



INSTITUTE OF LEGAL EXECUTIVES

The Institute of Legal Executives (Victoria)
ACN 004 670 928

Who are we?

The Institute of Legal Executives (Victoria) was incorporated in 1966 by a number of Managing Clerks, some of whom were members of The Institute of Legal Executives (United Kingdom). The Institute of Legal Executives (Australia) Limited was incorporated in 1994. There are similar Institutes of Legal Executives in Western Australia¹, the United Kingdom, New Zealand, and Ireland. Similar organisations operate in South Australia² and Canada. We stay in regular contact with our counterparts to discuss matters of mutual concern and the advancement of our respective members. Links to these Institutes and organisations can be found on our website.

This Institute currently has some members in all States of Australia. At one stage there were operational Institutes in some States outside Victoria, very similar to our own, and we acknowledge their initial efforts in 'spreading the word'.

Our Institute is a non-profit organisation and was incorporated with various aims in mind. The Memorandum of Articles states in part that the objects for which the Institute was founded are –

- To provide and maintain an organisation for that branch of the legal profession ... and to advance and protect the status and interest of that branch of the legal profession;
- To promote professional unity amongst persons engaged in the said branch and to promote co-operation and mutual assistance between them;
- Generally to promote the education, whether general or legal, and professional advancement of persons with a view to assisting them to become proficient in the Law and to qualify as Legal Executives, and in particular, either alone or jointly with the Law Institute or any other body, to arrange, establish and conduct educational schemes, conferences, lectures and examinations; and
- To give and award diplomas, certificates, prizes, scholarships, bursaries and other rewards to persons showing proficiency in the Law ...

Our philosophy is that *everyone* employed in the legal profession *is important*: every task done well, whether it be mundane or carried out at a high level of responsibility, contributes to a better profession.

¹ details may be obtained from our representative in that State who is the liaison between the two Institutes

² we would be happy to provide contact details upon request

Education

The Institute has always been concerned with academic, as well as practical, training available to members.

To this end, the Institute has for many years been involved in the provision of the Advanced Diploma of Business (Legal Practice)³ in Victoria, one of our 'recognised' courses.

Additionally, the Institute has been/is represented⁴ on the RMIT Law Consultative Committee (current); as an Industry Representative providing assistance in relation to course delivery and assessment of the Advanced Diploma of Business (Legal Practice) at Holmesglen Institute of TAFE (current), the Course Advisory Committee in relation to the Advanced Diploma of Business (Legal Practice) and its predecessors, and the RMIT Advanced Diploma in Conveyancing Practice; on the Advisory and Accreditation Committees in respect to the Bachelor of Business (Legal Administration) at RMIT Business; the Expert Panel in respect to the proposed Diploma of Business (Legal Secretary) at RMIT; the Legal Services Training Package National Reference Group (1997-1999); the RMIT Business Course Development Advisory Group in relation to the proposed International Diploma of Business; the Steering Committee in relation to re-development of the Associate Diploma of Business (Legal Practice), and subsequent accreditation of the (State) Advanced Diploma of Business (Legal Practice) (1999); the Electronic Conveyancing Victoria Project (current); the Legal Practice Network Committee regarding the Advanced Diploma of Business (Legal Practice) (current); the Legal Practice Reference Group in relation to off-campus delivery of the Advanced Diploma of Business (Legal Practice); the Steering Committee in relation to re-accreditation of the (State) Advanced Diploma of Business (Legal Practice) (2004), and subsequent re-accreditation of that course; the Program Advisory Committee for the Bachelor of Social Science (Legal and Justice Studies) degree at RMIT University (current); in addition to other Consultative Committees relating to law based courses within and outside Victoria.

The Community

The Institute also has a firm commitment to the community at large. Throughout each year, at the Institute's cost, we provide representatives and materials to a number of Careers Expos. Such events are conducted by organisations including Rotary, the Law Institute of Victoria Ltd and the Victoria Law Foundation, as well as Secondary Colleges.

We have also been requested to provide representatives to speak at Secondary Colleges on Legal Careers and Legal Education, and at a number of Universities and TAFE Institutes which offer the Advanced Diploma of Business (Legal Practice) course.

The general public can telephone the Institute with enquiries relating to these matters and materials are provided to the public and to Careers Co-ordinators upon request. At present, the provision of *representatives* is generally only within Victoria, and is dependent upon the location of the Educational Institute. The Institute also makes regular Submissions to Government (State and Federal), many of which relate to general community issues.

³ and its predecessors, Certificate of Business Studies (Law), and Associate Diploma of Business (Legal Practice): the Institute does not deliver the course itself – the course is available at a number of TAFE Institutes and Universities (TAFE Division) in Victoria

⁴ by Council members and/or the CEO, and a former member of Council
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Membership

There are many levels of membership of the Institute. All membership applications are ratified by the Council, and each application is treated on its merits. Written (professional) references are always required, except in the category of Provisional membership where the applicant, if unemployed and fully engaged in a course of recognised legal study, generally need only provide proof of enrolment in the recognised course (or other approved course⁵) as well as a character reference.

The Council reserves the right to refuse membership to any Applicant, determine the category of membership of an Applicant, admit a person who has not enrolled in the recognised course to any category of membership (in certain circumstances) and to vary eligibility requirements for membership or upgrading from time to time⁶.

Membership levels

Generally, the current membership levels are –

- **Provisional (Student)** – person working under a Solicitor⁷, or currently undertaking legal subjects of the recognised course (or other approved course);
- **Associate** – minimum 3 years qualifying experience, passes in 5 subjects of the recognised course (or other approved course), 3 of which must be legal subjects;
- **Affiliate** – person who, in the Council’s opinion, has suitable training in legal related work;
- **Accountancy** – minimum 8 years appropriate experience in a legal office or accounting department, completion of the recognised course (or other approved course) with appropriate subjects;
- **Fellow** – minimum 8 years qualifying experience, a majority of which period must be as a Senior Law Clerk⁸/at Senior Law Clerk level⁹, completion of the recognised course (or other approved course), and satisfactory completion of the Institute’s Examination in Legal Ethics (or equivalent approved by the Council).

⁵ in addition to the Advanced Diploma of Business (Legal Practice), the Council has approved a number of other courses for membership purposes, within and outside Victoria

⁶ If an applicant for membership possesses the academic and experiential requirements of a category of membership other than Provisional or Affiliate, the applicant may be admitted directly into the appropriate level of membership, at the Council’s discretion, without first having to be admitted into another category of membership.

In order to be nominated as a member of the Council of the Institute, as well as the prerequisite of first being admitted to Fellowship, and notwithstanding any other qualifications possessed by the nominee, the nominee must have firstly served a minimum of three (generally) continuous years in any one or more of the various categories of membership of the Institute of which at least one year must be as a Fellow of the Institute (thus ensuring that any person elected to the Council will have the Institute’s philosophy, aims and goals, in mind when acting as a Council member). The membership period referred to above shall be deemed satisfied if the applicant for nomination to the Council has served these periods as a member/Fellow of The Institute of Legal Executives United Kingdom, New Zealand, Ireland, and/or Western Australia; and periods of membership of the National Federation of Paralegals (United States), the Institute of Law Clerks of Ontario (Canada), or Paralegals SA, shall be taken into account where appropriate [provided that the one continuous and current year as a Fellow referred to above must be as a Fellow of the Institute of Legal Executives (Victoria) or (Australia) Limited].

⁷ or a Legal Executive, who will in turn be supervised by a Solicitor; or who may be a Licensed Conveyancer

⁸ An employee of a Solicitor or other legal provider must be supervised pursuant to the *Legal Profession Act 2004* (Victoria), and/or other State and Territory equivalents, and common law. *Only* a Legal Practitioner admitted to practise and holding a current Practising Certificate may do legal work, give legal advice, engage in legal practice and/or provide legal services.

⁹ for example, notwithstanding the position description, employed at a senior level by a Legal Practitioner or Government Department, or a Licensed Conveyancer – proof of the level of seniority for the required period to be provided to the satisfaction of the Council

A Fellow of the Institute is enabled to administer Oaths and take Statutory Declarations in Victoria, pursuant to the *Evidence Act 1958* (Victoria)¹⁰.

The Institute only recognises use of the term “**Legal Executive**” by a Fellow of this Institute¹¹; with certain exceptions, such as Fellows of other Institutes of Legal Executives.

It must be noted that the *Legal Profession Act 2004* **prohibits** any person other than an Australian Legal Practitioner giving legal advice, performing legal work, engaging in legal practice, and/or providing legal services - **only Legal Practitioners (Solicitors and/or Barristers¹²)** admitted to practise and holding a current Practising Certificate **are permitted by Law to give legal advice, perform legal work, engage in legal practice, and/or provide legal services, no one else¹³**. *Non-legal practitioners* must work under the direct supervision and control, and on the direct instructions, of a Legal Practitioner.

It must also be noted that the *Conveyancers Act 2006* (Victoria) **prohibits** any person from carrying on a conveyancing business, as defined in the Act, *unless* that person holds a Conveyancers Licence. The Institute cannot provide information regarding the setting up of Conveyancing Businesses, nor can it provide information regarding what an individual may require in order to obtain a Conveyancers Licence.

Any enquiries in respect to licensing should be directed to the Business Licensing Authority, and in respect to legislative requirements and prohibitions to Consumer Affairs Victoria¹⁴.

Any enquiries in regard to prohibitions in respect to non-legal practitioners, and legislative requirements,¹⁵ should be directed to the Legal Services Board¹⁶. Additionally, the Law Institute of Victoria has Guidelines in relation to Unqualified Practice, Income Sharing and other matters, with which members are expected to familiarise themselves¹⁷, as well as with the relevant legislation.

Persons in all categories of membership are required to comply with the Memorandum and Articles of Association of the Institute, with the Institute’s Code of Conduct, and with the Institute’s Continuing Professional Development guidelines¹⁸. Breaches can result in a reprimand, suspension or cancellation of membership.

The Code of Conduct and CPD guidelines are attached.

Future changes to the Memorandum and Articles of Association, Code of Conduct, and Continuing Professional Development points’ requirements, will be notified to members via *The Legal Executive*.

¹⁰ Guidelines are published by the Department of Justice, Victoria, and the Law Institute of Victoria

¹¹ Fellows (Retired) and Fellows (Honorary Life Member) are Fellows and included in this category in respect to the privileges attaching thereto, including voting rights; these sub-categories being internal to the Institute for subscription and other purposes.

¹² Admission as a Barrister & Solicitor, Solicitor, or Barrister, depends upon the applicable State/Territory requirements.

¹³ Nb: ‘Legal Practitioner holding a current Practising Certificate’ = ‘Australian Legal Practitioner’ as defined in the Act.

¹⁴ pursuant to the *Conveyancers Act 2006* (Victoria)

¹⁵ pursuant to the *Legal Profession Act 2004* (Victoria)

¹⁶ Victoria – see www.lsb.vic.gov.au, or interstate equivalents

¹⁷ see www.liv.asn.au, or interstate Law Societies where applicable

¹⁸ Members in the subscription sub-categories of Fellow (Retired) and Fellow (Honorary Life Member), who have retired or are not in substantial employment, are not required to complete annual CPD points.

The Institute has members employed in most disciplines of Law, and membership is *not* restricted to persons employed in conveyancing or related areas; nor is it restricted to Victoria, as the Institute has some members in all other States of Australia, as well as overseas.

Some members have undertaken a Bachelor of Laws degree at University, and have subsequently been admitted to practise as Barristers and Solicitors of the Supreme Court.

Services

The Institute endeavours to offer its membership, and the public, various services. For example –

- Active involvement in the provision of the recognised course, and research into other courses offered in Victoria and elsewhere containing a legal component with a view to upgrading where necessary, or articulation where appropriate.
- Participation in public awareness programs such as Law Week in Melbourne, Careers Nights at various Colleges, and Careers Expos. The Institute provides representatives for the purpose of giving Careers talks at secondary, secretarial, and TAFE Colleges and Universities (TAFE Division), depending upon geographic location and availability. Telephone assistance is also given to the general public in relation to Careers in Law and Legal Education.
- Participation in matters affecting the legal profession and/or members, in Victoria and in Australia generally, such as preparing Submissions in relation to the Evidence Acts, State and Federal, and persons having authority under those Acts to administer Oaths. The Institute plays a role in preparing submissions in relation to discussion papers issued by the Attorney-General's Department, the Federal Bureau of Consumer Affairs and the Victorian Law Reform Committee.
- Preparation of Submissions in relation to matters which affect the public such as Jury constitution, Medical Provider insurance cover, the Right to Silence, and the Inquiry into Oaths and Multiculturalism.
- Advancement of members, for example changes to the *Evidence Act 1958* (Victoria) enabling Fellows of the Institute to witness Declarations and take Affidavits in Victoria, and certain certification rights by Fellows with Land Registry Victoria¹⁹.
- Ongoing submissions to various Ministers and Government to ensure that Legal Executives continue to be recognised as persons possessing a high level of skill and expertise, and to ensure that further recognition of the Institute and its members is achieved wherever possible, on an Australia wide basis.

'Legal Executive'²⁰ is now included as a separate occupational category in ANZSCO; in respect to which inclusion this Institute was requested to comment, and subsequently did so²¹, as did the New Zealand and Western Australian Institutes.

- Ongoing relations with other professional Associations and Institutes within Australia and overseas to assist in the recognition of members of the Institute, and facilitation of contact services available to members outside Victoria and Australia, and joint Submissions where appropriate; as well as representation on committees initiated by other organisations which seek to offer assistance to the profession.

¹⁹ in accordance with criteria published by Land Registry

²⁰ although unfortunately without reference to the Institutes, at this stage

²¹ and may make further Submission in the future

Currently, a number of Institutes of Legal Executives are in the process of formally sealing a Document which recognizes all of the participating Institutes, and maps their similarities.

- Production of the bi-monthly Journal *The Legal Executive*, which endeavours to note changes in the Law, available Courses, Seminars and Workshops, and membership news.
- Employment opportunities by way of the Employment Register kept by the Institute to facilitate placement of members seeking employment with various Solicitors, members and Agencies which contact the Institute seeking staff, and placement of employment notices in *The Legal Executive*²².
- General member assistance²³.
- A Yearbook, the inaugural edition of which issued in May 2000, and thereafter issued for the years 2001 – 2004, and which may be available again in the future.
- Seminars and Workshops, and other Educational/Networking opportunities, including an Inaugural two-day Conference which took place on 24 & 25 February 2005 in Melbourne. Our next Conference is anticipated in 2009.

We are participants in a tradition which initially started over 100 years ago in the United Kingdom²⁴, and are proud to be members of the Institute.

Why not join us?

The Institute's main telephone number is (03) 9808 7159. Interstate enquirers will be given an appropriate State contact number where available. Emails may be forwarded to the CEO at austilex@alphalink.com.au.

www.legalexecutives.asn.au

²² The Institute is *not* an employment agency, and will *not* enter into negotiations between potential employer and employee. There is *no* guarantee of employment through the Register, and it is the *member's* decision as to whether or not a particular position is suitable for him or her, in the particular circumstances. The Register is maintained in order that member details listed on the Register can be provided to an employment enquirer where the member(s) has listed experience/academic achievement sought by that enquirer. Currently no charges are applicable to these services; however, employers may, if they wish, make a donation to the Ellen Dickeson Memorial Fund which Fund awards prizes to students of the Advanced Diploma of Business (Legal Practice), at various Educational Institutions, on an ongoing basis (nb: the Institute does not presently have DGR status).

²³ In **NO** circumstances will legal advice be provided – the Institute is not an Australian Legal Practitioner, nor does it employ any person in that role.

²⁴ see Managing Clerks' Association/managing clerk

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