexual orientation, age or disability.
- (c) This Standard does not prevent a law school for having a religious affiliation or purpose, and adopting and applying policies of admission of students or employment of faculty and staff that directly relate to this affiliation or purpose so long as [a range of conditions are then set out].
- (d) Non-discrimination and equality of employment include equal opportunity to obtain employment. A law school shall communicate to every employer to whom it furnishes assistance and facilities for interviewing and other placement functions the school's firm expectation that the employer will observe the principles of non-discrimination and equality of opportunity on the basis of race, color, religion, national origin, gender, sexual orientation, age and disability in regard to hiring, promotion, retention and conditions of employment.

Standard 212 Equal opportunity and diversity

- (a) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to providing full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities, and a commitment to having a student body that is diverse with respect to gender, race and ethnicity.
- (b) Consistent with sound legal education policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity.

Standard 213 Reasonable accommodation for qualified individuals with disabilities

Assuring equality of opportunities for individuals with disabilities, as required by Standard 211, may require a law school to provide such students, faculty and staff with reasonable accommodations.

3 Program of legal education

Standard 301 Objectives

- (a) A law school shall maintain a program that prepares its students for admission to the bar, and effective and responsible participation in the legal profession.

- (b) A law school shall ensure that all students have reasonably comparable opportunities to take advantage of the school's education program, co-curricular programs, and other educational benefits.

Standard 302 Curriculum

- (a) A law school shall require that each student receives substantial instruction in:
 - (1) the substantive law generally regarded as necessary to effective and responsible participation in the legal profession;
 - (2) legal analysis and reasoning, legal research, problem solving, and oral communication;
 - (3) writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year;
 - (4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and
 - (5) the history, goals, structure, values, rules, and responsibilities of the legal profession and its members.
- (b) A law school shall offer substantial opportunities for:
 - (1) live-client or other real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the values and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence;
 - (2) student participation in pro bono activities;
 - (3) small group work through seminars, directed research, small classes, or collaborative work.

Standard 303 Academic standards and achievements

- (a) A law school shall have and adhere to sound academic standards, including clearly defined standards for good standing and graduation.
- (b) A law school shall monitor students' academic progress from the beginning of and periodically throughout their studies.
- (c) A law school shall not continue the enrolment of a student whose inability to do satisfactory work is sufficiently manifested so that the student's continuation in school would inculcate false hopes, constitute economic exploitation, or detrimentally affect the education of other students.

Standard 304 Course of study and academic calendar

- (a) A law school shall have an academic year of not fewer than 130 days on which classes are regularly scheduled in the law school, extending into not fewer than eight calendar months. The law school shall provide adequate time for reading periods, examinations, and breaks, but such time does not count towards the 130-day academic year requirement.
- (b) A law school shall require, as a condition for graduation, successful completion of a course of study in residence of not fewer than 58,000 minutes instruction time, except as otherwise provided. At least 45,000 of

- these minutes shall be by attendance in regularly scheduled class sessions at the law school.
- (c) A law school shall require that the course of study for the J.D. degree be completed no earlier than 24 months and no later than 84 months after a student has commenced study at the law school or a law school from which the school has accepted transfer credit.
 - (d) A law school shall require regular and punctual class attendance.
 - (e) A law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that law school for graduation (or a proportionate number for schools on other academic schedules, such as a quarter system).
 - (f) A student may not be enrolled for more than 20 hours per week in which the student is enrolled in more than twelve class hours.

Standard 305 Study outside the classroom

- (a) A law school may grant credit towards the J.D. degree for courses or a program that permits or requires student participation in studies or activities away from or outside the law school or in a format that does not involve attendance at regularly scheduled class sessions.
- (b) Credit granted shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.
- (c) Each student's academic achievements shall be evaluated by a faculty member. For purposes of Standard 305 and its Interpretations, the term "faculty member" means a means of the full-time or part-time faculty. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.
- (d) The studies or activities shall be approved in advance and periodically reviewed following the school's approved procedures for approval of the curriculum.
- (e) A field placement program shall include:
 - (1) a clear statement of the goals and methods, and a demonstrated relationship between those goals and methods to the program in operation;
 - (2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy goals and are sufficiently available to students;
 - (3) a clearly articulated method of evaluating each student's academic performance involving both a faculty member and the field placement supervisor;
 - (4) a method for selecting, training, evaluating, and communicating with field placement supervisors;
 - (5) periodic on-site visits or their equivalent by a faculty member if the field placement program awards four or more academic credits (or equivalent) for field work in any academic term or if on-site visits or their equivalent are otherwise necessary and appropriate;
 - (6) a requirement that students have successfully completed one academic year of study prior to participation in the field placement program;

- (7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student can earn four or more academic credits (or equivalent) in the program for fieldwork, the seminar, tutorial, or other means of guided reflection must be provided contemporaneously.

Standard 306 Distance education

- (a) A law school may offer credit towards the J.D. degree for study offered through distance education consistent with the provisions of this Standard and Interpretations of this Standard. Such credit shall only be awarded if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.
- (b) Distance education is an educational process characterized by the separation, in time or place, between instructor and student. It includes courses offered principally by means of:
 - (1) technological transmission, including Internet, open broadcast, closed circuit, cable, microwave or satellite transmission;
 - (2) audio or computer conferencing;
 - (3) video cassettes or discs; or
 - (4) correspondence.
- (c) A law school may award credit for distance education and may count that credit towards the 45,000 minutes of instruction required by Standard 304(b) if:
 - (1) there is ample interaction with the instructor and other students both inside and outside the formal structure of the course throughout its duration; and
 - (2) there is ample monitoring of student effort and accomplishment as the course progresses.
- (d) A law school shall not grant a student more than four credit hours in any term, no more than a total of 12 credit hours, towards the J.D. degree for courses qualifying under this Standard.
- (e) No student shall enrol in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours towards the J.D. degree.
- (f) No credit otherwise may be given towards the J.D. degree for distance education course.

Standard 307 Participation in studies or activities in a foreign country

A law school may grant credit for student participation in studies or activities in a foreign country only if the studies or activities are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.

Standard 308 Degree programs in addition to J.D.

A law school may not establish a degree program other than its J.D. program without obtaining the Council's prior acquiescence. A law school may not establish a degree program in addition to its J.D. program unless the school is

fully approved. The additional degree program may not detract for the school's ability to maintain a J.D. degree program that means the requirements of the Standards.

4 The faculty

Standard 401 Qualifications

A law school shall have a faculty whose qualifications and experience are appropriate to the stated mission of the law school and to maintaining a program of legal education consistent with the Requirements of Standards 301 and 302. The faculty shall possess a high degree of competence, as demonstrated by its education, experience in teaching or practice, teaching effectiveness, and scholarly research and writing.

Standard 402 Size of full-time faculty

- (a) A law school shall have a sufficient number of full-time faculty to fulfil the requirements of the Standards and meets the goals of its educational program. The number of full-time faculty necessary depends on:
 - (1) the size of the student body and the opportunity for students to meet individually with and consult faculty members;
 - (2) the nature and scope of the educational program; and
 - (3) the opportunities for faculty to adequately fulfil teaching obligations, conduct scholarly research, and participate effectively in the governance of the law school and in service to the legal profession and the public.
- (b) A full-time faculty member is one whose primary professional employment is with the law school and who devotes substantially all working time during the academic year to the responsibilities described in Standard 404(a), and whose outside professional activities, if any, are limited to those that relate to major academic interests or enrich the faculty member's capacity as a scholar and teacher, are of service to the legal profession and the public generally, and do not unduly interfere with one's responsibility as a faculty member.

Standard 403 Instructional role of faculty

- (a) The full-time faculty shall teach the major portion of the law school's curriculum, including substantially all of the first one-third of each student's coursework.
- (b) A law school shall ensure effective teaching by all persons providing instruction to students.
- (c) A law school should include experienced practicing lawyers and judges as teaching resources to enrich the educational program. Appropriate use of practicing lawyers and judges as faculty requires that a law school shall provide them with orientation, guidance, monitoring, and evaluation.

Standard 404 Responsibilities of full-time faculty

- (a) A law school shall establish policies with respect to a full-time faculty member's responsibilities in teaching, scholarship, service to the law school community, and professional activities outside the law school. The policies need not seek uniformity among faculty members, but should address:
 - (1) Faculty teaching responsibilities, including carrying a fair share of the law school's course offerings, preparing for class, being available for student consultation, participating in academic advising, and creating an atmosphere in which students and faculty may voice opinions and exchange ideas;
 - (2) Research and scholarship, and integrity in the conduct of research, including appropriate use of student research assistants, acknowledgement of the contributions of others, and responsibilities of faculty members to keep abreast of developments in their specialities;
 - (3) Obligations to the law school and university community, including participation in the governance of the law school;
 - (4) Obligations to the profession, including working with the practicing bar and judiciary to improve the profession; and
 - (5) Obligations to the public, including participation in pro bono activities.
- (b) A law school shall evaluate the extent to which each faculty member discharges his or her responsibilities under policies adopted pursuant to Standard 404(a).

Standard 405 Professional environment

- (a) A law school shall establish and maintain conditions adequate to attract and retain a competent faculty.
- (b) A law school shall have an established and announced policy with respect to academic freedom and tenure of which Appendix I herein is an example but is not obligatory.
- (c) A law school shall afford to full-time clinical faculty members a form of position of security reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.
- (d) A law school shall afford legal writing teachers such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction as is required by Standard 302(a)(2) and (2) safeguard academic freedom.

5 Admissions and student services

Standard 501 Admissions

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- (a) A law school maintain sound admission policies and practices, consistent with the objectives of its educational program and the resources available for implementing those objectives.
- (b) A law school shall not admit applicants who do not appear capable of satisfactorily completing its educational program and being admitted to the bar.

Standard 502 Educational requirements

- (a) A law school shall require for admission to its J.D. degree program, a bachelor's degree, or successful completion of three-fourths of the work acceptable for a bachelor's degree, from an institution that is accredited by an accrediting agency recognized by the Department of Education.
- (b) In an extraordinary case, a law school may admit to its J.D. degree program an applicant who does not possess the educational requirements of subsection (a) if the applicant's experience, ability, and other characteristics clearly show an aptitude for the study of law. The admitting officer and sign and place in the admittee's file a statement of the considerations that led to the decision to admit the applicant.

Standard 503 Admission test

A law school shall require each applicant for admission as a first year J.D. student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's educational program. In making admission decisions, a law school shall use the test results in a manner that is consistent with the current guidelines regarding proper use of the test results provided by the agency that developed the test.

Standard 504 Character and fitness

- (a) A law school shall advise each applicant that there are character, fitness and other qualifications for admission to the bar and encourage the applicant, prior to matriculation, to determine what those requirements are in the state(s) in which the applicant intends to practice. The law school should, as soon after matriculation as is practicable, take additional steps to apprise entering students of the importance of determining the applicable character, fitness and other qualifications.
- (b) The law school may, to the extent it deems appropriate, adopt such tests, questionnaires, or required references as the proper admission authorities may find useful and relevant, in determining the character, fitness, or other qualifications of the applicants to the law school.
- (c) If a law school considers an applicant's character, fitness, or other qualifications, it shall exercise care that the consideration is not used as a reason to deny admission to a qualified applicant because of political, social, or economic views that might be considered unorthodox.

Standard 505 Previously disqualified applicant

A law school may admit or readmit a student who has been disqualified previously for academic reasons upon an affirmative showing that the student possesses the requisite ability and that the prior disqualification does not indicate a lack of capacity to complete the course of study at the admitting school. In the case of admission to a law school other than the disqualifying school, this showing shall be made either by a letter from the disqualifying school or, if two or more years have elapsed since that disqualification, by the nature of interim work, activity, or studies indicating a stronger potential for law study. For every admission or readmission of a previously disqualified individual, a statement of the considerations that led to the decision shall be placed in the admittee's file.

Standard 506 Applicants from law schools not approved by the ABA

- (a) A law school may admit a student with advanced standing and allow credit for studies at a law school in the United States that is not approved by the American Bar Association ("non-ABA approved law school") if:
 - (1) the non-ABA approved law school has been granted the power to confer the J.D. degree by the appropriate governmental authority in the unapproved law school's jurisdiction, or graduates of the non-ABA approved law school are permitted to sit for the bar examination in the jurisdiction in which the school is located;
 - (2) the studies were "in residence" as provided in Standard 304(b), or qualify for credit under Standard 305 or Standard 306; and
 - (3) the content of the studies was such that credit therefor would have been granted towards satisfaction of degree requirements at the admitting school.
- (b) Advanced standing and credit hours granted for study at a non-ABA approved law school may not exceed one-third of the total required by an admitting school for its J.D. degree.

Standard 507 Applicants from foreign law schools

- (a) A law school may admit a student with advanced standing and allow credit for studies at a law school outside the United States if:
 - (1) the studies were "in residence" as provided in Standard 304, or qualify for credit under Standard 305;
 - (2) the content of the studies was such that credit therefor would have been granted towards satisfaction of degree requirements at the admitting school; and
 - (3) the admitting school is satisfied that the quality of the educational program at the foreign law school was at least equal to that required by an approved school.
- (b) Advanced standing and credit hours granted for foreign study may not exceed one-third of the total required by an admitting school for its J.D. degree.

Standard 508 Enrollment of non-degree candidates

Without requiring compliance with its admission standards and procedures, a law school may enroll individuals in a particular course or limited number of courses, as auditors, non-degree candidates, or candidates for a degree other than a law

degree, provided that such enrollment does not adversely affect the quality of the course or the law school program.

Standard 509 Basic consumer information

A law school shall publish basic consumer information. The information shall be published in a fair and accurate manner reflective of actual practice.

Standard 510 Student loan programs

A law school shall take reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student's loan obligations and prior to graduation.

Standard 511 Student support services

A law school shall provide all its students, regardless of enrollment or scheduling option, with basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid counseling, and an active career counseling service to assist students in making sound career choices and obtaining employment. If a law school does not provide these types of student services directly, it must demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.

6 Library and information resources

Standard 601 General provisions

- (a) A law school shall maintain a law library this is an active and responsive force in the educational life of the law school. A law library's effective support of the school's teaching, scholarship, research and service programs requires a direct, continuing, and informed relationship with the faculty, students, and administration of the law school.
- (b) A law library shall have sufficient financial resources to support the law school's teaching, scholarship, research, and service programs. These resources shall be supplied on a consistent basis.
- (c) A law school shall keep its library abreast of contemporary technology and adopt it when appropriate.

Standard 602 Administration

- (a) A law school shall have sufficient administrative autonomy to direct the growth and development of the law library and to control the use of its resources.
- (b) The dean and the director of the law library, in consultation with the faculty of the law school, shall determine library policy.
- (c) The director of the law library and the dean are responsible for the selection and retention of personnel, the provision of library services, and collection development and maintenance.

- (d) The budget for the law library should be determined as part of, and administered in the same manner as, the law school budget.

Standard 603 Director of the law library

- (a) A law school shall be administered by a full-time director whose principal responsibility is the management of the law library.
- (b) The selection and retention of the director of the law library shall be determined by the law school.
- (c) A director of a law library should have a law degree and a degree in library or information science and shall have a sound knowledge of and experience in library administration.
- (d) Except in extraordinary circumstances, a law library director shall hold a law faculty appointment with security of faculty position.

Standard 604 Personnel

The law library shall have a competent staff, sufficient in number to provide appropriate library and informational resource services.

Standard 605 Services

A law school shall provide the appropriate range and depth of reference, instructional, bibliographic, and other services to meet the needs of the law school's teaching, scholarship, research, and service programs.

Standard 606 Collection

- (b) The law library shall provide a core collection of essential materials accessible in the law library.
- (c) In addition to the core collection of essential materials, a law library shall also provide a collection that, through ownership or reliable access,
 - (1) meets the research needs of the law school's students, satisfies the demands of the law school curriculum and facilitates the education of its students;
 - (2) supports the teaching, scholarship, research, and service interests of the faculty; and
 - (3) serves the law school's special teaching, scholarship, research, and service objectives.
- (d) A law library shall formulate and periodically update a written plan for development of the collection.
- (e) A law library shall provide suitable space and adequate equipment to access and use all information in whatever formats are represented in the collection.

7 Facilities

Standard 701 General requirements

A law school shall have physical facilities that are adequate both for its current program of legal education and for growth anticipated in the immediate future.

Standard 702 Law library

The physical facilities for the law library shall be sufficient in size, location, and design in relation to the law school's programs and enrollment to accommodate the law school's students and faculty and the law library's services, collections, staff, operations, and equipment.

Standard 703 Research and study space

A law school shall provide, on site, sufficient quiet study and research seating for its students and faculty. A law school should provide space that is suitable for group study and other forms of collaborative work.

Standard 704 Technological capacities

A law school shall have the technological capacities that are adequate for both its current program of legal education and for program changes anticipated in the immediate future.

8 Council authority, variances, and amendments

Standard 801 Council authority

- (a) The Council shall have the authority to grant or deny a law school's application for provisional or full approval or to withdraw provisional or full approval from a law school. A decision of the Council to grant or withdraw provisional or full approval shall not become effective until it has been reviewed by the House. Review of such a decision by the House shall be conducted pursuant to the procedures set forth in the Rules of Procedure of the House and the Rules of Procedure for Approval of Law Schools.
- (b) The Council shall have the authority to adopt, revise, amend or repeal the Standards, Interpretations and Rules. A decision of the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules shall not become effective until it has been reviewed by the House. Review of such decisions by the House shall be conducted pursuant to the procedures set forth in Standard 803 and the Rules of Procedure of the House.

Standard 802 Variance

A law school proposing to offer a program of legal education a portion of which is inconsistent with a Standard may apply for a variance. If the Council finds that the proposal is nevertheless consistent with the general purposes of the Standards, the Council may grant the variance, may impose conditions, and shall impose time limits it considers appropriate. Council may terminate a variance prior to the end of the stated time limit if the school fails to comply with

any conditions imposed by the Council. As a general rule, the duration of a variance should not exceed three years.

Annex F Prescription of subjects in the New Zealand Professional Examinations in Law Regulations 1987

The Legal System

An introduction to the New Zealand legal system. Legal reasoning and the judicial process, including selected problems in statutory interpretation. Selected legal institutions in England and New Zealand. Selected legal concepts. This subject may include studies in the history of law and legal institutions in England and New Zealand.

OR

An historical introduction to, and a descriptive outline of, the legal systems in England and New Zealand, including the structure of government, civil and criminal proceedings, the sources of law and the main divisions of substantive law. Legal reasoning and the judicial process, including an introduction of statutory interpretation. An elementary treatment of legal concepts.

The Law of Contracts

The general principles of the law of contract and agency.

The Law of Torts

General principles of civil liability. The law as to the various kinds of torts. The law relating to compensation for personal injury by accident in New Zealand.

Criminal Law

The general principles of criminal liability. The law relating to indictable and other selected offences chargeable under New Zealand law. Procedure on indictment and summary procedure (excluding Evidence).

Public Law

The principles and working of the constitution, the institutions of government, the exercise of public power and relations between the citizen and the state. Controls on the exercise of public power, including an introduction to judicial review.

Property Law

An introduction to the law relating to property, both legal and equitable.

Note: Regulation 3(1)(b)(ii) provides for the subjects Land Law and Equity and the Law of Succession to be treated as the equivalent of Property Law. The prescriptions for these courses are:

Land Law

The history and principles of Land Law.

Equity and the Law of Succession

The principles of equity with particular reference to the law of trusts. The principles of the law of succession and of the administration of estates. Choses in action and the assignment thereof.

Annex G Law Society of Upper Canada requirements for approval of law faculties

The requirements of the Law Society of Upper Canada pertain, in fact, to the approval of law faculties for the purpose of the admission of their graduates to the Bar Admission Course. They effectively act as standards set by the professional body which, as in England, controls the process of call to the Bar. They were prescribed on 1st April 1969.

The requirements are –

1 Admission requirements

The admission regulations for an approved law school are as follows:

- (a) Successful completion of two years in full-time attendance in an approved course in an approved Canadian university after senior matriculation; or
- (b) Successful completion of three years in full-time attendance in an approved course in an approved Canadian university after junior matriculation; or
- (c) A degree in an approved course in an approved university.

2 Academic programme

The course for an approved law school is three years in full-time attendance leading to the degree of Bachelor of Laws (LL.B) or its equivalent.

3 Curriculum

- (a) An approved law school shall offer instruction regularly in the following subject areas:

- Agency
- Banking and Bills of Exchange
- Civil Procedure
- Company Law
- Conflict of Laws
- Constitutional law
- Contracts
- Criminal Law and Procedure
- Equity
- Evidence
- Family Law
- Jurisprudence, or one subject of a jurisprudential nature
- Labour Law
- Legal History

Legislation and Administrative Law
Municipal Law
Partnership
Personal Property
Real Estate Transactions
Real Property
Sale of Goods
Taxation
Torts
Trusts
Wills and Administration of Estates

(b) It is understood that the different subject areas may be variously combined or subdivided as the different law schools, hence the above list should be regarded as indicating areas of the law in which instruction will be regularly offered. The list should not be regarded as necessarily establishing courses that must be taught separately or in combination under these specific labels. For example, 'Legislation' and 'Administrative Law' might be two separate courses under those names, whereas 'Personal Property' and 'Real Property' might be combined into a single course entitled 'Property'. Or, under a heading like 'Remedies', substantial parts of 'Civil Procedure', 'Contracts' and 'Property' might be combined. The same sort of thing could be done under the heading 'Commercial Law'.

(c) Every student shall be required to take the major basic course offered in each of the following subject areas:

Civil Procedure
Constitutional Law of Canada
Contracts
Criminal Law and Procedure
Personal Property
Real Property
Torts

(d) It is understood that subject to subparagraph 3(c), the academic planning authority of each approved law school may provide any or all courses to its students on a required or an optional basis; may require students to elect between alternative courses or groups of courses to attain either diversification or specialization to an extent deemed desirable and may add courses to its curriculum on a required or an optional basis in subject areas other than those listed in subsection 3(a).

4 Sequence of courses

The academic planning authority of each approved law school may determine the sequence in which courses are taught.

5 Annual session and hours of lectures

- (a) The academic year shall extend for approximately thirty effective teaching weeks exclusive of examination periods.
Each student shall be under instruction or supervision by the teaching staff for approximately fifteen hours per week in class sessions, seminars, tutorials and legal writing or research projects.
- (b) The academic planning authority of each approved law school may determine the hours allotted to the various courses offered.

6 Teaching staff

Chiefly for the benefit of universities considering setting up new law faculties, the Law Society has prescribed certain basic requirements with regard to full-time teaching staff. Thus, the minimum number for the instruction of the first year is three, including the Dean. One additional full-time member must be appointed to the staff for each additional year so that in the result the basic full-time staff will be five when all three years are being taught.

7 Teaching hours

The maximum teaching load recommended by the Law Society for each member of the full-time staff is six lecture hours per week.

8 Library

The Law Society requires to be assured that adequate facilities, including library books and reading space, are available to the students and the faculty.

Annex H National Competency Standard for Civil Litigation Practice

Element	Performance criteria
	The lawyer has competently:
1. Assessing the merits of a case and identifying the dispute resolution alternatives	<ul style="list-style-type: none">• assessed the strengths and weaknesses of both the client's and opponent's cases.• identified the facts and evidence required to support the client's case.• identified all means of resolving the case, having regard to the client's circumstances.• advised the client of relevant rights and remedies in a way which the client can easily understand.• where possible, confirmed in writing any instructions given by the client in response to initial advice.• identified and complied with the relevant limitation period.
2. Initiating and responding to claims	<ul style="list-style-type: none">• identified an appropriate claim or defence.• identified a court of appropriate jurisdiction.• identified the elements of the claim or defence, according to law.• followed procedures for bringing the claim or making the defence in accordance with the court's rules and in a timely manner.• drafted all necessary documents in accordance with those procedures.
3. Taking and responding to interlocutory and default proceedings	<ul style="list-style-type: none">• identified any need for interlocutory steps or default proceedings, according to the court's rules.• followed procedures for taking those steps or proceedings in accordance with the court's rules and in a timely manner.• drafted all necessary documents in accordance with those procedures and rules.
4. Gathering and presenting evidence	<ul style="list-style-type: none">• identified issues likely to arise at the hearing.• identified evidence needed to prove the client's case or disprove the opponent's case, according to the rules of evidence.• gathered the necessary evidence.• presented that evidence according to law and the court's rules.
5. Negotiating settlements	<ul style="list-style-type: none">• conducted settlement negotiations in accordance with specified principles.• identified any revenue and statutory refund implications.• properly documented any settlement reached.
6. Taking action to enforce orders and settlement agreements	<ul style="list-style-type: none">• identified procedures for enforcing the order or settlement according to law and the court's rules.• followed those procedures in a timely manner.

Annex I Sources drawn upon in developing the proposed Standard

Standard 1 Fundamental issues, mission and objectives

Standard 1.2.1 reflects ABA Standard 104. In those Standards it is part of a standard entitled *Basic Requirement*. As these Standards don't have an equivalent basic requirement, it is placed here under Mission and Objectives but might be better placed elsewhere.

Standard 1.3 reflects the Australian Medical Council's Standards for Medical Schools, although some of its standards have not been included or been amended.

Standard 2 The law course

These standards partly reflect the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

Standard 302 of the ABA Standards, which deals with curriculum, is not reflected in these Standards.

Standard 2.1 is included under *Mission and Objectives* in the Medical School Standards but seems more appropriate under Standard 2.

Standard 2.2.3 is loosely based on the English Joint Statement.

Standard 2.3 is not as detailed as the requirements of the English Joint Statement or the Quality Assurance Agency's Benchmark Standards.

Standard 2.3.1 is Australian-specific. The standard proposes that all areas required for admission to practice should be part of the law curriculum but not necessarily a core requirement for taking out the university's degree.

Standard 2.3.2 is a radical abbreviation of the Preamble to the ABA Standards but with an additional sub-standard (iv) in regard to legal ethics.

Standard 2.3.3 is adapted from the English Quality Assurance Agency's Benchmark Standards.

Standard 2.3.3b is not part of the English Benchmark. The list is taken from the New Zealand requirements but with the deletion of legal ethics and the addition of equity & trusts.

Standard 2.6.1 and Standard 1.2.1 may overlap to some extent.

Standard 3 Assessment of students

These standards reflect some of the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

Standard 3.1.3 is a new standard loosely based on ABA Standard 303.

Standard 4 Academic staff

These standards reflect some of the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

Standard 4.1 is loosely based on the English requirement in regard to educational resources but with some additional material from the ABA Standards, in particular the reference to full-time teaching staff.

Standard 4.2.1 is based on the ABA Standard in regard to staffing.

Standard 4.3.3 is loosely based on the English requirement in regard to staff development.

Standard 5 The law library or law collection

Standard 5.1 is loosely based on ABA standard 601.

Standard 5.2.1 is loosely based on ABA standard 602.

Standard 5.2.2 is loosely based on ABA standard 603.

Standard 5.2.3 is based on ABA standard 604.

Standard 5.3.1 is based on ABA standard 605.

Standard 5.3.2 is based on ABA standard 702.

Standard 5.4.1 is largely drawn from the English Society of Legal Scholars standard 4.3.

Standard 6 Resources and infrastructure

These standards reflect some of the Australian Medical Council's Standards for Medical Schools. Some have not been included or have been amended.

Standard 6.2.2 is based on ABA standard 703.

Standard 6.3.1 is loosely based on the English standard.

Standard 7 Course evaluation

These standards reflect some of the Australian Medical Council's Standards for Medical Schools. Some have not been included or have been amended.

Standard 8 The nexus between teaching and research

These standards reflect some of the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

This standard assumes that all law schools will engage in both teaching and research.

Standard 9 Governance and administration

These standards reflect some of the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

Standard 9.1.1 is based on condition no. 2 in the English Joint Statement.

Standard 9.3.2 is based on the ABA Standard 206(b).

Standard 10 Continuous renewal and improvement

These standards reflect some of the Australian Medical Council's Standards for Medical Schools but some have not been included or have been amended.

COUNCIL OF AUSTRALIAN LAW DEANS (CALD)

'Coogee Sands' Resolution⁵⁴

That the Council of Australian Law Deans (CALD) adopts in principle the standards for Australian law schools set out in Chapter 5 of the Roper Report,⁵⁵ and commits to a process of certification of compliance with the standards, subject to the following:

- (i) that the Deans disseminate the standards within their law schools and other relevant communities, with a view to bringing any feedback to the next CALD meeting to be held in Cairns on 9 and 10 July 2008;
- (ii) that the Deans give further thought to the implementation of the standards in light of the discussions that took place at the CALD meeting in Sydney on 3 and 4 March 2008, with a view to adopting a position on the matter at the next CALD meeting to be held in Cairns on 9 and 10 July 2008; and
- (iii) that, in particular, and with a view to preparing the ground for the possible use of the standards for the purposes of accreditation, the Deans seek to more closely identify which standards are core or minimum standards and which standards are aspirational.

⁵⁴ Passed unanimously, CALD Meeting 2008/1, University of New South Wales Faculty of Law, Sydney, Tuesday 4 March 2008.

⁵⁵ Christopher Roper (with input from the CALD Standing Committee on Standards and Accreditation), *Standards for Australian Law Schools: Final Report* (Council of Australian Law Deans, March 2008).