



The College of Law

AUQA Audit

Progress Report against Affirmations and Recommendations

As at May 2010

This is the College of Law's Progress Report against Affirmations and Recommendations made in the Audit of the College of Law Pty Ltd (COL) undertaken in March 2008 and reported in May 2008.

The Progress Report lists the various Affirmations and Recommendations and comments as to what progress has been made in developing policies, structures, systems and procedures to satisfy them, or in a couple of cases, to restate the College's position to give AUQA and DEEWR a fuller perspective.

Wherever appropriate, evidence of changes or innovations is included in documentary form.

Once again, the College wishes to express its gratitude to AUQA in providing the opportunity for the College to focus on its development as a higher education institution and to demonstrate that development via this Progress Report.

Affirmations

1 (urgent) AUQA affirms the COL's intent to move to a national independent structure

On 7 December 2009, Brereton J in the Equity Division of the Supreme Court of New South Wales approved a Scheme of Arrangement which clarified the terms of the College of Law trust and empowered the trustee (College of Law Pty Ltd) to give the entire property and business of the College of Law to a new entity (TCOL Ltd).

TCOL Ltd was constituted as a company limited by guarantee of its members and registered in July 2009. The constitution provides for the election or appointment of members and governors who will be selected from stakeholders from all over Australasia, making the College an independent and national institution with growing capability in New Zealand and the region.

TCOL Ltd has now been registered as a higher education institution and provisionally approved as a HEP (pending the effluxion of 15 sitting days in both houses of federal parliament). When TCOL Ltd has been finally approved as a HEP, all property and business of the College of Law will be transferred to TCOL Ltd.

The College also intends to make an application in 2010 to be granted self accrediting status in accordance with Protocols A and C of the National Protocols.



2 AUQA affirms the COL's attention to the views of employers and to implementing a process for obtaining more comprehensive and systematic employer and other stakeholder feedback

After discussions with UWS/UTS on its research into the attributes of successful professional graduates, the COL has resolved to survey both employers and successful graduates¹ of COL programs (especially the Professional Program) in order to ascertain:

- what are the attributes most desired by employers in first year lawyers;
- what were the features of the course most valued by successful graduates.

Information gleaned from these surveys will then be analysed in light of established learning outcomes and how those might be redeveloped.

A pilot of the employer survey was run in 2008 but the results are indeterminate. That survey is being reviewed by the Research and Scholarship Committee and a better survey is being designed for a wider sample in 2010.

3 (urgent) AUQA affirms the COL's plans to upgrade its student administration system to rectify several drawbacks in its ability to moderate and report on student achievement in courses

The College's previous administration system (CLAS) was custom developed in contemplation of the College's unique academic calendar and the course structure of the Professional Program. While well-suited for the Professional Program, CLAS could not easily be adapted for new courses with more standard (semester based) structures. There was also an issue with regard to recording of grades. Where a fail grade was replaced by a passing grade on resit, no record remained of the original fail grade, skewing the pass/fail ratio.

The new PEPi system is a student administration system developed by PEPi Systems in Geelong. It was selected from a range of commercially available systems on the basis of its adaptability to the unique requirements of the College of Law and its potential for integration into a wider College IT systems upgrade. The adaptation of PEPi has necessitated a very substantial input of time and resources and has had some integration teething problems but is now operational.

A major feature of the PEPi system is its capacity for reporting on student progress. We have designed some new Grade Distribution reports and have created an entirely new system of moderation to assist the academic staff and various academic committees with their consideration of student outcomes and how that informs the improvement of teaching and learning (see Recommendation 3).

¹ "Successful graduate" is yet to be defined but may mean something like a student with a Distinction average or better.

Recommendations

1 AUQA recommends that the COL review its Vision and Mission in the light of its evolving interests and possible future development, including its growing national role

The COL is growing and evolving into a larger, more diverse institution with national, regional and global activities and interests.

In the wake of this recommendation, the COL agreed that it was time to review Vision and Mission and considered the matter at its annual Group of Colleges Board retreat in June 2008. The following bullet points represent the key concerns of the various directors:

- Don't burn the bridge
- Maintain focus on practical legal training
- Stay in the post initial segment
- Maintain influence on regulatory decision making
- Define unique scholarly mission
- Mission defines what we are: good governance is led by mission
- To be the premier school of professional practice in this part of the world

On balance, the directors disagreed with the AUQA Audit panellists regarding the symbol of the bridge. While the COL's emphasis is no longer exclusively in the realms of pre-admission (award) and continuing professional (non-award) education, we still regard the "bridge" as entirely apposite for the new Applied Law Programs. There is an evolving plurality as to how the bridge ought to be perceived in terms of a link or pathway, but it remains a well-understood and relevant symbol which is recognised throughout the profession.

Vision and Mission, however, need to better reflect the COL's organisational maturity and scholastic ambition. In late 2007, the College refined its Vision and Mission to include supplementary Principles (or objectives) in three key areas of operations:

- Principles in Research and Scholarship
- Principles in Teaching and Learning
- Principles of Engagement with the Profession and Community

Those Principles have since been further refined (see **Appendix A**) and are in the process of being properly integrated into all relevant activities in order to effect Vision and Mission at the coalface. An example is the Research and Scholarship Plan as the foundational document underpinning the Research and Scholarship Committee now reporting to COLAB (see **Appendix B**).

In addition, as part of the new Constitution (referred to on p1) a new Board of Governors will be appointed with an early priority to review Vision and Mission.



2 (urgent) AUQA recommends that the COL review the composition and role of the Academic Board with a view to its having strong and senior membership commensurate with its important academic oversight responsibilities; and that it review and simplify the emerging academic structure associated with the Academic Board

A substantial review was undertaken into the composition and role of the Academic Board and the subordinate academic committee structure. The Academic Board (COLAB) resolved at its September 2008 meeting to adopt all changes recommended by that review and the changes were endorsed by the Board of Directors at their October 2008 meeting (see **Appendix C**).

COLAB's terms of reference have been clarified and simplified, its membership has been rationalised and provision has been made to raise the "relative eminence" of COLAB in respect of the various Curriculum Advisory Committees. To that end, Mr Justice Benjamin of the Family Court of Australia and the Managing Director and Principal have come onto COLAB, while the number of internal members has been reduced. Professor Ross Grantham from the University of Queensland has joined COLAB as the external law academic.

Further, the various academic committees reporting up to COLAB and/or the Board have been reviewed in order to clarify their terms of reference, membership and reporting lines (see **Appendix D**). In contemplation of the Principles referred to at **Appendix A**, the Research and Scholarship Committee was created to further/implement those principles and the Group Course Committee is largely responsible for the day to day implementation of the Principles in Teaching and Learning.

A further refinement is the creation of the Course Review and Course Approval Panels. These Panels are constituted on an *ad hoc* basis to approve new courses and periodically review existing courses. These Panels would be the internal bodies proposed to stand in the shoes of the external regulators in the event of the College being granted self-accrediting status. Reports of the Panels are as follows and are at **Appendix E**:

- Course Review Panel – Graduate Diploma of In-house Legal Practice
- Course Approval Panel – Applied Law (In-house Practice) Program
- Course Approval Panel – Applied Law (Wills & Estates) Program

3 (urgent) AUQA recommends that the COL implement a nationwide system of moderation of student results for programs taken in different modes and locations

The College has implemented a national moderation system designed to cross-check marking standards across streams within the Professional Program and also to externally moderate the marking of examination scripts and other written assessments in all Programs (see **Appendix F**).

The College regards the generation (and corroboration) of student outcome data as being the primary tool necessary to inform academic quality. Both our data and our systems are benchmarked with the University of Western Sydney Law School under a reciprocal arrangement.

4 AUQA recommends that the COL develop a program for the systematic improvement of its teaching and learning that enables staff to contribute to innovation and improvement in course design and teaching across all its programs

This is an area where the College queries the Audit Panel's Recommendation as we believe that we have in place a long-standing program for the systematic improvement of teaching and learning which facilitates academic contribution to innovation and improvement of course design and teaching.

Besides the regular lecturers' meetings and annual lecturers' conference, all lecturers are members of subject area teams for the development of particular learning materials and how they are delivered. All lecturers receive relevant Grade Distribution Reports and Student Evaluation Reports and have many opportunities to review and develop the course aims, learning outcomes, delivery strategies, learning materials or assessments.

The entire system is monitored (in contemplation of the Principles in Teaching and Learning) by the Group Course Committee (GCC) on behalf of the COLAB. The GCC monitors all student outcome data plus all student evaluation data in order to get good information on the effectiveness of the courses and their delivery. The GCC (taking also into account lecturer and student input) reports on a quarterly basis to the COLAB on all aspects of teaching and learning.

A comprehensive report covering the COL's overall approach to Program Development was approved by the Board on 18 May and is expected to usher in a range of reforms with particular emphasis on the opportunity for individual lecturers to have direct input. As part of the reforms, the Director, Program Development has now become a direct report of the Academic Principal and a member of the Executive Committee with a mission to drive more systematic approaches to the development of teaching and learning.

5 AUQA recommends that the COL ensure that the Work Experience component of programs relates to the practical knowledge and skills training those programs provide so that they achieve their goal of enabling students to "integrate [their] coursework knowledge and skills with the real world delivery of legal services"

It is very important to keep in mind the pedagogical purpose of Work Experience. It is not to be regarded as a form of abridged articles. It is simply exposure to the real world of legal practice – the dynamics, attitudes and behaviours of professionals using legal knowledge and skills to solve legal problems. Learning outcomes relate to the process of "professionalisation" and might be said to form part of the covert curriculum of the Professional Program. This approach is borne out by some recent research undertaken by the University of Technology, Sydney into the attributes of successful graduates in professional practice:

Results revealed that although a high level of profession-specific knowledge is necessary for successful practice it is clearly not sufficient. A range of 'emotional intelligence', cognitive capabilities and generic skills are being identified as crucial success factors. One of the key findings is that it is the combination of key elements of emotional intelligence, cognitive capabilities, generic and job

specific skills and knowledge that is telling, not excellence in one domain.²

Most importantly, the curriculum has not been designed to formally reinforce coursework learning outcomes via Work Experience, nor vice versa. Work Experience learning outcomes are quite separate in character from the more prescriptive coursework learning outcomes, and reflective integration occurs irrespective of the order in which they are undertaken. For that reason, there has traditionally been no need for Coursework to precede Work Experience.

Having said that, the College has had reason, recently, to reflect on the Work Experience component and its rationale, and was invited to make a submission to the Legal Profession Admission Board (LPAB) in respect of a proposal from the Law Admissions Consultative Committee (LACC) regarding a range of Work Experience issues, including the Work Experience/ Coursework configuration. On the basis, largely, of the College's submission, the LPAB determined that no changes to the Work Experience regime were warranted.

A concern for the future is that the current world economic situation is likely to mean a reduction in the availability of Work Experience placements. For a range of both equitable and public policy reasons, it would be undesirable to artificially limit admission to legal practice, which behoves the College to explore alternatives to Work Experience.

In conclusion, the College believes that it already has in place measures to ensure that the Work Experience component of the Professional Program relates to the practical knowledge and skills training those placements provide so that they achieve their goal of enabling students to "integrate [their] coursework knowledge and skills with the real world delivery of legal services." In light of AUQA's recommendation, the College will remain alert to any developments in this area and will review its position regularly.

6 AUQA recommends that the COL establish clear and appropriate objectives and plans in relation to scholarship and research that have regard to the goals and nature of the institution, and revise its Mission and objectives as necessary

As noted under Recommendation 1, the College has reviewed its Principles in Research and Scholarship and has determined to expand these into a more complete philosophy and approach. The Research and Scholarship Plan (see **Appendix B**) demonstrates the current position but is regarded as a dynamic document reflecting the evolving nature of research and scholarship.

A Research and Scholarship Committee (a Working Party of COLAB, including lecturers) has been created to co-ordinate and drive research activities at the College with the aims of developing knowledge in support of the College's Principles in Research and Scholarship and ensuring that the products of research and scholarship, where appropriate, are utilised in the development of curriculum and delivery.

² Vescio J, *An investigation of successful graduates in the early stages of their career across a wide range of professions: Final Report* (April, 2005) UTS at iv.

Functions and terms of reference

The RSC, in contemplation of the Principles and the Policy, will:

- Implement the research interests of the Board and COLAB;
- Co-ordinate the research interests of lecturers, seminar presenters and students;
- Develop strategies and emphases to encourage research of particular types or in particular fields;
- Co-ordinate different research projects and, where possible, seek efficiencies and synchronicities;
- Benchmark research and scholarship with other institutions wherever relevant to inform COL activities;
- Develop strategies and set targets for the integration of research and scholarship into College programs;
- Create an annual Plan and corresponding Report on Research and Scholarship at the College of Law.

The Research and Scholarship Plan is the means via which the Principles and the philosophy are reflected in activities each year, with especial emphasis on taking steps to ensure that knowledge gleaned from research and scholarship is reflected in College programs and their delivery.

The manner in which research and scholarship is reflected in College programs and their delivery will be the main focus of an annual Research and Scholarship Report produced by the RSC to report on the execution of the Plan.

7 AUQA recommends that the COL take a strategic approach to the planning and funding of staff development opportunities and activities to ensure that it has the mix of skills and knowledge to enable it to achieve its goals, and to ensure that it applies best practice in online learning

As noted by AUQA in its Report, the COL is generous in its support of staff development through provision of funds and respite from teaching, but could be more focussed on strategically targeting staff development which directly contributes to the systematic improvement of teaching and learning.

A significant aspect of the COL's AUQA response strategy has been the creation of three new senior positions.

- Director, Academic Audit and Policy
- Director, Systems and Information Technology
- Director, Human Resources

All three of these positions are focussed on the improvement of teaching and learning. The latter position, in particular, reflects the COL's realisation that it has grown to the point where human resource considerations need to be centrally co-ordinated in order to be coherently linked with strategic and business plan objectives. A major part of the Director, Human Resources' (Ban Weston) annual plan will be to ascertain staff development priorities and to resource accordingly. The approach is detailed in the Behavioural Capability Framework being developed by the HR department currently.

As far as online learning is concerned, the COL has believed for some time that its own blended online/on campus teaching model is at or near the benchmark for effective online learning in Australia, but lacks the hard data to establish that conclusively. Therefore, the COL has commenced some research sponsored by the McKinnon Committee³ and the Research and Scholarship Committee with a view to ascertaining the parameters and indicia of best practice in online learning in the world and to benchmark accordingly.

As noted above at *Affirmation 3*, the COL is in the final stages of a major information architecture and IT systems upgrade. The main benefits will be a more flexible and useable administration system, and also a learning management system which will enable a richer distance education experience obliging all online lecturers to learn new skills in keeping with the upgraded technology. The final steps of the upgrade and the development of improved teaching tools and systems have been partly facilitated by the work of the Director, Systems and Information Technology (Greig Walmsley).

8 AUQA recommends that the COL develop an academic workloads model that clearly specifies what is expected of academic members of staff in relation to teaching (by reference to hours taught and student load), research, administration and student support

Academic workload needs to be understood in the context of the College condition. Traditionally, the College has employed lecturers from the ranks of the legal profession with an interest in legal education, as opposed to career academics who need to have established conventions on matters such as research, administration and student support. As the vast majority of lecturers at the COL teach the same course, research, administration and student support occur in a different context and are otherwise provided for. Nevertheless, matters such as teaching (by reference to hours taught and student load) are taken very seriously.

The COL's current academic workloads policy is as agreed within the College Enterprise Agreement document covering 2007 – 2010. The previous Enterprise Agreement document (2004 – 2006) did not contain a clause specific to academic workload but did provide for the creation of a Working Party to investigate and make recommendations in respect of equitable workloads for academic staff.

The Working Party reported to the Board of Directors and made recommendations which were distilled into a set of principles which constitute the current Enterprise Agreement position, which is reproduced below:

19. WORKLOADS

19.1 The College is committed to:

- ensuring appropriate workloads for all staff, and to ensuring that there is an equitable distribution of work
- consulting with staff likely to be affected as soon as

³ The McKinnon Committee was established to respond to draft standards regarding practical legal training (PLT) proposed by the Council of Legal Education in Victoria. A part of the work of the McKinnon Committee was research into the effectiveness of online learning and assessing the COL's performance against world's best practice.

practicable regarding allocation of lecturers, course and on-site dates, and changes to courses.

- ensuring that workload issues are considered when planning changes to policy, College activities and timetables in terms of the need to have adequate lead time and preparation, and providing timely information to students and customers
- ensuring that workloads are manageable and without risks to health and safety.
- workloads being determined on a fair, transparent and consultative basis, taking into consideration the position description, level of appointment and total responsibilities of each staff member
- recognising the responsibility of the Director of the relevant course, or for general staff, the Executive Team Manager, for deciding, after consultation with affected staff, how workload is to be negotiated and allocated in accordance with the provisions of this clause

19.2 In workloads allocation, the College shall recognise its responsibilities under the Disability Discrimination Act and the Anti Discrimination Act regarding reasonable accommodation for disability and carer responsibilities.

19.3 **Academic Workloads**

19.3.1 Professional Program Online (PPO)

When teaching in the PPO a lecturer shall be allocated no more than 35 full-time students or 55-60 part-time students per course averaged over a period of a year. The maximum class size for a full-time PPO course will normally be 35 students and for a part-time PPO course will normally be 55-60 students.

When teaching a mixture of full-time and part-time students online, a part-time student shall be regarded as 0.6 of a full-time student.

Lecturers acknowledge that in addition to this teaching load they may be called upon to teach at onsites and mark assessments of students in other courses.

19.3.2 Other courses

A full-time and part-time campus course will normally have no more than 20 students per group room averaged over a period of a year.

All marking assigned to a lecturer shall be taken into account when assessing whether the workload is reasonable.

19.3.3 In addition to the guidelines in clause 19.3.1 and 19.3.2, in determining what is a reasonable workload for teaching staff the College will consider the following:

- the total number of teaching and/or required hours worked on a particular day;
- the number of teaching and/or required hours worked without a break;
- the time off between finishing and starting times of teaching sessions;
- the number of consecutive days of the week during which teaching and/or required duties are scheduled;
- health and safety issues;
- the incidence of night work/after dark work;
- the academic's general workload, including marking and on-site sessions;
- the number of courses and/or subjects coordinated by an individual academic;
- the impact of teaching in more than one course at one time.

It is submitted that this arrangement clearly specifies what is expected of academic members of staff, however, the College as part of its staff development research will be benchmarking academic staff workloads with the most comparable higher education institutions; ie, the College of Law England and Wales and the College of Law, New Zealand.

Knowledge gleaned from the benchmarking research will be fed into the next round of negotiations for the next Enterprise agreement in 2010.

AUQA commended the COL on the excellent existing *esprit de corps* of its academic staff and noted that this is likely, to some extent, to be a product of the current workload policy. The COL is wary of upsetting a well-working system, but is alive to the need to be aware of what is happening (and working well) elsewhere.

9 AUQA recommends that the COL undertake more international benchmarking, especially in relation to academic standards

The College has formal and informal benchmarking relationships with the following institutions:

- University of Western Sydney (most frequent formal)
- Charles Sturt University
- Murdoch University
- University of Canberra
- University of Queensland
- College of Law England & Wales (most frequent informal)

None of the benchmarking relationships is comprehensive and some involve more regular contact than others; we tend to concentrate on one or two areas of activity with each partner. The only international partner is the College of Law England & Wales (COL EW). Superficially, they are the institution most like us (albeit with important differences) and we benchmark more with COL EW than with any other partner, but mostly via informal contact of senior executive and academic staff.

Areas of benchmarking activity with COL EW (since the AUQA Audit) have included:

- Corporate governance
- Academic governance
- Comparison of policy compendia
- Course approval and review
- Collection and use of student outcome data

Conclusion

That concludes the College of Law's Progress Report in response to the AUQA Audit published in May 2008. Please feel free to contact me, or my colleague Adrian Deans if you require any further information.

A handwritten signature in black ink, appearing to read 'Neville Carter', written in a cursive style.

Neville Carter
Managing Director & Principal
27 May 2010