

11 December 2020

Our ref: FL/DFV-NDC

Mr Michael Tidball
Chief Executive Officer
Law Council of Australia
GPO Box 1989
Canberra ACT 2601

By email: [REDACTED]

Dear Mr Tidball

Options to enhance the family safety competency of legal practitioners

Thank you for the opportunity to provide comments on options to enhance the family safety competency of legal practitioners. The Queensland Law Society appreciates being consulted in this regard.

QLS strongly supports ongoing education of legal professionals on domestic and family violence. Ongoing Education is critical to developing practitioners' ability to identify risk and respond appropriately.

Solicitors undertaking family law practice generally have a good understanding of the complex dynamics of domestic and family violence. However, QLS acknowledges that not all practitioners who engage in family law work demonstrate appropriate sensitivity and understanding of the complex dynamics involved in family violence. QLS encourages practitioners who engage in family law practice to undertake ongoing education on domestic and family violence. QLS offers an extensive range of education opportunities for practitioners to enhance their skills in these areas.

In addition, QLS has recently collaborated with Legal Aid Queensland in producing the [Domestic and Family Violence Best Practice Framework](#) which aims to guide and support both legal and non-legal practitioners when dealing with matters impacted by domestic and family violence.

In our 2018 submission to the Australian Law Reform Commission on the Inquiry into the Family Law System, we set out the significant practical challenges involved in implementing and enforcing mandatory continuing professional development (CPD) for specific practice areas. Family law solicitors are not necessarily an easily identifiable cohort, which would make

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accurate monitoring of the scheme proposed by the ALRC¹ difficult. Many generalist solicitors undertake family law work, particularly in rural and regional areas.

These issues underpinned the LCA's original position, which was to support extending a family violence CPD requirement to all legal practitioners. In principle, QLS supports this position. As noted in our Domestic and Family Violence Best Practice Framework, domestic and family violence can impact all practitioners, as well as their clients, colleagues, family and friends. Domestic and family violence issues can arise in the course of providing legal advice in a range of areas, including conveyancing, succession, migration and employment.

In Queensland, the *Legal Profession Act 2007* gives QLS the power to make rules in respect of CPD. Those rules are set out in Part 6 of the *Queensland Law Society Administration Rules 2005 (the Rules)*. The current structure of the Queensland CPD scheme aligns with the National Guidelines agreed in 2007.²

The process for changing compulsory CPD requirements is complex. There are a range of practical and regulatory obstacles which would need to be overcome. Although Queensland is not subject to the Uniform Law, any decision to change the core areas require consideration of the 2007, 2008 agreement made by the QLS Council as part of the National CPD taskforce. That agreement met the core mandatory requirements in agreement with NSW, Victoria and Western Australia. Any departure from that agreement would have repercussions for firms that operate nationally. Their solicitors may have different CPD requirements in each jurisdiction. In order to be successful, therefore, any change to CPD core requirements would require cooperation and agreement across jurisdictions.

To date, amending compulsory CPD requirements has proven a difficult and lengthy process. As you are aware in recent years there has been some discussion around amending compulsory CPD requirements to include a point in relation to well-being, harassment and bullying. At this stage, these changes are yet to eventuate.

Considering this, QLS supports the more recent proposed LCA position of including a domestic and family violence topic within the Professional Skills existing core requirement. QLS considers knowledge of family safety an important professional skill for all practitioners and it is appropriate that the current list of topics be expanded to reflect this. While education on family violence would not be mandatory under this proposal, it would assist in shifting perspectives around the fundamental proficiencies of a solicitor, which could possibly lead to changes to mandatory CPD requirements in future.

To implement this amendment, the proposal would need to be considered and recommended by the QLS CPD Committee. A submission based on the CPD Committee recommendation would then be made to the QLS Council to determine whether or not to implement this change, as set out under Rules 47(4) and 47(6) of the Rules. This is a significantly quicker and less complex process than changing core requirements.³ To be effective in encouraging solicitors to undertake this education, QLS would accompany this with ongoing promotion of domestic and family violence education and resources.

¹ Australian Law Reform Commission, *Review of the family law system*, Report No 135 (March 2019) Recommendation 52.

² See <http://www.coro.com.au/wp-content/uploads/2014/02/National-CPD-Guidelines.pdf>.

³ Option 1(a) under 'CPD options for enhancing the family safety competency of legal professionals'.

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QLS are also in the early stages of considering amendments to the Family Law Specialist Accreditation Program, to ensure domestic and family violence is included as a core component of this course. Again, this reflects our position that a good understanding of domestic and family violence, dynamics of relationships involving violence, risk indicators and the ways in which trauma may manifest in a person experiencing violence is critical to a practitioners ability to offer safe advice and support. This amendment could be implemented by QLS without the harmonisation difficulties outlined above.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Natalie De Campo at [REDACTED]

Yours faithfully

[REDACTED]
Luke Murphy
President