

Towards National CPD Guidelines

A Discussion Paper developed by the National CPD Taskforce

Revised following the Conference of Regulatory Officers, Sydney

November 2006

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1. Introduction

These national CPD guidelines have been endorsed by the Conference of Regulatory Officers at its meeting on November 2006 as a model framework which should guide state and territory authorities with responsibility for such schemes in the formation or modification of their own schemes.

The guidelines were developed by the National CPD Taskforce, a group which was formed following the 2005 Conference of Regulatory Officers, and have been tested with a wide group of stakeholders throughout 2006.

This final document differs from earlier drafts in that the core recommendations and the specific guidelines are foremost: the explanatory matter has been moved to Appendix 1.

While individual schemes may differ in degree from this national model, the Conference of Regulatory Officers expressed the wish that over time harmonization with these national guidelines will occur. It was agreed at the conference that each regulator will take this final form of the guidelines back to their own state/territory to continue the discussion within their jurisdictions with a view to further development or adoption.

Feedback on this document should be provided directly to the regulatory officer in your state or territory.

2. General Recommendations

Recommendation 1

That mandatory legal educational schemes be known as Continuing Professional Development (CPD) schemes.

The Taskforce considered the terms used for education schemes and suggested that they should be known as Continuing Professional Development (CPD) schemes because this is an inclusive description. The more customary term Mandatory Continuing Legal Education (MCLE) was considered less appropriate because it is sometimes associated with an unnecessarily restrictive focus on technical legal knowledge.

The Taskforce acknowledges that although the expression 'Continuing Legal Education' is used in the National Model Laws, Continuing Professional Development is recommended as the preferred term.

Recommendation 2

That the purpose of a CPD scheme is to enable lawyers to develop and expand their professional competence to meet their obligation to provide effective and competent service to their clients.

This definition provides for improved competence in all areas of knowledge and skill relevant to the conduct of a professional service and business. It may apply equally well to lawyers providing a service to external clients in the case of private practitioners, or internal clients in the case of government or corporate lawyers.

This definition, along with the recommended nomenclature, reinforces the intent of these guidelines that lawyers should seek learning that achieves an outcome beyond just keeping up to date in a particular practice area.

Recommendation 3

That these guidelines apply to all lawyers engaged in legal practice in Australia.

These guidelines have been developed with the intention of applying to schemes covering all legal practitioners in Australia. It is the Taskforce's view that lawyers operating in government, corporate and academic legal practices should equally have to engage in continuing professional development and that the draft model should apply to them.

The Taskforce acknowledges that this draft model would not necessarily meet the ongoing CPD needs of barristers though a number of elements may compliment the various Bar's schemes.

Recommendation 4

That a CPD scheme should:

- *Be compulsory rather than voluntary*
- *Be practical in application rather than theoretical*
- *Be logically structured and flexible enough to enable all lawyers to meet the requirements by completing a program that is relevant to their particular area of practice, location and years of experience*
- *Be easily administered and internally consistent*
- *Be transparent in application and equitable in terms of the demand it places on all lawyers*
- *Use a common language and be easy to communicate*
- *Focus on learner needs as well as organisational interests.*

The Taskforce developed this list of characteristics so that state and territory authorities could use them to test particular elements of their schemes or procedures. Such testing should encourage the development of consistent schemes over time.

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Recommendation 5

That CPD events should:

- *Be cost effective to provide, and affordable for consumers*
- *Provide equity of access*
- *Be of an appropriate standard of quality.*

These characteristics should assist law societies, regulators and educational providers (whether commercial or in-house) by providing a simple benchmark against which they can compare their programs.

3. The Guidelines

These guidelines should be used by each state and territory as the foundation for their schemes. The discussion column provides relevant contextual information which may encourage wider debate amongst stakeholders, and may assist future development of the guidelines.

Element	Recommendation	Discussion
Mandatory or voluntary scheme	<ul style="list-style-type: none">• Mandatory	Retain existing model
Reporting period and date	<ul style="list-style-type: none">• Annual reporting period, and by self-report (e.g. PC renewal process).• 1 April – 31 March	<p>The Taskforce's initial view was that a triennium approach should be considered (e.g. 30 units per 3 years) because it would provide greater flexibility for lawyers planning their program and would take into account fluctuating rates of change in law, and evolving professional development needs of individuals.</p> <p>Most stakeholders however thought that a triennium model would result in greater administrative complexity, and that this would outweigh the advantages.</p>
Base units	<ul style="list-style-type: none">• 10 units for all lawyers• Standard number for specialists	<p>The Taskforce noted that 10 units must be regarded as a minimum, not a maximum. There is some evidence that lawyers have chosen to do less CPD following the introduction of a mandatory scheme in Victoria.</p> <p>10 units is significantly below the requirement of many other professions and may need review in the future (CPAs and some medical specialists require 40 hours per year in the form of a 120-hour triennium).</p> <p>There are some variations amongst</p>

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		<p>states, for example, WA currently proposes 12 points in total, and NT is also considering 12 points.</p> <p>Consistency across states/territories is desirable particularly for lawyers working across state boundaries, lawyers who transfer jurisdictions and have to meet different base unit numbers and national firms who require flexibility in staffing.</p> <p>Specialists should also have consistent requirements across the schemes, though they typically exceed the minimum requirement for non-specialists.</p>
Carry over of units across years	Recommend that units acquired during the months 1 January to 31 March be counted in the current or following CPD year (but not both).	<p>The Taskforce has changed its view taking into account the Queensland model. In this approach, those who exceed their minimum quota in a prescribed period may count the excess in the following CPD year.</p> <p>This is consistent with the approach in Hong Kong where it is considered that it provides flexibility for lawyers but does not reduce the minimum annual requirement.</p> <p>Some concern was expressed that this may reinforce the habit of some lawyers who cram all CPD activities into the final months of the year. It may also be difficult for CPD providers to service the demand in the February-March period.</p> <p>This model may also inadvertently encourage the minimalist approach that some take to meeting the CPD scheme requirements.</p>
Specified compliance topics (to be completed annually or otherwise)	<p>Recommend specified topics be drawn from the core areas of:</p> <ul style="list-style-type: none"> • Business/practice Management (including risk mgt) • Practical Legal Ethics • Communication & interpersonal skills 	<p>The Taskforce noted the variation in specified topics across jurisdictions and believes that most compliance topics could fit the three recommended broad categories. The Taskforce also noted that most compliance topics arose because they are areas of concern for regulators and insurers (the aim of regulators through compulsory topics is to increase standards, decrease complaints, and provide increased protection for consumers).</p>

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	<p>It also recommended that:</p> <ul style="list-style-type: none"> • a range of topics be described under each category, expressed as outcomes • a standard number of units be required from each of these core areas to be completed in a defined period. 	<p>One practical difficulty that setting a large range of specified topics may create is that providers may find it difficult to develop programs that fit neatly into the prescribed topics.</p> <p>A number of respondents commented favourably on the notion of three core areas, but argued that they should not be overly prescriptive as this would unnecessarily constrain them when developing programs.</p> <p>Clarity and consistency of specified topics should be pursued to reduce confusion and to focus on knowledge and skill areas requiring improvement by all lawyers. Overly complex requirements will make it difficult for national firms to comply, and may create an unnecessarily rigid system that is difficult to explain and regulate.</p> <p>Hong Kong does not have compulsory topics at all, and nor do CPAs, nor many medical specialists and GPs. Other professions tend to insist on diversity of approach to learning, rather than specific curriculum, recognising the different needs of practitioners according to area of practice, years of experience, practice size for example.</p> <p>Two further options were debated here: establishing a minimum number of units per core area per number of years; and introducing a bonus system of CPD points which are topics of current concern to regulators, however no recommendation was formed.</p> <p>The Taskforce acknowledges that this is an area of complexity and one requiring further work. In particular, discussions on outcome statements for core areas would be helpful for the future.</p>
<p>Approved learning activities</p>	<ul style="list-style-type: none"> • Seminar • Workshop • Lecture • Conference • Educational program • Discussion group • Multi media or web-based program • Video/audio 	<p>The Taskforce reviewed the options provided and recommended that a common list be developed with consistent weighting. This list should aim to be flexible rather than restrictive in recognising learning activities.</p> <p>While this list reflects most common learning activities, it would be possible to expand this in the future to include other educational activities such as</p>

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		mentoring and coaching, and assessment of specific skills where successful completion could be linked to a unit value. Some stakeholders were uneasy about the introduction of assessment as an approved learning activity.
Activity characteristics	<ul style="list-style-type: none"> • Significant intellectual or practical content primarily directed to practice of the law • Delivered by persons qualified by practical or academic experience • Relevant to practitioner's immediate or long-term professional development needs 	As with the approved learning activities, the Taskforce recommended that schemes should aim to be inclusive rather than exclusive. The characteristics recommended here enable practitioners to undergo education and training in technical legal knowledge as well as practice management and skill-based development programs.
Unit value	<ul style="list-style-type: none"> • 1 hour = 1 unit 	
Fractions of units	<ul style="list-style-type: none"> • 0.5 	
Limitations or Caps		
Preparation and presentation	<ul style="list-style-type: none"> • Maximum 5 for preparing • Maximum 5 for presenting 	<p>While some stakeholders recommended abandoning the caps, arguing that it would encourage more lawyers to engage in these activities, the Taskforce believes that a cap on activities should be retained because it encourages breadth.</p> <p>Hong Kong has removed the cap because of the difficulty of attracting enough presenters from its small number of practitioners.</p> <p>There is some variation in the schemes presently. NSW and Qld for example set no cap on presenting and Victoria – while setting a cap of 5 for preparing and/or presenting only do so for a single topic: there is no limit on points available if the topic is different.</p> <p>In the existing schemes, chairs can also claim points on the same basis of attendees who can earn 1 unit for 1 hour of attendance.</p>
Publishing	<ul style="list-style-type: none"> • Maximum 5 units, where 1000 words = 	The Taskforce agreed with those respondents who recommended that

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	<p>1 unit</p> <ul style="list-style-type: none"> • Legal article in legal or non-legal publication • Structural editing or refereeing of a legal article 	<p>publishing be extended to include the structural editing of legal material, and the refereeing of an article intended for publication.</p>
Video/audio	<ul style="list-style-type: none"> • Maximum 5 units, where 1 hour = 1 unit 	<p>The Taskforce was also persuaded by the argument that it is difficult to distinguish between the educational value of viewing a videotape of a presentation, from attending the presentation. It decided to recommend that equal value be accorded to viewing videotapes or listening to audio recordings.</p> <p>The Taskforce believes that this will also go some way to redressing the difficulty facing lawyers in remote locations, and those working part time from obtaining their points.</p> <p>The Taskforce reflected that as educators we hope the CPD schemes encourage engagement with the various learning activities: passive attendance is as unproductive as passive listening to an audiotape, or passive viewing of a videotape.</p>
Private study (reading)	<ul style="list-style-type: none"> • Not accepted except where private study is defined as including listening to/viewing an audio/videotape. 	<p>There is no educational reason why reading of educational material should not be included in a CPD scheme: it is in many other professions. It would be a simple matter to include reading in the scheme, and increase the basic number of units required, which would recognise learning by reading as a valid activity. Queensland allows some reading for accredited specialists.</p> <p>The reason given for the exclusion of reading is that it is difficult to audit. This difficulty does not appear to be a problem for those professions that accept private study, but they do insist on more detailed records being kept.</p> <p>Some of those consulted recommended that reading be included as a valid activity, but not if it meant increasing the number of CPD units required. The Taskforce elected to leave this recommendation as it is.</p>

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Online or multi-media course	<ul style="list-style-type: none"> 1 hour = 1 unit 	
Specified committee work	<ul style="list-style-type: none"> Maximum 3 units, where 2 hours = 1 unit 	This really is a bonus option as it rewards solicitors actively engaged in their profession. Some variation exists by committee type, but they tend to focus on the educational value of the meeting. Some jurisdictions don't currently approve committee work as a valid educational activity (e.g. NT).
Special activities	<ul style="list-style-type: none"> If outside the list, apply to scheme regulator 	The value of including an application process is that it may lead to a growth in valid educational activities not currently recognised.
Accreditation of providers & courses	<ul style="list-style-type: none"> Not recommended 	<p>There is much variation across jurisdictions, with three current models in place:</p> <ol style="list-style-type: none"> 1. Practitioner decides (Vic, NSW) 2. Practitioner decides, but authority provides guidance as a quality assurer (though not a mandatory requirement of providers) (Qld) 3. Authority decides (WA considering this option or registration as an alternative) <p>Argument in favour of accreditation is that:</p> <ul style="list-style-type: none"> • Accreditation provides some quality assurance for benefit of consumers. <p>Argument against accreditation includes that:</p> <ul style="list-style-type: none"> • It indicates approval by the authority and can expose authority to potential liability if service is of poor quality or fails entirely • It is difficult and costly to maintain especially for authorities with scarce resources • Multiple applications for national firms & commercial providers will be required in each jurisdiction • It can limit innovation in delivery if too prescriptive • It requires considerable skill by the authority to work well, and can be seen to be a bureaucratic hurdle not matched to the scheme's educational outcomes • It can create expense for providers and authorities if challenges occur • It can cause difficulty if systems are slow or unwieldy, or are not

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		<p>transparent.</p> <p>NSW abandoned accreditation because it was too costly, and it provided no real benefit or protection to consumers.</p> <p>The Taskforce retains its recommendation not to include an accreditation or quality assurance scheme.</p>
Exemptions	<p>Whole or part if:</p> <ul style="list-style-type: none"> • 40 years & if not a principal • Hardship • Special circumstances 	Basic rule is consistent across schemes, with application to relevant committee the standard process.
Reporting compliance	<ul style="list-style-type: none"> • Self report 	Usually linked to practising certificate renewal process, but also requires lawyers to keep their own records including evidence of the activity undertaken.
Audit for compliance	<ul style="list-style-type: none"> • Random audit, practitioner to provide details 	The Taskforce viewed it as unnecessary for providers to maintain records for the auditing authority, though practitioners should do. There is clearly an opportunity for law societies to provide this as a service (Victoria provides an online record for members for example).
Failure to comply	<ul style="list-style-type: none"> • Opportunity to remedy should be provided • Non-renewal of PC, suspension of PC or proceedings for unsatisfactory conduct or misconduct. 	Jurisdictions may have different rules to enable individuals who have not yet met the annual requirement to comply. These may focus on administrative flexibility according to local renewal processes (e.g. extensions of time).
Appeals process	<ul style="list-style-type: none"> • Appeal against decisions of relevant authority committee. 	Implemented by relevant state committee/authority.

Appendix 1: How the guidelines came about

At a meeting on Friday 4 November 2005 held at the Queensland Law Society, the National CPD Taskforce¹ formed to discuss existing and proposed Continuing Professional Development (CPD) and Mandatory Continuing Legal Education (MCLE) schemes.

The main purpose of the meeting was to consider whether national guidelines should be developed to identify areas where harmonisation of the various schemes might be achieved, taking into account the National Legal Profession Model Laws.

The stated aim of the model reforms is to “transcend the traditional limitations of geographical borders in the regulation of the profession” *Law Council of Australia Annual Report 2004-05, p11*. The objectives of the reforms include, amongst other things: “reducing the costs of compliance of interstate practice, decreasing the complexities of compliance of interstate practice, reducing the complexities and costs of regulation of the profession in relation to interstate practice, ... establishing enhanced consumer protection by achieving nationally consistent consumer protection standards” (ibid). The reforms are supported by all 15 constituent bodies of the Law Council of Australia and The Standing Committee of Attorneys-General (SCAG).

Introduction of a mandatory CPD scheme is part of the model reforms. The National CPD Taskforce was formed because there are now 8 mandatory CPD schemes in place or on the drawing board – being 5 for solicitors and 3 for barristers – and no two schemes are the same.

The Taskforce agreed that it was necessary to minimise the differences between schemes where ever possible, not only for consistency with the spirit of national reform but also because of the real hardships, costs and inconveniences that might flow from differences between schemes.

For example, differences between schemes might be expected to impact on the large number of solicitors in private practice who are members of fully integrated national practices; border town lawyers especially along the borders of Queensland and New South Wales and New South Wales and Victoria; increasingly mobile practitioners who change states; any practitioner who wants to attend continuing legal education in another state such as family lawyers or others in practice areas with national reach; or practitioners undertaking post graduate study by distance education at an interstate institution.

The Taskforce was also mindful of the potential impact of different schemes on providers of continuing education – be they professional associations, commercial or in-house providers – terms of the difficulties and costs associated with offering the same program that is treated differently under different schemes.

¹ The National CPD Taskforce has representatives from most states and territories who are active in the development and management of CPD schemes. The contributors listed in this document form the Taskforce.

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At the same time as being committed to minimising differences between schemes, the Taskforce recognised that creating a harmonious model needs also to take account of several independent, and in some ways, conflicting influences on the development of CPD schemes which include:

- Establishing a national scheme within a state-based legal system
- Needing to accommodate particular local demographics or conditions
- Recognising that there are states and territories with very young schemes, or who are just about to release a CPD scheme
- Recognising that there is one state with a long history of CPD.

The challenge is thus to develop national guidelines which also provide states and territories with the flexibility they need when introducing a CPD scheme. As these state-based schemes mature, it is to be hoped that these early differences may be able to be resolved and a more sophisticated national scheme evolve.

The Taskforce also recognised that a desirable feature of national guidelines is to facilitate participation by all lawyers, rather than create unnecessary hurdles. The very existence of a national statement may encourage the separate schemes to avoid introducing differences that create barriers to entry.

Finally, the Taskforce recognised that CPD schemes are not the only element of continuing professional development that would benefit from a more consistent national approach. In time other elements that might also be addressed include the continuing education requirements for accredited specialists and the compulsory practice management education requirements for new principals in some states for example.

In considering the development of national guidelines, the Taskforce was assisted in its work by the comparative table of schemes prepared by Ronwyn North, Director Streeton Consulting. This document entitled: “MCLE & CPD Schemes Comparison of Australian and Overseas Approaches” updated April 2006, is attached as Appendix 3. The Taskforce is very grateful to Ms North for the opportunity to use her work in the preparation of these guidelines.

Continuing learning

Engagement in continuing learning is a defining characteristic of a profession. A profession that demonstrates a commitment to continuing education sends a message to its consumers that it is concerned with maintaining its skills and knowledge, and with reviewing its behaviour and attitudes. As a result consumers can reasonably expect to receive professional service based on current knowledge.

The theme of continuing learning by legal professionals parallels a wider educational movement which propounds that all adults should have the opportunity to engage in lifelong learning and that this, it might be said, is a defining characteristic of an adult.

The support and encouragement of lifelong learning is an inherent element of the continuing education schemes of law societies and bar associations, be they voluntary

or mandatory. Even without the mandatory element, there is an increasing acceptance by lawyers that lifelong learning is a fundamental element of their professional success.

There has been a significant debate as to whether it is appropriate to mandate continuing learning, at least in a structured way, for legal professionals. This discussion paper does not rehearse that debate but rather proceeds from the basis that, given engagement in structured continuing learning is to be mandated, how best that might be done.

Mandating participation

There is, of course, a distinction between mandatory participation and mandatory learning in the context of continuing education schemes for lawyers. The existing CPD schemes for lawyers are about mandatory *participation*. They do not, and cannot, mandate *learning*. The valid and reliable measurement of learning is a task fraught with difficulties and one which the existing CPD schemes, all of which are relatively young, are not ready or able to do given these difficulties.

Mandated topics

Evidence from regulators and insurers suggests that lawyers require not just technical legal knowledge but also other abilities and attitudes, such as competence in conducting a business, in communicating with clients and in managing staff. Some CPD schemes therefore have specified some compulsory topics for all, or defined groups of lawyers. These guidelines attempt to provide advice on the inclusion of compulsory topics and alternative ways of ensuring they are undertaken.

Appendix 2: List of contributors

- Barbara Bradshaw, CEO, Law Society of Northern Territory
- John Briton, Queensland Legal Services Commissioner
- Peter Carne, CEO, Queensland Law Society
- Charles Cawley, Secretary/Director Statutory Responsibilities, Law Society of New South Wales
- Martyn Hagan, CEO, Law Society of Tasmania
- Lester Huang, Vice President, Law Society of Hong Kong
- Peter Lyons, Director, Membership and Corporate Services, Queensland Law Society
- Steve Mark, Legal Services Commissioner, New South Wales
- Janet Neville, Secretary-General Lawasia
- Ronwyn North, Director, Streeton Consulting, New South Wales
- Mary-Anne Paton, Secretary and General Manager, The Legal Practice Board of WA
- Murray Paterson, General Manager, Professional Development, Law Institute of Victoria
- Gill Richardson, CPD Coordinator, Membership Services, QLS

Those consulted following release of the April 2006 draft:

- Human Resources/Learning and Development Managers (national large and mid-tier firms)
- CPD Scheme Committee, Law Institute of Victoria
- Leo Cussen Institute
- Specialisation Board, Law Institute of Victoria
- Legal Services Commissioner (Vic)
- Professor Susan Campbell (conducting review of post-compulsory legal education in Vic)
- Attorney-General and Minister for Justice, Hon Linda Lavarch MP (Qld)
- Professor Bill Duncan, Assistant Dean, Research & Commercialisation, Faculty of Law, QUT
- Jacquelyn Simon, Legalwise Seminars (NSW)
- Australian Lawyers Alliance
- Law Society of NSW Council

Appendix 2: MCLE & CPD Schemes - Comparison of Australian and Overseas Approaches, 26 April 2006, Ronwyn North

MCLE & CPD Schemes

Comparison of Australian & Overseas Approaches

Originally prepared for CLEAA discussion June 2005, last updated 26 April 2006 but still a work in progress!

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SOLICITORS

ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
1.Administered by	Law Society Membership C'ittee	Law Institute RPA CPD Committee	Law Society CPD Committee	Legal Practice Board by its Legal Ed C'ittee	Law Society CPD C'ttee	(Law Society)	(Law Society)	(Law Society)
2. Name	Mandatory CLE	Continuing PD	Continuing PD	MCLE	Continuing PD			
3.Start date Status	Originally 1987 Rules updated 1/7/94 'Special requirement' introduced 1999, amended 2002 (current period 2 April 04- 31 March 07)	1 April 2004 Amendments 1 May 05 that preserved time periods	1 July 05 Could count points, seek accreditation from 1 Jan 05	Later 06? (Delay due to regulatory hiccup)	Likely Oct 06 with new Legal Profession Act	Will be considered. (Regulatory options being considered)	Will be considered as part of national scheme (Draft bill expected soon)	Is being considered as part of national scheme
4. CLE/CPD reporting/date	Annual by declaration 1 April-31 March	Annual by dec 1 April-31 March	Annual by dec 1 April-31 March	Annual by dec 1 April-31 March	Annual by dec 1 April-31 March			
5. Base units Per year (+ extra for specialists to maintain their accreditation)	10 Units (+ 10 for specialists)	10 Units (+ 2 specialists)	10 Units (+15 specialists ie 10 in speciality and 5 general which include the special topics over 3 yrs)	12 Points (? Specialists)	12 Points (No extra points for Specialists)			
5a Carry over (Schemes favour annual not rolling period, & no carry over of points)	No	No	No	No	No			

ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
6. Specified Topics eg Annually or Periodically (but scope and terminology not the same)	No but separate periodic requirement in 1 area (EEO +)	Periodic in 3 areas <ul style="list-style-type: none"> EEO Ethics Trust accounts 	Periodic in 3 areas <ul style="list-style-type: none"> Ethics Risk M Trust accounts Guidelines approved by QLS Council regarding content, instructors and instruction in these topic areas	Annual in all 3 competencies: <ul style="list-style-type: none"> Legal Skills & Practice Practice area: Subst Law Values-ethics & prof respon Comp areas 1 & 3 have min 5 points for under 5 yrs in practice & 3 points for over 5yrs in practice	Annual in 2 competencies <ul style="list-style-type: none"> Prof Practice, Skills, Ethics etc Practice areas/ Substantive Law Comp 1 minimum 4 points per year			
7. EEO (Separate requirement)	(Yes, Rule 145 requires 1 unit per 3 yrs on EEO plus sexual harassment, OHS relevant to practice of law)	Yes 2 units per 5 yrs EEO not defined	No	Counts for Comp 1 EEO not defined	Counts for Comp 1 EEO not defined			
8. Ethics	No Under consideration Law Soc offers in-house & other voluntary sessions	Yes 2 units per 3 yrs	Yes 2 units per 3 yrs	Yes Comp Area 3 Min. of 5 points per year for under 5 yrs in practice Min. of 3 points per year for over 5 yrs in practice	Counts for Comp 1			
9. Practice Management (Separate requirement)	No (Yes for new principals as part of compulsory PM requirement)	No	No (Yes for new principals as part of compulsory PM requirement)	Counts for Comp Area 1	Counts for Comp 1			

Originally Prepared for CLEAA Discussion June 2005 by Ronwyn North, Streeton Consulting Pty Ltd

* Please make your own inquiries before relying on this information!

ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
10. Risk Management (Separate requirement)	No but ... (But yes as part of PM requirement for new principals)	No (Might some 'risk' topics count for 'ethics'?)	Yes 2 units per 3 yrs (Also part of PM requirement for new principals)	Counts for Competency 1 (Separate Law Mutual requirement for 2 hours per year since 1995)	Counts for Comp 1			
11. Substantive Law	No	No but ... (For specialists 8/12 units must be in area of specialisation)	No	Yes, Comp 2 (No minimum for Comp 2. If do min for Comps 1 & 3 then Comp 2 would be 2 points per year for under 5 yrs and 6 points per year for over 5 yrs. If exceed Comps 1 & 3 then could do only one point for Comp 2)	Yes Comp area 2			
12. Trust Accounts (Separate requirement)	No but ... (Yes as part of Practice Management for new principals)	Yes 2 units per 3 yrs for principals 2 units per 5 yrs for non-principals (Trust account seminar for new principals)	Yes 2 units per 3 yrs (Also part of PM requirement for new principals)	Counts towards Comp 1	Counts towards Comp Area 1			

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ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
13. Types of approved learning activities (No common list)	r.42.1.1 “may consist of an education program, seminar, workshop, lecture, conference, discussion group, multi-media or website based program ... article or combination	s.6.1a Same as NSW but leaves out ‘education program’	r.49 Same as NSW Definition of ‘course’ includes face to face, distance, structured coaching & mentoring (QLD only has this definition)	c8a Only those activities that are accredited by Legal Ed Com’tee will attract CLE points r.8b examples of activities	r.6 similar to NSW & Vic			
14. Activity Accreditation Criteria Content, delivery, outcome	r.42 (1.2, 1.3, 1.4) <ul style="list-style-type: none"> Significant intellectual or practical content primarily directed to practice of law Delivered by persons qualified by practical or academic exp. Relevant to practitioner’s immediate or long term needs in relation to the practitioner’s professional development and to the practice of law Max 5 units for specified activities (eg prepare, write, audio/video) 	S6.1 <ul style="list-style-type: none"> Similar to NSW as to rigour of content & quals of presenters. Must extend practitioner’s knowledge & skills in areas relevant to current practice needs Max 3 or 5 units for specified activities Info booklet contemplates business & non-legal content relevant to employment 	r.49 <ul style="list-style-type: none"> Similar NSW/VIC as to rigour of content & quals of presenters. Max 5 units for specified activities r.44 definition of CPD Unit includes that CPD Committee may determine points for non-legal topics such as speed reading or public speaking 	c.8c Same as QLD as to rigour of content, quals of presenters and relevance to needs (No equiv to r44) <ul style="list-style-type: none"> Min 9 points “workshop” (‘live event’) Max 3 points “individual activity” (eg non group, electronic incl video & on-line with no live comment, writing) Max 8 points for a single activity 	r.6 Similar to NSW/VIC as to rigour of content, quals of presenters and relevance to needs Also <ul style="list-style-type: none"> Max 6 points for single activity (but 5 point max for prep/present and audio/video) 			

Originally Prepared for CLEAA Discussion June 2005 by Ronwyn North, Streeton Consulting Pty Ltd

* Please make your own inquiries before relying on this information!

ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
15. Attendance	1 hour = 1 unit (excluding breaks)	1 hour = 1 unit	1 hour = 1 unit	1 hour = 1 point	1 hour = 1 point			
16. Fractions of Units	0.25? (Anecdotally) Audio/Video 1 hour = 0.5 unit	0.5 unit (Expressed as 2 hours = 1 unit for some activities)	0.5 point? (Examples of 0.5 unit & 2 hours= 1 unit)	0.5 points (Examples use half points)	0.5 points Audio/Video 1 hour = 0.5 point			
17. Preparation, Presentation, Teaching	Max 5 for preparation 1 point per hour presentation (no max)	Max 5 prepare and/or present	Max 5 for prep 1 point per hour presentation (no max)	Max 8 points? c.11c Per hour <ul style="list-style-type: none"> • 3 points for substantive presentation • 2 points for commentary • 1 point chair of approved CLE 	<ul style="list-style-type: none"> • 4 points per hour for “substantive presentation” • 2 points per hour for chair/comment • Max 5 or 6 points to be clarified • No repeats 			
18. Publishing	Max 5 units 1000 wds = 1 unit in legal publication or such other publication approved by Council	Max 5 units 1000 wds = 1 unit (Can be legal or non-legal journal in some circs)	Max 5 units Same as Vic	Max 3 points 1000 words=1 point Published legal article	Max 6 points ? 1000 wds = 1 pt (was 2 points) Published legal article or work			
19. Video/Audio without live commentary (and other private study)	Audio/video 0.5 unit per hour Max 5 units (No other private study)	Audio/video 1 hour = 0.5 unit Max 5 units Video/audio must be designed to update legal knowledge (No other private study)	Audio/video 1 hour = 0.5 unit Max 5 units Max 2 units private study of “conference transcripts” (Decision of CPD C'ttee)	Audio/video 1 hour = 0.5 point Max 3 points (No other private study but see also definition of individual activity)	1 hour = 0.5 point Max 5 points (Was 3 points) (No other private study)			

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19a. On-line or multi-media	1 unit per hour	1 unit per hour	1 unit per hour	0.5 points per hour (Regarded as electronic like audio/video)	1 point per hour			
20. Committee work	2 hours =1 unit Max 3 units	2 hours = 1 unit Max 3 units or Max 5 units for specialist c'ttee	2 hours = 1 unit Max 5 units	(Not mentioned but see Special Activities)	Does not count under current draft rules			
21.Special activities or loadings	(Seemingly no rule but practice is to ask Membership Committee)	?	CDP Committee has discretionary power to make a decision on point allocation for activities (eg if rules or guidelines don't specifically mention them)	C11f "Any individual, firm or organisation may apply to the Legal Education Committee for the allocation of points for a CLE Activity" C12c1 Practitioners more than 50 kms from Supreme Court may be granted variation	(Earlier draft had provision for Special activities similar to WA but current draft does not)			
22. Provider Accreditation &/or Activities (No mention of recognition of interstate accreditation)	No Suggested statement for providers for advertising about claiming units if relevant to needs (Originally scheme did accredit activities rather than providers?)	No and rule 11 Prohibits accred or endorsement. Suggested statement similar to NSW	Voluntary accred of providers as service for those wanting assurance that activities will count External provider means for fee In-house provider to to staff for no fee (others at no fee??)	Yes, only accredited activities count. a) Accredited Provider' may be accred for up to 2yrs but still has to provide limited info activity by activity b) Practitioners & Non-Accredited Providers submit more detail ed info for each activity	No (Originally proposed accreditation similar to WA)			

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23. Provider Accreditation Period & Fees	N/A	N/A	Yes, annual External Sliding scale per number activities eg \$500 for 1 or \$10,000 for 30+ (inclusive of some advertising benefits) Internal - \$500 pa	Yes, accred for up to 2yrs if meet standards Fees will be payable when making application 30% surcharge for application for retrospective accreditation more than 2 months after activity	N/A			
24. Provider Accreditation Criteria	N/A	N/A	r.47 eg <ul style="list-style-type: none"> • Documentary evidence • Approved CPD activity (r 49) • Meets presentation standards set by CPD C'ttee (see below) • (eg relevant, up to date, well presented, varied, admin support, evaluation) 	Cl 6,7,8,9,10 eg Accredited provider <ul style="list-style-type: none"> • suitable exp in providing CLE • suitable training infrastructure • favourable assessment by participants • submit point value of activity • classification of activity into one competency area • other info as required by C'ttee 	N/A			

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(24. cont.) Provider Accreditation Criteria			<ul style="list-style-type: none"> • Tells attendees units and provider number • Keeps records • Submits to routine monitoring 	Non Approved provider <ul style="list-style-type: none"> • Submit point value of activity • classification of activity into one comp area • detailed outline of what covered, by whom • program showing speaker sequence, methods of teaching, & time each person will spend on area • speaker resume-qualifications, legal background and teaching experience • indication of what if any activities in regional areas • an outline of the activity materials • other info as required by Legal Education C'ttee 				

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25. Other Provider Obligations		Statement for inclusion in advertising about claiming if relevant to needs	Maybe asked to provide course materials if Law Society is investigating a complaint	C.13.d To facilitate audits, accredited providers required to <ul style="list-style-type: none"> • keep records of attendance, with sign in and sign out sheets, for a min of 3 yrs. • Within 2 weeks of request by Legal Ed C'ttee must make records available for inspection and file an electronic collated record of attendance in prescribed form (eg individual points by role and competency areas) 				
26 Exemptions	Whole or part if <ul style="list-style-type: none"> • 40 yrs & not a principal • Hardship • Absence • Special circs • Pro rata for new or recommencing 	Similar to NSW	Similar to NSW	Whole or partial Similar to NSW plus <ul style="list-style-type: none"> • Credit for other mandatory or similar schemes • Pro rata for new to practice is prescribed • Variations for regional practitioners 	Similar to NSW			

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ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
27 Monitoring of Compliance	Random Audit Practitioner provides information	Verification can be required Practitioner provides info	Certification / Audit Practitioner provides information (plus can ask provider)	Audit of percentage of practitioners Practitioner records cross checked against provider records	Can be asked to verify within 14 days			
28 Failure to Comply	Opportunity to remedy (eg 14 days to file plan and 90 days to comply)	Similar to NSW	Similar to NSW	No specified process to rectify Delay or refusal of renewal or pract cert plus disciplinary action	Opp to remedy			
29 Appeals	No appeal process specified	Appeal process for exemptions	Appeal process for exemptions (silent as to accreditation)	No appeal processes specified regarding refusal to grant exemptions or refusal of accreditation	Appeals process for exemptions			

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BARRISTERS

ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
1. Name	CPD	Compulsory CLE	CPD	Fused profession so same as solicitors?	?	?	?	?
2. Base Units per year	10 points	10 points	10 points					
3. Points Period	1 July – 30 June Points earned in excess of 10 from 2 nd Mon in April to 30 June can be carried forward	1 April – 31 March	1 April – 31 March					
4. Specified Topics	Four Strands annually with min of 1 point in each strand <ul style="list-style-type: none"> • Ethics & regulation of profession • Management • Substantive law, practice & procedure & evidence • Advocacy, mediation and other Barristers' Skills 	Ethics 1 point every alternate year Advocacy 1 point every alternate year (eg new barristers since 2003 then Ethics by 31/3/05, Advocacy by 31/3/06 etc)	Bar has power to specify will do so from 06-07 Require 1 point per year in either ethics, advocacy, practice management ?? (ie not sure if barristers can choose or if Bar has settled on a priority)					
5. EEO	Special requirement as for solicitors	?	?					

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ELEMENT	NSW	VIC	QLD	WA	NT	SA	TAS	ACT
6. Types of approved CLE activity	<p>Same criteria as NSW</p> <p>1 point face to face min in each strand</p> <p>Min of 4 points in face to face activity</p> <p>Rules about</p> <ul style="list-style-type: none"> teaching “individual professional development activities” (IPDA) 	<p>Same criteria as NSW</p> <p>1 point per hour</p> <p>3 points per hour for teaching in accredited CLE</p> <p>Max 5 points for a single activity or teaching in Bar Readers Program</p> <p>Publications as determined by C'tee</p>	<p>Similar to NSW</p> <p>1 point per hour</p> <p>Teaching attracts more</p> <p>Can apply to C'tee to have multiples assigned</p>					
7. Accreditation of Providers *	<p>Not required</p> <ul style="list-style-type: none"> Bar Ass Chambers CPD study group protocol <p>Yes</p> <ul style="list-style-type: none"> Commercial, institutional providers 	<ul style="list-style-type: none"> Bar Ass accredited C'tee can accredit activities 	<ul style="list-style-type: none"> Bar Ass accredited C'tee may accred a provider in which case all events accredited for the year Can apply to have activities accredited and event by event accred likely required for some courses or providers 					

* Bars have accredited each other as providers to facilitate interstate participation

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OVERSEAS JURISDICTIONS

ELEMENT	New Zealand	Canada	England/Wales	Scotland	Ireland	USA	Netherlands	Hong Kong
1. Type of MCLE/CPD Scheme	None	Voluntary Minimum requirement eg Ontario 2002 & BC 2004	Mandatory	Mandatory	Mandatory	Mandatory 40 States 1 Voluntary Min with discount on bar dues(Alaska)	Mandatory	Mandatory
2. Name		Minimum Expectations for Professional Development (Ont)	CPD			MCLE		CPD
3. Reporting period & Method		Annual Self Report on number of hours	Annual Declaration on renewal Nov-Oct	Annual Declaration on renewal	Annual Self Report (return of CPD record card)	1-3 years (more than 50% annual) • Some centralised records sent to lawyer for confirmation, some self reports • On line reports and declarations	Annual self certify	Annual Nov-Oct
4. Units per year		12 hours coursework (ie 2 full days) plus 50 hours self study	16 25% of units must be from accredited courses/providers	20 (15 in group and 5 in private study)	20 (15 in group and 5 in private study)	10-15 (10 – 15% 12- 45% 15 40%)	16	15
5. Carry over units		No?	No (Maybe be some exception for courses between articles and start of training contract)	Attendances in last or first month can be carried back or forward	No	Yes (32 states)	Yes	Yes 5 points to next year (or 15 if do Risk M course soon)

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ELEMENT	New Zealand	Canada	England/Wales	Scotland	Ireland	USA	Netherlands	Hong Kong
6. Special Topics or requirements & whether single or multiple streams		No	New Sols within first 3 years (eg Practice Management Course)	5 hours per year on management, 3 of which must be group study (or distance with permitted provider)	5 hours out of 25 on management and profess development	<ul style="list-style-type: none"> No 10% Ethics only 50% Ethics plus other topics 25% (half single stream and half more than one topic stream) Ethics or other topics for new only 15% Malpractice, substance abuse, elimination of bias, law office management. 	50% must be legal	<p>Not until recently.</p> <p>New RM requirement (eg special courses for principals currently)</p>
7 Specialisation	??	Ontario (2004) 18 hours per year of which 6 are accredited CLE and 12 "other professional development activities" BC Looking at it	Voluntary specialist panels	??	??	23 states		
8. PLT	Yes	Yes	Special requirements for Trainees	?	?	No? Hence the emphasis on new starters		

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9. Units	N/A		60 mins = 1 unit 30 minute minimum and can count actual time between 30-60mins Video/audio by authorised provides counts actual time			60 mins= 1 credit 50 mins =1 credit		1 point per hour 0.5 min Bonus points for some small groups workshops Lose points for late start/early finish
10. Activities that count or don't			<ul style="list-style-type: none"> • Participation in accredited and non-accredited course (preparing, delivering and attending) • Structured coaching & mentoring • Writing on law or practice, or dissertation • Structured work shadowing • Video/audio • Distance learning • Law or PLT teaching • Committee work • Higher quals 			<ul style="list-style-type: none"> • No Inhouse in 3 states, others set conditions eg cap or external attendees • 10 allow self study • Some no paid teaching and no writing • Half don't count introductory remarks, business meetings, dinner speeches etc • Huge variation in detail 		<ul style="list-style-type: none"> • Intellectual content, relevant to long terms needs etc • Wide range of activities • Live comment for video • Writing - approved journals • Teaching-approved courses • Legal research • Can apply for other

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ELEMENT	New Zealand	Canada	England/Wales	Scotland	Ireland	USA	Netherlands	Hong Kong
11. Accreditation of Provider or Activity		Yes? Register of providers?	Provider authorisation Register of providers and activities In house accredited for 3 years Various waivers from 25% of course from accredited provided or monitoring of course quality (eg if LEXCEL accredited)	No	No	3 Models of accred a) Program and Provider (22) b) Blanket accred (16) c) No accred (2)	Yes	Yes Course by course (but may introduce blanket accred) Quite rigorous (eg written materials, evaluations)

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12. Accreditation fees		?	External pays Authorisation fee and per course fee Inhouse pay authorisation fee but can run as many courses as they like	N/a	N/a	Various eg per application, per course, per year, per hour, per head	Yes	
13. Accredited Provider Obligations			Attendance list Materials and Evaluations if required			Significant record keeping Materials and Evaluations if required	Give out certificates to participants	Scan cards Report attendance (even in-house)

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14.Compliance		N/a	Random monitoring	Random monitoring	?	Detailed reports by practitioners cross checked against records of providers is the norm but variations eg NY accredits providers but practitioners self report + audit.	Random Audit Provider's records can be called upon	Must keep records in prescribed form Cross checked against provider records???
15. Delinquency						Mostly process to rectify but late fees from \$25 to \$500. Auto suspension		
16.Other								

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