

DISCIPLINE PROFILE – LAW

1. NATURE OF THE DISCIPLINE

Key goals and objectives of the Division as set out in the Division's Strategic Plan 2002-2005 include the establishment of a national and international reputation for outstanding research and scholarship and recognition of the high quality of our curriculum and degrees. The main, but not exclusive, aim of the Division of Law is to realise these goals through a reflective interdisciplinary understanding of law. Research by staff in the Department of Business Law ranges across a variety of perspectives, including traditional, contextual and interdisciplinary.

2. QUALIFICATIONS

In the discipline of law, nationally and internationally, the LLB is frequently undertaken as a second degree: hence the completion of a postgraduate qualification is not seen as an entry level requirement at Associate Lecturer and Lecturer levels, although substantial progress in a higher degree is expected at entry level for Lecturer. In assessing the quality of the degrees at the higher level, more emphasis is placed on completion of a research degree than on completion of a coursework degree. Completion of a PhD in Law or a related discipline is considered a strong indicator of research ability.

3. TEACHING

The educational objective of the Discipline of Law is to provide a rigorous legal education. The goal in LLB teaching is to produce reflective graduates through an emphasis on interdisciplinarity and the teaching of law in context. The Business Law program aims to develop a knowledge and understanding of the legal system and core topics in business law. The goal is to produce graduates with a facility for analysing legal obligations so that they may conduct their businesses in compliance with the law within an ethical environment and guide their clients towards the same objectives.

3.1 Teaching Styles and Loads Common to the Discipline

Department of Law and CEL

The Division has a commitment to small group teaching in both internal and distance education groups in the LLB. While high student:staff ratios are making it increasingly difficult to maintain this teaching method, teaching methods should in all circumstances be dialogic and encourage student participation to the extent possible. Teaching loads are the same for all levels of academics from Lecturer level. Teaching at all levels is expected and valued in the same way. The balancing of undergraduate and postgraduate teaching and supervision is expressed in the Law/CEL teaching workload model.

Department of Business Law

The Business Law Department specialises in teaching law to non-lawyers at undergraduate and postgraduate levels. Teaching loads are managed through a workload model in the context of high student:staff ratios.

All Departments in the Division

The Division is committed to continual improvement in the quality of teaching. Staff at all levels are expected to be reflective teachers and to undertake regular student evaluations of teaching and participate in other teaching development opportunities, such as the Australasian Law Teachers Association's teaching development workshops and CPD programs.

3.2 Research Degree Supervision

Academic staff are encouraged to undertake supervision of postgraduate students and to devise and teach postgraduate courses consistent with the Division's discharge of its responsibilities to undergraduate students and financial accountability. The Division is placing major emphasis on attracting postgraduate research students, in the Discipline of Law, nationally and internationally. A scholarship is a major factor in attracting research students, however, similar to other professionally related disciplines such as medicine, the undertaking of a research degree is still exceptional. Consequently, the opportunities for supervision are limited and do not arise evenly across all areas of research strength in the Division.

There are some opportunities for research supervision of postgraduate coursework dissertations. But the range of postgraduate coursework programs is also limited. Consequently, in the Discipline of Law, an absence of research student supervision needs to be seen and assessed in context. Of itself it does not necessarily indicate a lack of standing in research and scholarship of a staff member.

Undergraduate research supervision is analogous to Honours supervision. As from 2003 a research paper will no longer be a requirement for Honours hence the opportunities for supervision at this level will be even more limited than in the past.

3.3 Curriculum Development and Course Design

In keeping with the main aim in LLB teaching of promoting a reflective interdisciplinary approach to law, academic staff normally prepare extensive books of readings for students which offer both interdisciplinary approaches and critical perspectives. A candidate for promotion will be expected to state the extent of their contribution to these readings and to articulate clearly and concisely the ways in which they are innovative and a reflection of scholarship.

Student testimonials, use of the materials in other schools, invitations to lecture in other institutions or assist in the development of courses, publication of the materials as a textbook or collection of cases and/or materials, peer assessment and requested testimonials going to the innovative approach of the materials are useful indicators of quality of the materials/casebook as an aspect of teaching. They may also provide evidence of significant scholarship and this needs to be indicated.

4. RESEARCH

4.1 The nature of scholarly activity and publication practice in the Discipline

Dissemination of research

Staff of all ranks primarily advance knowledge through publication of books, chapters in books and articles. Additionally, they present papers at conferences and seminars to academics and professional groups and undertake editorial responsibilities. Both actively seeking and successfully attracting external competitive grants are highly valued.

National or international?

An important question in the assessment of legal scholarly activity is the scope of its impact nationally or internationally. Given the primarily national nature of law, some areas do not lend themselves to international impact or an international audience; nevertheless, high quality work in these areas can have a major impact on law at a national level through informing judicial opinion, government policy and academic scholarship. The impact of an individual's scholarly activity needs to be assessed in the light of the potential impact on the particular research area.

Database evidence?

There is no database for legal citations, comparable to those available in other disciplines. Where citations are available, the fact of citation itself is not necessarily an indicator of the standing of the journal. Performance of staff in the annual research data collection for DEST and university purposes is a useful, but not exclusive, indicator of the range or quality of scholarly activity or an individual's scholarly standing. Because of the diversity of publication practice and of appropriate quantitative criteria, an onus falls on the individual researcher to make a case for the quality of their publications. An applicant should provide evidence of quality in the form of reviews, citations, referees' reports or requested testimonials from established scholars in the field.

Quantitative criteria?

No quantitative criteria as to output can be specified. It is the quality of the contributions that matter and evidence of this needs to be provided. However, an applicant for promotion would be required to demonstrate a sustained record of

publication. The number, frequency and length of publications vary widely from individual to individual, but an average rate of publication of at least one refereed article, or its equivalent, per annum would be regarded as the norm at all levels for sustained activity.

4.2 Publications as Evidence of Research and Scholarship

Books

In Australia, publishers largely drive publications of legal books. The type of book is constrained by what commercial publishers are prepared to publish. The market for legal monographs of mainly Australian relevance is small. While the publication of scholarly monographs is highly valued, the constraints on the publication of such works mean that high quality scholarly analysis is often incorporated in other forms of publication. Law books fall into four main categories: monographs, textbooks and collections of cases and/or other materials ('casebooks'), and encyclopaedias. A particular work may be a hybrid of two or more of these types.

Books submitted to publishers are normally sent for independent academic review. However, in assessing quality, evidence as to scholarly standing must be provided. It is the responsibility of the applicant to demonstrate the quality of the publication. Referees' comments, the reception of analysis by other academics and/or in the courts and/or by government in the development of policy may all be relevant indicators of quality, standing and impact.

As the publication practice is diverse, details of the various kinds of publication in the Discipline of Law and indicators of scholarly significance are set out in the Appendix to this Profile – 'Guide to Publication of Books in the Discipline of Law'.

Journal Articles

Selection and status?

Legal journals have diverse editorial selection practices. There is no convention as to refereeing practices. Thus publication in a journal with an editorial selection practice different from the model of scientific refereeing may carry equal weight as evidence of research and scholarship. Evidence of the status and assessment practice of the publishing venue (journal, publisher) should be provided in order to assess appropriately the quality of the journal in the Discipline of Law. Given the interdisciplinary nature of the Discipline of Law, legal scholars may publish in journals devoted to other disciplines - such as History, Sociology, Economics or Philosophy. These publications are accorded the same weight as publications in legal journals.

Length?

Length of articles varies; and can vary from 5,000 to 20,000 words. Shorter articles may reflect editorial restraints of the particular journal. Articles may be

joint-authored, although this is more common in relation to books. A new form of publication, resembling the journal article, is publication in a scholarly online forum.

Reports and submissions

Legal scholars not infrequently provide reports and submissions on legal issues, or on public controversies which call into question the role of law in relation to issues such as social welfare, public policy, or human rights. The scale of such endeavours varies widely, as do the depth of the research required and the particular combination or weighting of legal, interdisciplinary and empirical research. Where an academic is sought out to make a submission this may be considered an indicator of scholarly standing. It is for the applicant to demonstrate the quality, standing and impact of such work.

Editorial Work

Invitations to serve on an editorial board or to review scholarly publications are an indication of scholarly standing. A candidate for promotion should provide evidence of the quality of the publication and the role performed.

Conference Presentations

Academic conference presentations may be a significant scholarly activity. The refereeing of papers for conferences is unusual in the Discipline of Law nationally and internationally. Invitations to give a keynote address or to present a paper at an academic conference may provide an indication of scholarly standing. The applicant should provide information on the nature of the conference at which the paper was presented. It is expected that the paper will be published in some form to reflect its assessment in the scholarly community.

Conference presentations may also take the form of *presentations to professionals*, for example a presentation to legal practitioners (sometimes referred to as 'continuing legal education'). Such activities serve a role as professional outreach activities but also may indicate scholarly standing and reputation as well as reputation as a teacher/speaker in areas of expertise amongst the professional group. Presentations of this form may include a significant analytical component, given the rapidly moving nature of the law in some areas, and are often published. It is for the applicant to demonstrate the particular significance of such presentations.

Other scholarly activity

Translations of books and articles into English is considered significant scholarly activity: translation of a legal work can be done only by someone who is a specialist in that area of law and is widely read in that area in the other language.

There are other forms of legal publication. For example *online publication*: an edition of historically important colonial law reports has appeared online; edited proceedings of the Convention Debates of the 1880s and 1890s have appeared

in both hard copy and online versions; the many commercial *looseleaf* 'services' are designed for practitioners but may also be relied on extensively by academics; a *law journal comment* on a recent judicial decision ('casenote') may be brief yet will require considerable background in the area.

Scholarly activity in the Discipline may also take the form of *creative work*, for example writing a script for a 'hypothetical' or a play, novel or similar contribution.

Grants

Success in attracting competitive grants, especially external grants, is highly valued.

5. SERVICE TO THE UNIVERSITY AND COMMUNITY

All members of the Division are expected to be actively involved in the Division through regular attendance at Divisional meetings and participation, appropriate to their level of seniority, in Divisional committee and administrative work. All staff are expected to participate regularly in the University Open Days and Advising Days and to provide support for student activities such as the moot and other competitions. Contributions to the wider University are valued and are expected of staff members at the level of Senior Lecturer and above. *Community contribution* is valued. A Divisional goal is to enhance the relationship with the local, national and international community, the legal profession and alumni.

Consulting involves the application of academic knowledge to policy problems and in many cases can be expected to lead to further research, conference papers and publications. In many instances it may represent a significant expression of scholarly activity. Candidates for promotion should explain the nature and role of any consulting work undertaken.

Individual staff engage in a wide range of *community and professional outreach* activities, and no particular form of outreach is given priority. However, the Division values: activities which promote social justice and law reform, or which strengthen ties with the practising legal profession and other professions; service as a judicial member of a tribunal; an executive position as a member of a committee and an editorial board; and organisation of professional, community or business seminars and academic conferences.

Community engagement may also involve comment in the media in a range of ways and presentations to professional groups, both of which may also represent an expression of scholarly activity.

A developing form of outreach is the construction and maintenance of websites of legal information, both for other academics and for the public. In all cases it is

for the applicant for promotion to provide evidence of the nature and extent of the particular activity, and whether and to what extent it involves scholarly activity.

DISCIPLINE PROFILE – LAW

Qualifications and Expectations at each Classification Level

QUALIFICATIONS

The normal entry qualifications expected in the discipline at particular levels are:

Associate Lecturer: LLB with honours (or equivalent degree) usually in combination with an undergraduate degree in another discipline. It is expected that a person appointed to this level will have commenced a masters or other higher degree in law or a related discipline.

Lecturer: in addition to the basic qualification for an Associate Lecturer, a higher degree or substantial progress towards a higher degree normally, but not necessarily, in Law (eg LLM, SJD or PhD).

Senior Lecturer, Associate Professor, Professor: in addition to the basic qualification for Lecturers, academics at these levels are expected to have completed a higher degree.

TEACHING

Associate Lecturer: This may include the preparation and delivery of lectures and seminars commensurate with their skill and experience. An Associate Lecturer is not expected to take sole responsibility for convenership or development of units. However, he or she is expected to participate as a full member of the teaching team in all respects. The fact that a person is an entry level academic is recognised and weighted in the LLB workload model.

Lecturer: In addition to the duties expected of an Associate Lecturer, a Lecturer should demonstrate an ability to take responsibility for teaching one or more units of study. This would typically involve initiation or development of teaching materials and acting as subject convener. It may also involve development of units, either alone, or as part of a team.

Senior Lecturer: In addition to the duties expected of a Lecturer, a Senior Lecturer is expected to contribute significantly to the Division's teaching program. This would require a contribution to program development and/or curriculum review at undergraduate and/or postgraduate level. Supervision of research students is expected where there is an appropriate opportunity. It is recognised and weighted in the LLB workload model.

Associate Professor: In addition to the duties expected at Senior Lecturer level, an Associate Professor should demonstrate teaching leadership at either undergraduate and/or postgraduate level. He or she is

expected to take responsibility for furthering the teaching programs through innovative teaching and course design. Indicators of achievement are significant contributions to, and leadership and innovation in, curriculum development and review, and supervision of research students.

Professor: In addition to the duties expected of an Associate Professor, a person at the level of Professor is expected to make a distinguished contribution to teaching and curriculum development at all levels. A Professor is expected to take an active role in maintaining academic standards and developing educational policy and curriculum. He or she is expected to guide and help junior staff to develop their capacity for teaching. Indicators of achievement are significant contributions to, and leadership and innovation in, program development and curriculum review, and supervision of research students.

RESEARCH

Associate Lecturer: Associate Lecturers are expected to be engaged in research and scholarly activity other than teaching, either independently or as part of a postgraduate degree.

Lecturer: Candidates for promotion to Lecturer will be active in establishing themselves in research, have a research plan, and will need to demonstrate some evidence of recognition for scholarly activity in the wider community, in the form of refereed articles or equivalent publications. Invitations to present a conference paper at a conference or workshop and success in obtaining competitive grants are further indicators of success.

Senior Lecturer: A Senior Lecturer will have an established research profile and a demonstrated capacity to make a significant impact in his or her field. Indicators of success might include: a sustained record of articles in refereed journals or equivalent, papers delivered at national (sometimes international) conferences, departmental seminars at other universities and success in gaining competitive grants funding, particularly external grants. Promotion to Senior Lecturer would involve an applicant being known and well regarded nationally on the basis of his or her research record. The candidate's academic standing may also be reflected by requests to examine theses from other universities, or requests to referee articles for journals or edited collections.

Associate Professor: In addition to the research expected of a Senior Lecturer, a candidate for promotion to Associate Professor must have demonstrated a high standard of sustained activity in research, with a distinguished record of publication. Normally such publications would include at least one major book, or equivalent, which has attracted favourable peer response and wide recognition, and/or a significant number of substantial articles in refereed journals of high standing, or their equivalent, which establishes the candidate's claim to pre-

eminence in a particular field. An applicant for promotion to Associate Professor must demonstrate research leadership and an outstanding reputation in his or her field of research. Other indicators of standing may include: evidence of presentations at a variety of national or international conferences; invitations by governments or other bodies to provide expert input into an area of existing or proposed law; being sought after as a thesis examiner and/or reviewer of manuscripts; and success in obtaining competitive grants.

Professor: A Professor is expected to have achieved exceptional distinction and to have demonstrated a sustained high level of scholarly activity and research productivity. A Professor must be regarded as an eminent scholar in a particular field of knowledge. In addition to the indicators of standing at Associate Professor level, other indicators of standing at the level of Professor may include: evidence of presentations at a variety of national or international conferences and especially as an invited keynote speaker; demonstrated record of editorial leadership; reports on high level consultancies undertaken for government or similar bodies; appointment to editorial boards of leading journals. Other indicators of standing may include the award of prizes/honours and the election to academies or bodies of high academic and/or professional standing, although there are very few of either of these in the Discipline of Law. He or she will have a demonstrated ability to provide leadership and foster excellence in research. Indicators of research leadership include being principal investigator in large research projects, leadership of research teams; leadership of research centres.

SERVICE TO THE UNIVERSITY AND COMMUNITY

Associate Lecturer: In addition to regular attendance at Divisional meetings, an Associate Lecturer is expected to participate on one of the Division's committees.

Lecturer: In addition to the duties expected of an Associate Lecturer, a Lecturer is expected to take an active role in Department and Division administration. Service on one of the Division's major committees or equivalent work on a University committee is expected. Lecturers are also expected to be active in outreach activities, such as professional associations, editing journals and/or giving community/business seminars.

Senior Lecturer: In addition to the above duties, Senior Lecturers should play a major role in Department, Division or University activities in administration. This would typically require participation on a Divisional committee and administrative work to a significant degree, and participation in some way in University governance. A Senior Lecturer should also be active in outreach activities, such as serving on a major professional, government or business committee, acting as a referee

for local or overseas journals or participating in professional associations.

Associate Professor and Professor: In addition to the above duties, an Associate Professor or Professor should have demonstrated an ability to make a substantial contribution to University, Division and Department activities in administration. This could require taking a leading role on major Divisional committees, taking an active role in matters of Division policy and planning and active involvement in the wider University community, typically by representing the Division on a major University committee, or by service as Head of Department. Staff at the level of Associate Professor and above are expected to undertake the role of adviser/mentor under the Performance Management System. An Associate Professor or Professor is also expected to play a leading and active role in professional and/or community outreach activities. Indicators of contributions may include service on committees or specialist accreditation panels of professional associations; service on law reform bodies, advisory bodies for government or similar agencies; service on selection committees at high levels at other institutions; service on review teams for other law schools; invitations to present occasional addresses or similar high level presentations at universities, schools, professional bodies or community groups.

DISCIPLINE PROFILE – LAW

Guide to Publication of Books in the Discipline of Law - Nature of publications and indicators of standing

The four main categories of law books are: *monographs*, *textbooks* and collections of cases and/or other materials ('*casebooks*'), and *encyclopaedias*. A particular work may be a hybrid of two or more of these types.

In the Discipline of Law nationally and internationally, there is no clear dividing line between scholarly academic monographs and high-quality textbooks as there may be in other disciplines. The textbook may often be viewed as a real addition to scholarship: the best textbooks may affect the direction of the law.

A casebook will normally consist of extracts accompanied by extensive commentary and annotation: the selection and commentary will constitute original scholarship. A textbook or casebook may be the first and only book on the topic. Textbooks and casebooks are commonly joint-authored.

The best casebook will be both an example of excellence in teaching but also be critically informed and scholarly. The quality and impact of casebooks may need to be considered in both aspects.

An *encyclopaedia* in the Discipline of Law may take a variety of forms. Entries may be in the form of dictionary entries (for example Butterworths *Australian Legal Dictionary*; short articles (for example the *Oxford Companion to the High Court of Australia*), to monograph length analyses or expositions of an area of the discipline (for example *The Laws of Australia* and *Halsbury's Laws of Australia*). To edit a legal encyclopaedia may be a considerable piece of scholarship. An applicant needs to demonstrate the nature and standing of such contributions. Indicators of scholarly standing may be the invitation to contribute, critical review of the contribution through referees' reviews, comments of other scholars, government or the courts.

A major book, or similar contribution, may take several years to write. Legal scholarship necessarily involves the consideration of an enormous volume of material. In addition to the relevant academic literature, the legal scholar must deal with constitutions, statutes, regulations, judicial decisions and relevant international law.