



**Review of Legal Qualifications - Stage One
BSB07 Business Services Training Package**

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Background

This project involves scoping, review and revision of the legal qualifications within Business Services Training Package (BSB07).

These are:

- BSB31007 Certificate III in Business Administration (Legal),
- BSB41207 Certificate IV in Legal Services and
- BSB51007 Diploma of Legal Services.

The IBSA review of the national VET legal qualifications entails the following actions:

- A scoping exercise to review current work roles, competencies and career paths for people in legal support roles;
- An analysis of industry and training provider views of the current qualifications in relations to their coverage, content, flexibility and relevance;
- Re-development of the current qualifications and units of competency, including the development of new qualifications and/or skill sets if necessary.

These actions are being undertaken in two stages. Stage One has involved a research and scoping exercise to determine 'legal support' roles not only within the professional law firm, but also within a broader legal context including government and the community sector. As part of this Stage, extensive industry consultations have taken place to ascertain what competencies people need at entry level and as part of employees' career development.

In addition, as part of Stage One, training providers have been contacted to determine the relevance of the competencies, their flexibility and satisfaction with the packaging of competencies in the existing qualifications. Finally, recommendations for other legal-related qualifications have been sought from industry representatives and industry training providers.

Key industry representatives (See Appendix One) have been asked to be part of a National Project Reference Group (NPRG) for this project to among other things, "provide feedback on IBSA's development work undertaken for the area covered".

Stage Two of the project will entail the redevelopment and validation of the current qualifications and units of competency based on incorporating the findings from Stage One.

Research Outcomes

In 2008 IBSA commissioned an investigation of the legal suite of courses and qualifications available across the country as a preliminary step to the current project. This previous report identified a demand in particular states for the development of higher level qualifications in legal services. Furthermore as part of the endorsement of the BSB07 Training Package, IBSA gave a commitment to undertaking a review of the legal qualifications within the training package.

In planning the current project and in determining the consultation phase of Stage One, research was undertaken to identify relevant literature on job roles, competencies, career paths and qualifications for people employed in the field of legal services.

While there is a great deal of literature on the careers of legal support staff, particularly paralegals, in the United States, there is little in Australia. As a consequence research for this project has been based primarily on stakeholder consultations.

Statistical Information

As part of the research for Stage One, statistical information on the uptake of the qualifications was sought from the National Centre for Vocational Education Research (NCVER). This is provided at Appendix Two. Based on this information there appears to be reasonable uptake of the Certificate III qualification across the country. Of the 733 students undertaking the Certificate III Business Administration (Legal) in 2007, 43% were doing so as part of a new apprenticeship.

Very few students are doing the Certificate IV in Legal Studies as a new apprenticeship and in fact the uptake of the Certificate IV is primarily in New South Wales, Victoria and South Australia. New South Wales is virtually the only deliverer of the Diploma of Legal Services. In Western Australia the principal national qualification delivered is the Certificate III Business Administration (Legal). WA Central TAFE has developed its own Certificate IV in Business (Legal Studies), Diploma of Business (Legal Studies) and an Advanced Diploma of Business (Legal Studies). There are up to 25 graduates in the Advanced Diploma annually.

There is also a state-based Advanced Diploma of Business (Legal Practice) in Victoria which is offered by several of the public providers.

In addition, South Australia, Western Australia and Queensland have developed state-based justice/policing stream of qualifications to meet identified needs in their respective states. While some of these qualifications contain national legal services units of competency, the state-based qualifications are considered to have broader appeal. At this stage it is the general view of training providers that national qualifications in policing and/or justice would be very difficult because of the unique nature of each state police and justice system.

In addition to the vocational education and training (VET) qualifications offered by registered training organisations (RTOs), there are a number of other education providers delivering training to people in non-legal professional roles. These include:

- UNE Partnerships – Diploma of Practice Management developed in conjunction with the Australia Legal Practice Management Association Ltd.
- Southern Cross University – Associate Degree in Law (Paralegal Studies)
- WA Law Society – Legal Assistants' Course offered three times per year

As well the state-based law societies offer short courses on a range of topics including legal terminology, principles of confidentiality and ethics for people in legal support roles. Similarly there are a few private training providers offering law specific programs which are often attended by legal support staff.

Consultations

IBSA advised all the State Training Authorities and state-based industry training advisory bodies of the project, seeking input and advice on industry and RTO contacts. The advice and information provided by these organisations were followed up as part of the consultation phase of Stage One.

Representative organisations in the legal services field include:

- Australian Legal Practice Management Association (APLMA) "the peak body representing managers and lawyers with a legal practice management role".
- Institute of Legal Executives in Victoria and Western Australia, which "promotes the interests of members working in legal practices, law administration, interpretation, law enforcement, and research and lecturing".

- Paralegals SA – a committee hosted by SA Law Society

Representatives of these organisations have participated in the consultations.

Extensive research was conducted to identify other relevant industry representatives. Once individuals were identified, consultations were requested. Industry representation was sought from the following areas:

- recruitment agencies which specialise in legal recruitment;
- a sample of law firms, large and small
- government and community legal organisations

Most of the subsequent consultations were conducted one on one or by telephone.

With respect to consultations with RTOs, the National Training Information Service (NTIS) lists the RTOs which deliver the legal services qualifications.

In the case of the Certificate III Business Administration (Legal), there are 60 plus registered providers. However, it became apparent after making contact with a number of these providers that many RTOs are not delivering the qualification.

With respect to the Certificate IV in Legal Services, there are 20 plus RTOs which have this qualification on their scope of registration.

Finally, there are fewer than 20 RTOs which have the Diploma of Legal Services on their scope of registration, with almost half of them being in New South Wales.

Industry Consultations

As stated, industry consultations were conducted either face to face or over the phone. A list of those organisations involved in the industry consultations is provided at Appendix Three.

General observations include:

A number of the large law firms have developed their own competency or capability frameworks which they are using as a basis of their recruitment and development practices.

Several firms have developed their own trainee programs for legal assistants/legal secretaries. These programs are usually up to 12 months and involve, among other things, mentoring by a senior legal support person, rotation through a number of practice areas, and training specific to organisational procedures.

While there are firm-specific practices, in general, law firms prefer to hire at entry level and develop their staff whether they are legal or legal support staff. This means that irrespective of qualifications, most legal support staff will be expected to start at entry level. These roles may be referred to as mail person, junior, rounds person, trainee secretary/legal assistant.

It was said repeatedly during the industry consultations that legal experience was more important than qualifications. Someone with legal experience will be hired over someone with qualifications, however, if someone has qualifications and legal experience they will be treated more favourably.

This industry view was confirmed by a limited survey of legal services graduates. In the words of one person who completed the Diploma of Legal Services: "Despite the fact I had 10 years office experience and the diploma, employers wanted legal experience."

Representatives of legal aid, community legal services and government agencies indicated that increasingly articulated clerks or students in their penultimate year of a law degree are being used as legal clerks or paralegals. This seems to be the case with law firms as well. While there are senior legal support staff who establish a reputation in a particular area and make the transition to paralegal or legal clerk, the trend seems to be to use law students or people with law qualifications who elect not to practice law in these roles.

In addition to good administrative skills, legal aid and community legal centres are looking for people with social justice values, an empathetic approach and skills to deal with clients with complex needs.

A summary of the findings from the industry consultations is detailed below.

RTO Consultations

Industry consultation was a priority as part of Stage One. Nonetheless discussions have been conducted with both private and public registered RTOs that deliver the legal services qualifications.

As well other providers of legal training and education have been contacted to discuss their training services. A list of those training and education providers consulted as part of Stage One is provided at Appendix Four.

Some of the observations made by the provider representatives with respect to the national qualifications include:

- General satisfaction with the Certificate III although some minor adjustments are recommended
- Some of the units within the Certificate IV are pitched too high
- Request for the inclusion of units on trust accounting, personal injury and contract law
- Request for additional units to be used as electives, for example social justice, alternative dispute resolution, client relationships, working in teams.

Findings

Listed below is a summary of findings based on research and consultations with industry representatives, training providers and a select group of graduates of the respective legal services qualification programs:

Workplace and Workforce Issues

- There are fewer legal secretaries being employed as professional staff take on more of their own typing
- The traditional role of legal secretary is evolving into more of a role as a personal assistant which includes diary management, client liaison and practice coordination
- There are some new roles emerging like 'practice team coordinator' as firms are looking at ways to be more organisationally 'dynamic'.
- There are fewer jobs as paralegals than there used to be, as more law firms engage articulated clerks or law students to undertake work which might have been done by paralegal personnel.
- Increasingly legal support employees seeking a role in a shared services area or in practice management will be expected to acquire qualifications relevant to the particular service.
- Most entry-level legal support roles require excellent typing, communication and administrative skills more than knowledge of the law
- Experience working in the legal support role is considered by industry more important than the qualification

- Very few graduates with a qualification targeting roles as paralegal or legal assistant are hired in these roles, unless they have extensive legal experience in the identified practice area.

Training and Education of Legal Services Personnel

- The Certificate III in Business Administration (Legal), with some minor modifications is a solid basis for entry-level positions in legal support roles.
- Some states are using the Certificate IV as a paralegal qualification while others regard the diploma or advanced diploma as the qualification aimed at paralegals
- Recommendations have been made for modifications to the Certificate IV including the incorporation of a unit on contract law and legal ethics.
- The Diploma is well regarded by past students but it is in fact an entry level qualification unless the person has relevant legal experience
- Industry would like to have touch-typing, spelling, formatting and general legal administrative skills incorporated in the higher qualifications if the candidate does not possess them already.
- There is little support from industry for higher level qualifications in legal specializations
- Some states have linked the national qualifications into state-based police or justice qualifications.
- Up to 50% of graduates who complete the Diploma or Advanced Diploma go on to university
- Those programs that incorporate work-based training facilitate graduates gaining employment in the field.
- Traineeships are considered by many employers to be too bureaucratic and complicated
- Some providers, particularly private RTOs, have ceased offering the national qualifications because of lack of demand.

- RTOs have found the toolbox kit of resources and those provided through Aspire good but they need to be updated.

Recommendations

The following recommendations are put forward for Stage Two of this project:

1. That detailed formal and informal consultations take place with stakeholders who have expertise in the implementation of the Training Package to determine revised units, content and packaging arrangements, incorporating the findings of Stage One. Some of the issues to be addressed are attached at Appendix Five.
2. That Skill Sets be considered for identified areas including community legal centres, incorporating units from relevant training packages.
3. That proposed changes to the qualifications and units be reviewed and validated according to IBSA, State and Commonwealth expectations.
4. That no additional legal services qualifications be developed.
5. That the outcomes of Stage Two be ready for posting on IBSA website for feedback by July 1, 2009.

Appendix One: National Project Reference Group

Tony Brandt

Lawyer and President Wodonga TAFE

Lisa West

Senior Recruitment Specialist
IPA

Martha Henderson

Principal Program Manager
Business, Arts & Information Technology Curriculum Centre

Mary Hockaday

Human Resources/Practice Manager
DLA Phillips Fox
Director of Education
Australian Legal Practice Management Association

Appendix Two: Statistical Data

Number of Students by Qualification and State: Comparative Data 2005-07

	NSW	Vic	QLD	So Aust	WA	Tas	ACT
Cert III new app	49	105	104	2	19	17	13
Cert III	160	56	179	3	87	0	56
Cert IV New app	6	0	1	4	1	0	0
Cert IV	84	44	2	123	67	0	0
Diploma	223	0	0	0	28	0	0

2006 Legal Qualifications Statistics

	NSW	Vic	QLD	So Aust	WA	Tas	ACT
Cert III new app	78	102	101	0	18	15	7
Cert III	126	59	160	13	76	0	41
Cert IV New app	7	0	1	2	4	0	0
Cert IV	107	40	3	106	23	0	0
Diploma	212	0	0	0	17	0	0

2007 Legal Qualifications Statistics

	NSW	Vic	QLD	So Aust	WA	Tas	ACT
Cert III new app	69	119	94	0	9	21	3
Cert III	81	77	163	18	46	0	33
Cert IV New app	0	0	0	8	3	0	0
Cert IV	134	42	2	84	2	0	0
Diploma	187	37	0	0	2	0	0

(Source NCVET, 2008)

Appendix Three: Industry Consultations

Organisation	Contact	Details
Maurice Blackburn	Anna Hart National HR Manager (Learning and Development)	456 Lonsdale Melbourne ahart@mauriceblackburn.com.au 9605 2734
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Appendix Four: Training and Education Consultations

Organisation	Contact	Details
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Appendix Five: Stage Two - Considerations

Redevelopment	New Or Imported Units	Packaging
<p>Combining BSBRES402A and BSBRES403A</p> <p>Are some of the units in Certificate IV better suited to Diploma?</p> <p>Relationship between the Certificate III, IV and Diploma in the context of industry feedback</p> <p>Costing</p> <p>Relationship between conveyancing qualifications and legal services</p> <p>Concentration should be on the 'substantive fields of law'.</p> <p>Improved incorporation of employability skills</p> <p>Review assessment guidelines in light of industry feedback</p>	<p>Personal Injury</p> <p>Contract Law</p> <p>Ethics</p> <p>Client relationship at Certificate IV and Diploma</p> <p>Dispute Resolution</p> <p>Risk Assessment</p> <p>Community development</p> <p>Wills & Estates</p> <p>Trust Accounting</p>	<p>Skill Sets for each of the qualifications</p> <p>More options for importing units</p>