

19 July 2019

The Hon. Jill Hennessy MP
Attorney-General
Level 26
121 Exhibition Street
Melbourne
VIC 3000

Dear Attorney-General,

Re: Victorian Legal Admissions Board Statement of Expectations 2018-2019

In response to the 1 January 2018 to 30 June 2019 Statement of Expectations (the SOE), the Victorian Legal Admissions Board (VLAB) outlines below the activities undertaken to achieve the performance improvements as defined in the SOE.

TIMELINESS

Improvement

Reduce the time taken to complete applicant identity and fraud checks.

Response

Establishing an applicant's identity is a vital step in the detection and elimination of identity crime. VLAB recognized a need to improve its identity procedure to not only strengthen the validity of the process but also reduce the time taken to complete a check.

VLAB were guided by the Attorney-General's Office (AGO) National Identity Security Strategy's National Identity Proofing Guidelines in undertaking identity checks and applied the standard Dow Jones watchlist service of the AGO Document Verification System (DVS) in 2017. The DVS is the only system of electronic document verification checking that is supported by the now Department of Home Affairs (formerly AGO) and is conducted in real time. The service matches Government issued identity credentials against the relevant Australian department's database. The DVS further allows for an applicant's identity to be processed against three standard worldwide watchlist services.

The standard DVS was utilised for 12 months in 2017 during which time approximately 3500 checks were undertaken. As the standard service allowed for only three watchlists to be searched, VLAB found that many applicant's checks were returning a negative result with only 0.1% returning a positive match. Further, VLAB staff required training in the accurate detection of fraudulent documentation to ensure the authenticity of the document. The process of identity checking along with document verification was time consuming to both the applicant and to staff.

In 2018 VLAB commenced a six month trial of an advanced Dow Jones watchlist to further the progression of applicant identity checks to highlight any potential persons of interest. The premium watchlist search allowed for identity documentation to be processed against over two thousand watchlists as opposed to three for a standard service which allowed VLAB to correctly identify anybody who may be a person of interest.

Continuous training in fraudulent document detection by the Department of Home Affairs along with training in the use of the DVS has enabled staff to better understand, streamline and apply the principles of document authentication and verification to assist in the application of fraud prevention and identity verification. Timely and efficient applicant checks have produced good results for both staff and applicants and any issues that arise can generally be verified on the spot.

Since the inception of the premium watchlist approximately 10% of all applications now show on the premium watchlist. Of these 8% are false positive matches with 2% requiring further investigation.

The use of the DVS and the premium Dow Jones watchlist has resulted in a simpler application process. VLAB has improved e-capability with the result that the application process can now be completed quicker and easier.

RISK BASED REGULATION

Improvements

Expand delivery of presentations to applicants on key disclosure requirements to regional areas.

Gather data on conditional admissions to maintain consistency and transparency in the imposition of conditions.

Response

The Legal Profession Uniform Admission Rules 2015 (the Rules) provide the underpinning operational detail for admission. As set out in the Rules, applicants for admission need to satisfy the criteria of a "fit and proper person" to be admitted to the legal profession. They must disclose any matter which could influence the admitting authority's decision about whether they are of "good fame and character".

In order to effectively convey the definition of an applicant's propriety to both present and impending admittees, VLAB developed a range of approaches to broaden the delivery of its existing educational program. Expansion of training methodologies on key disclosure requirements included utilising several programs such as in person and electronic approaches.

To achieve a best practice training approach, VLAB recognised the need for additional and improved technologies and as such redeveloped its existing Customer Relationship Management (CRM) platform. The redevelopment had several components, one of which was the expansion into a predictive and computational analyses system capable of directing certain demographic data to promote education in suitability matters to the prospective legal community. These measured predictions allowed VLAB to engage in focused and structured educational programs using data baselines captured for the effective delivery of educational outreach programs.

As a result a schedule was developed and is being delivered to academic institutions, practical legal training providers and private law firms in both metropolitan and outer Melbourne areas. Further expansion to regional areas is planned for the next financial period. This includes video presentations and literature distribution to allow for coverage to regional areas and to applicants unable to attend in person presentations. The future scope of this growth is dependent on additional funding from the Legal Services Board and Commissioner.

VLAB and the NSW Legal Profession Admission Board (LPAB) have worked together to develop and implement agreed interim procedures for admitting applicants relying upon qualifications, skills or experience obtained outside of Australia (the interim procedures). The interim procedures complement section 20 of the Legal Profession Uniform Law (the Law). The interim procedures require every applicant to include information about the nature and scope of their legal practice, their qualifications and experience, the nature and scope of legal practice in which they propose to engage in in Australia, and any employment, supervisory and professional support arrangements already in place in Australia.

Section 20 of the Law enables a foreign lawyer to be admitted subject to conditions. These can include conditions limiting the period of admission requiring the lawyer to undertake further study or training and limiting the area of law in which the person can engage.

The two jurisdictions entered into a memorandum of understanding which provides that any application for conditional admission received by one state must be forwarded to the other for consideration and comment. This practice promotes jurisdictional consistency in decision making around conditions which may attach to foreign lawyers' legal practice in Australia.

Continuous engagement with LPAB has occurred to establish an operational register of conditional admission applications. The register is managed by VLAB with the assistance of LPAB providing regular updates on NSW conditional admission data. The data is used for the capture of conditions for all applications received. The register allows the regulators to target conditions to assess applications uniformly ensuring consistency and transparency of evaluating conditional admissions in both jurisdictions. The improved sharing of data has enabled risk assessment to be applied consistently across jurisdictions.

Future proofing of data will see an online model adoption. This will enable joint real time access to information and allow for other States and Territories to join in conditional admission assessments by connecting with the projected model. Internal staff will be able to log in and see aspects of data that are relevant to referencing previous assessments in line with published guidelines and procedures. With data available online and strengthened searching and filtering capabilities, assessors will be able to improve their research capabilities.

COMPLIANCE RELATED ASSISTANCE AND ADVICE

Improvements

Revise out of date qualifications policies to be consistent with NSW, and to enhance online accessibility.

Update the VLAB's website to improve useability.

Response

Where an academic or practical legal training qualification was completed more than five years before applying for a compliance certificate, an applicant is required to seek assessment of those qualifications by the corresponding State regulator. Applicants must set out the circumstances surrounding the delay in applying for admission and provide evidence of further law related study and/or experience and any additional supporting material as required. Conditions of decision vary dependent upon an applicant's circumstances and may include an additional academic and/or practical legal training prescription prior to admission.

VLAB has undergone a lengthy engagement with LPAB to agree on the way forward for the management of out of date qualifications, ensuring a streamlined, consistent and common approach. In doing so, the regulators have worked together to share information and develop solutions to common issues. Both VLAB and LPAB have adopted the LACC interim procedures for assessing qualifications over five years old. The final format of the procedures are under discussion and once agreed upon, guidelines and procedures for each State will be made available publicly to assist in accessibility of information on the regulators' websites and social media outlets.

In its current format, the management of out of date qualifications has been limited to a manual paper based process. The key challenges encountered with this methodology have been the application of consistent conditions as referencing previously assessed qualifications has often been difficult to achieve despite the regulator's continued efforts at a common solution. An online out of date qualifications portal is in the process of development which will allow for electronic reporting to ensure uniformity and transparency of assessment to future proof consistency of decision.

In 2016 VLAB transitioned from a paper based applications system to a cloud based CRM client application portal and back end database. The client facing portal allows for the capture of ten different application types such as practical legal training, supervised legal training, early assessment of suitability, foreign lawyer assessment etc. VLAB has enhanced and evolved the system to a newly configured platform which is primarily optimised for speed, functionality and interface which therefore provides for improved useability of application for a Compliance Certificate for all users.

Phase one of the project involved changes to the back end database. This was completed in May 2019 and provides for additional capabilities including a modernised desktop view for VLAB users, allowing for tasks to be undertaken quickly and more intuitively. Additional security measures were implemented to assist in tightening controls over data loss and protection of an applicant's privacy.

Phase two of the project saw VLAB redevelop the client facing portal thus enabling improvements to the front facing components for the overall public. This was completed in June 2019. The contemporary approaches taken to upgrade the portal permitted for faster application turn arounds with more intuitive methods of uploading documents and providing relevant data for admission in a simplified format.

The future upgrade of the portal and database will aid in the continuous review of how VLAB deliver and share material whilst preserving integrity and security of data. The future scope of this growth is dependent on additional funding from the Legal Services Board and Commissioner.

COOPERATION AMONG REGULATORS

Improvement

Support the implementation of Stage 2 of the Legal Services Council's Uniform Law Database.

Response

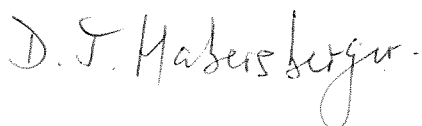
The objectives of the Legal Services Council (LSC) are set out in the Law and include monitoring the implementation of the Law and ensuring its consistent application across participating jurisdictions. This includes that the Legal Profession Uniform Framework (Framework) remains targeted and effective. In addition the LSC promotes the maintenance of professional standards and warrants that the Framework appropriately accounts for the interests and protection of clients of law practices.

Stage 2 of the Uniform Law Database enables the LSC to analyse admissions data, discern trends and identify areas for improvement in terms of uniformity between the jurisdictions.

VLAB, LPAB and the LSC worked collaboratively to agree upon the parameters of the data sets required for analysis that is used for monthly reporting to fit within the scope of the LSC data mapping requirements. VLAB and LPAB engaged to ensure that the data provided was exact and in a consistent format so that the statistics in the reporting matched within the LSC requirements.

In addition, VLAB and the Law Society NSW worked closely together to ensure that VLAB data is in an accessible format and that the data sets and analysis parameters fit within the LSC legislative requirements. The process is now automated, and the data extracted by VLAB is de-identified and filtered prior to sending.

Yours sincerely



The Hon. David Habersberger QC
Deputy Chairman