

LAW ADMISSIONS CONSULTATIVE COMMITTEE¹
STANDARDS FOR PLT WORKPLACE EXPERIENCE

1. INTRODUCTION

Experience in a legal or law-related workplace has long been acknowledged as indispensable to the proper preparation of a legal practitioner. When structured PLT courses were first introduced, it was acknowledged that supplementary workplace experience would still be necessary. In England, this was achieved by requiring students to complete a 2-year training contract after a PLT course, before becoming eligible for admission. The required content of that training contract –and consequently the training which host organisations and supervisors were obliged to provide – is closely regulated by the Solicitors Regulation Authority.

Australia followed a different path. Instead of a 2-year pre-admission training contract, Australian arrangements require a period of workplace training as part of a PLT course, followed by 2 years of supervised practice, after admission – neither element of which is closely regulated.

In 2002, national PLT Competency Standards for Entry-level Lawyers were first adopted by all Australian Admitting Authorities. While these prescribed competencies in certain knowledge, skills and values that PLT providers must impart to their students, little was said about workplace experience. Although the Standards required a student to obtain workplace experience as part of a PLT course, they simply set out a minimum period for such experience.

The minimum period chosen reflected the period of external workplace experience then required by one established PLT provider, whose course was structured to provide substantial simulated workplace experience, while conducting programmed training. Other established PLT providers operated under a different model which required substantially longer periods of external workplace experience.

Apart from setting this minimum period (which suited the courses then offered by all existing PLT providers), Admitting Authorities offered no other guidance to PLT providers about what would constitute appropriate workplace experience, or how it might be accumulated. Like the 2-year post-admission period of supervised practice, workplace experience to be undertaken during a PLT course was otherwise unregulated.

In the intervening years, the social, technological and other circumstances of students undertaking PLT courses have changed in significant ways, as have the commercial circumstances facing PLT providers in a highly competitive market. Thus, the Australasian Professional Legal Education Council (**APLEC**) proposed to LACC that now PLT courses "should be predicated on" the following matters that it suggests are "pervasive" –

- (a) the financial costs to students undertaking workplace experience, particularly where students are not paid by the host organisation;
- (b) student carer commitments;
- (c) student commitments to other work;
- (d) the shortage of available workplace experience;

¹ LACC's Charter is approved by the Council of chief Justices which also appoints its Chairman. LACC is not, however, a committee of the Council, nor does it act on the Council's behalf.

- (e) the (un?) willingness of the profession to contribute to the legal education of law students and law graduates;
- (f) what should be regarded as acceptable periods of unpaid work;
- (g) the cost to a PLT provider of comprehensively administering workplace experience programs; and
- (h) equity and access issues – enabling participation in work experience programs by ALL students and diversity within the legal profession.²

Any of these matters, alone or in combination, may present significant obstacles for some intending legal practitioners and for some PLT providers. However sympathetic an Admitting Authority may be to those affected, its inescapable statutory duty is to establish, apply and maintain what it considers to be appropriate standards for the preparation of members of the legal profession. These are the values upon which its regulatory requirements must be predicated. It must strike a balance between factors such as those advanced by APLEC and what it considers to be reasonable and proportionate requirements which will help assure the educational value of workplace experience in the context of a PLT course.

Concern about the effectiveness of, and variation between prevailing practices of PLT providers relating to workplace experience led the Victorian Council of Legal Education, in 2014, to refer questions about the following matters to LACC, arising from an application by a PLT provider to alter its workplace training requirements –

- (a) the purpose of the work experience requirement as an element of a PLT course;
- (b) the appropriate duration of such workplace experience;
- (c) how the relevant workplace experience may be accumulated;
- (d) whether work experience undertaken before a PLT course can be taken into account to satisfy a work experience requirement; and
- (e) whether additional programmed training requirements might be substituted for some of the requisite workplace experience.

LACC received 2 submissions from APLEC about these issues in the intervening years, and has sought and obtained expert advice from other sources. It has also noted that there have been several significant regulatory developments since 2014.

The Legal Profession Uniform Law has come into effect, placing renewed focus on how effectively matters relating to admission to the legal profession are presently being regulated. Further, a completely revised version of the PLT Competency Standards for Entry-level Lawyers came into effect in January 2015, containing much more explicit explanatory and regulatory material. Standards for accrediting PLT providers and courses, previously endorsed by LACC have been renamed as Uniform Standards and have already been applied in a number of jurisdictions. Finally, Accreditation Standards for Australian Law Courses are in the final stages of development.

Consistent with these developments, LACC thus considers it is appropriate to adopt the following standards relating to workplace experience.

² APLEC, *Work Placement Requirements for PLT Courses*, 3 February 2015, p 4.

2. **DEFINITIONS AND INTERPRETATION**

2.1 **Definitions**

In this document –

Competency Standards means the Law Admissions Consultative Committee's Practical Legal Training Competency Standards for Entry-level Lawyers 2015.

workplace experience means supervised employment in a legal office or supervised paid or unpaid placement in a law or law-related work environment.

2.2 **Interpretation**

Expressions used in this document and in the Competency Standards that are not defined in clause 1.1 or elsewhere in this document have the same meaning as in the Competency Standards.

3. **PURPOSES OF THE STANDARDS**

The purposes of these Standards are –

- (a) to assist Admitting Authorities, when accrediting, monitoring or re-accrediting a PLT provider to determine whether the PLT provider will provide for a student of the PLT course to undertake appropriate workplace experience; and
- (b) where appropriate, to provide clear, tangible guidance to PLT providers of ways in which a PLT provider can demonstrate its compliance with the Standards

4. **PURPOSE OF WORKPLACE EXPERIENCE**

In the context of a PLT course, the purpose of workplace experience is to provide a student with an opportunity –

- (a) to apply, test and reflect on what has been learned during programmed training, while interacting with practising lawyers, other staff, government officers and clients; and
- (b) to develop an understanding of the nature of legal practice and of the student's aptitude for engaging in legal practice.

5. **LEARNING OUTCOMES**

(1) On completing workplace experience, a student will have –

- (a) applied elements of the student's programmed training in the context of legal practice;
- (b) experienced supervision by a qualified member of the legal profession in the execution of legal or law-related work;
- (i) acquired a basic understanding of what a legal practitioner does in the course of legal practice;
- (c) critically reflected upon significant experiences obtained by the student in the course of workplace experience; and considered how those experiences will influence the student's future actions.

- (2) A PLT provider must satisfy itself that a student has achieved each of the learning outcomes set out in subclause (1) before certifying that a student has satisfied the requirements of clause 4.1(a)(ii) or 4.1(b)(ii) of the Competency Standards, as the case requires.

How can a PLT provider show it has met this standard?

A PLT provider is required to assess whether or not a student has achieved each of the learning outcomes specified in subclause (1). The PLT provider might, for example –

- (a) require a student to keep a journal which records activities undertaken by the student during workplace training, and the student's reflections on those activities;
- (b) assess the content of the journal and the quality of the workplace experience undertaken by the student;
- (c) require a report from the relevant supervisor on the activities undertaken by the student, and the supervision the student received;
- (d) monitor the activities of both supervisors and students in undertaking workplace experience.

6. SUPERVISION OF WORKPLACE EXPERIENCE

A PLT provider must not approve workplace experience for a student unless it is satisfied that –

- (a) before the workplace experience commences, the student will have been instructed how to make the most of available supervision during workplace experience and how to obtain feedback on the student's performance;
- (b) the student will be appropriately supervised throughout the period of workplace experience; and
- (c) any person supervising the student –
 - (i) is admitted to the legal profession; and
 - (ii) has substantial experience in practising law; and
 - (iii) is currently practising law; and
 - (iv) is currently of good standing in the legal profession.

How can a PLT provider show it has met this standard?

A PLT provider will need to be able to demonstrate that –

- (a) it arranges properly to brief host organisations and proposed supervisors about the purpose of a student's workplace experience; and of the PLT provider's expectations about the nature of supervision required; and
- (b) it requires a potential supervisor to acknowledge that the person –
 - (i) has been informed about the PLT provider's expectations about the nature of supervision required; and
 - (ii) has each of the attributes referred to in paragraph 6(c) above.

A PLT provider might also demonstrate that –

- (a) it arranges for students and host organisations to enter into training contracts setting out mutual undertakings about workplace experience;
- (b) it provides written or web-based resources for host organisations, supervisors and students relating to expectations about their respective roles in offering, supervising and undertaking workplace experience.

7. **TIMING AND DURATION OF WORKPLACE EXPERIENCE**

- (1) 15 days of workplace experience, as specified in clauses 4(1)(a)(ii) and 4.1(b)(ii) of the Competency Standards, is the **minimum requirement**.
- (2) A PLT provider may require a student, as part of a PLT course, to undertake more than the minimum requirement of workplace experience (**additional requirement**).
- (3) A student must undertake the minimum requirement –
 - (a) within Australia; and
 - (b) concurrently with or after completing the programmed training of the PLT course.
- (4) On or after 1 July 2018, a student may only obtain credit for the minimum requirement if the student undertakes no less than –
 - (i) 2 full days of workplace experience per week; or
 - (ii) 4 x 4 hour sessions of workplace experience per week.
- (5) A student may undertake any additional requirement –
 - (a) within Australia; or
 - (b) with the permission of the PLT provider, outside Australia.
- (6) A PLT provider may grant credit towards any additional requirement of workplace experience for any workplace experience acquired by a student up to 2 calendar years before the student commences programmed training for a PLT course, if the workplace experience was acquired –
 - (a) while the student was enrolled in an academic law course accredited for professional admission purposes by an Australian Admitting Authority ; and
 - (i) as part of a clinical education program, internship or externship program of that law course; or
 - (ii) in a legal office or during supervised placement in a law or law-related workplace; or
 - (b) after the student has completed an academic law course, but before the student commences programmed training for a PLT course.
- (7) A PLT provider may grant credit towards either or both of the minimum requirement and any additional requirement of workplace experience for any workplace experience acquired by a student up to 2 calendar years after the student has completed the programmed training component of a PLT course.

8. **QUALITY OF WORKPLACE EXPERIENCE**

A PLT provider must not approve workplace experience for a student unless it is satisfied that the student will receive appropriate legal or law-related work that includes most or all of the following –

- (a) significant interaction with external or in-house clients;
- (b) drafting documents;
- (c) legal research;
- (d) using a file management system.

How can a PLT provider show that it has met this standard?

A PLT provider will need to be able to demonstrate that –

- (e) it arranges properly to brief host organisations and proposed supervisors about the purpose of a student's workplace experience; and of the PLT provider's expectations about the nature of the work that a student will experience;
- (f) it has a system for checking with a student about the nature and quality of work the student is receiving during workplace experience;
- (g) it has a system for advising a host organisation or supervisor of any concerns about the quality of work being assigned to a student.

A PLT provider might also demonstrate that –

- (a) it arranges for students and host organisations to enter into training contracts setting out mutual undertakings about workplace experience;
- (b) it provides written or web-based resources for host organisations, supervisors and students relating to expectations about their respective roles in offering, supervising and undertaking workplace experience.

9. **SUBSTITUTION OF PROGRAMMED TRAINING FOR WORKPLACE EXPERIENCE**

- (1) A PLT provider that conducts a PLT course which normally would require a student to undertake workplace experience that substantially exceeds the minimum requirement, may permit a student to undertake more programmed training than would normally be required, instead of part of the additional requirement of workplace experience.
- (2) The PLT provider must determine and apply a maximum number of days of workplace experience for which programmed training may be substituted under subclause (1).
- (3) The PLT provider must not fix a maximum number of days under subclause (2) that could have the effect of significantly detracting from the duration or quality of workplace experience –
 - (a) which that PLT course was initially designed to require; and
 - (b) which was nominate in the PLT provider's application to an Admitting Authority for accreditation or reaccreditation.

- (4) A PLT provider must not allow a student to undertake additional programmed learning pursuant to subclause (1) unless the student has previously completed the minimum requirement of workplace experience.
- (5) Additional programmed training referred to in subclause (1) must comprise coursework activities designed to enhance a student's skills in clinical legal practice or practice management.

10. **HOW WORKPLACE EXPERIENCE MAY BE ACCUMULATED**

A PLT provider must not approve workplace experience for a student unless it is satisfied that the student will undertake not less than –

- (a) 1 full day of workplace experience per week; or
 - (b) 2 x 4-hour sessions of workplace experience per week,
- throughout the whole period of workplace experience.