

# **CONSULTATION QUESTIONS**

Continuing

Professional

Development

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CPD REVIEW
CONSULTATION QUESTIONS

**1. Instructions**

The consultation questions below have been taken directly from the Issues Paper accompanying the CPD Review. They are aimed at exploring lawyers’ individual experiences and views about the current CPD requirements. Lawyers and other stakeholders are also encouraged to contribute their views on the general policy issues raised in each section of the Issues Paper and that underpin the consultation questions.

We greatly appreciate your time in completing these consultation questions, which should take about 30 minutes to complete if you answer all the questions. When answering the questions try to think about the most recent examples from your current or the last position you held.

At the conclusion of the consultation questions there are some further questions about your professional details.

We would be grateful if you could complete the details, which would add significantly to our ability to understand the information you provide.

All individual submissions made using the consultation questions will be de-identified and kept in strict confidence. The review might use de-identified comments in its report. The VLSB+C is bound by laws that protect your privacy concerning the collection, use and disclosure of your personal information. You can request access to your personal information by contacting us. For further information and contact details you can refer to the VLSB+C‘s *Privacy Policy* [here](https://lsbc.vic.gov.au/sites/default/files/2020-02/Policy-Privacy-2016.pdf).

Please return this consultation questions form to cpdreview@lsbc.vic.gov.au . You may also post it (this can be anonymously if you wish) to us at 5/555 Bourke St Melbourne VIC 3000.

**2. Questions**

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| **2.1 Learning Styles and Activities** |
| 1. **What type of CPD activity (e.g. seminar, online training materials) do you most commonly undertake? *(please select three from the list below)***
 |
| [x]  Seminar[ ]  Conference [ ]  Workshop[ ]  Webinar/Web based program[ ]  Presenter/Lecturer[ ]  Private study of audio/visual material[ ]  Formal/Postgraduate study[ ]  Committee/Taskforce attendance/participation[ ]  Discussion group[ ]  Writing or editing published journal article/textbook/law report[ ]  Writing/Marking examinations [ ]  Other |
| Internal and external |
| 1. **(a) What type of CPD activities have improved your skills the most?**
 |
| It varies based on individual practitioner's learning styles, experience levels and practice area. |
| **(b) What were the factors that contributed to their effectiveness?** |
| The most effective activities are those where content and/or skills can be promptly applied in everyday practice to reinforce learnings. |
| 1. **(a) What type of CPD activities improved your skills the least?**
 |
| It varies based on individual practitioner's learning styles, experience levels and practice area. |
| **(b) What were the factors that contributed to their lack of effectiveness?** |
| The least effective activities are those where content and/or skills that could not be promptly applied in everyday practice to reinforce learnings. |
| 1. **(a) Are your CPD activities undertaken as part of a cycle of reflection about your professional needs and goal setting?**
 |
| Yes.  |
| **(b) If yes, is it part of a performance management program at your work?** |
| We have a formal annual performance and goal setting program. Goals often include practice group specific learning goals some of which are complying CPD activities. |
| 1. **How many hours of CPD did you complete in the last CPD year? Please select from:**
 |
| [ ]  <10 hours [ ]  10 hours [x]  11 -20 hours [ ]  21 – 30 hours [ ]  >30 |
| 1. **What is your best estimate (as a percentage) of the CPD activities you undertook in each of the four subject areas?**
 |
|

|  |  |
| --- | --- |
| 8% | Ethics & Professional responsibility |
| 24% | Professional skills |
| 33% | Practice Management and Business skills |
| 35% | Substantive law |

It varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **Overall, what proportion (as a percentage) of the CPD activities that you completed do you think was useful for maintaining or improving your competency as a lawyer?**
 |
| It varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **Please rank the four subject areas from 1-4 in terms of their usefulness for maintaining or improving your competence as a lawyer.**
 |
|

|  |  |
| --- | --- |
| 2 | Ethics & Professional responsibility |
| 3 | Professional skills |
| 3 | Practice Management and Business skills |
| 1 | Substantive law |

It varies based on individual practitioner's learning styles, experience levels and practice area.The above order tends to be reversed for more senior practitioners. |
| 1. **Do you think that the requirement to achieve 10 CPD points each year improves or reduces the effectiveness of your learning and development activities? In what way?**
 |
| For most practitioners it improves effectiveness because it regularly reminds them of the importance of ongoing learning to continually improve the profession. Staying aware of constantly evolving caselaw and precedent requires regular learning in a formal setting together with prompt on the job application. |
| 1. **(a) Would you prefer to set your own learning and development goals (in conjunction with your employer if applicable), without being required to complete a fixed number of points?**
 |
| No. 10 points is minimal in terms of time. For most of our practitioners, our learning and development program ultimately delivers many hours in excess of ten per year (especially in technology, management and specialist level substantive law that are specific to our business service lines).But if employers are over-involved in setting professional learning and development goals, there is a risk that some practitioners may over-rely on their employer to deliver not just career development plans but also for professional responsibility and compliance. They need to own their own professional responsibility throughout their career which is increasingly likley to span across more and more employers and even include phases without an employer, in gig economy consulting roles. |
| **(b) If yes, what sort of accountability would be effective for demonstrating achievement of your goals? Do you think this could work for the whole profession?** |
| NA |
| **2.2 CPD Subject Areas** |
| 1. **In which of the four prescribed areas of CPD activities (if any), have you encountered difficulty in finding activities that were relevant to your learning and development needs?**
 |
| [x]  Ethics & Professional responsibility[x]  Professional skills[ ]  Practice Management and Business skills[ ]  Substantive law |
| 1. **If you encountered difficulty, what was the nature of the problem? (e.g. basic unavailability of activities in that field, unsuitable level, location)**
 |
| It is difficult to find content that is practical, current and interesting eg emerging compliance obligations where there is a risk of unethical conduct, such as anti-money laundering and fraud |
| 1. **How useful was the Ethics and Professional Responsibilities activity that you undertook last year? Please elaborate on your response, including describing the format of the activity.**
 |
| Overall this has been the equal least useful of the four categories. This may partially be because it depends on what is included in the category. The usefulness of this category also varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **How useful was the Substantive Law activity that you undertook last year? Please elaborate on your response, including describing the format of the activity.**
 |
| Overall this has been the most useful category, however it varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **How useful was the Professional Skills activity that you undertook last year? Please elaborate on your response, including describing the format of the activity.**
 |
| Overall this has been the equal least useful of the four categories. This may partially be because it depends on what is included in the category. The usefulness of this category also varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **How useful was the Practice Management and Business Skills activity that you undertook last year? Please elaborate on your response, including describing the format of the activity.**
 |
| Overall this has been the second most useful category, however it varies based on individual practitioner's learning styles, experience levels and practice area.  |
| 1. **Are there any specific topics (e.g. technology, sexual harassment) that you think should be included as mandatory topics for all lawyers? If yes, please specify the topics you think should be included.**
 |
| No |
| 1. **Are there any topics (e.g. technology, sexual harassment) that you think should be included as mandatory topics for some lawyers? If yes, please specify the categories of lawyers and the topics you think should be included.**
 |
| No. 'Less is more' effective to allow a diverse approach to develop practitioner' knowledge gaps. The current program facilitates reflection on what is important for each practitioner, considering their individual strengths, weaknesses, potential recent 'near miss' experiences and career aspirations.  |
| 1. **Are there any of the four subject areas that you think do not need to be mandatory for all lawyers? If yes, please elaborate.**
 |
| Yes. It would be more effective to have three mandatory subject areas with Professional Skills and Ethics and Professional Responsibilities combined. |
| 1. **Please provide any views and insights you have about the effectiveness of the current skills requirements for:**

**(a) a principal’s practising certificate, and**  |
| The current requirements do not allow for recognition of prior learning. In big and medium firms this can be significant, involving a written development program and investment in the order of $100,000 per principal. In this context, having to attend a 3 day course @$2,500 becomes a box-ticking exercise. |
| **(b) authorisation to receive trust money.** |
| The current requirement for Victorian practitioners, but not NSW or Qld practitioners, to attend a separate course to meet the 'authorisation to receive trust' requirements is not 'uniform', is not an effective use of L&D budget and becomes a box-ticking exercise. |
| **2.3 Different Levels of Experience** |
| 1. **Overall, would you agree that the CPD activities that you completed in the last CPD year were about right for your level of skill and experience?**
 |
| [ ]  No, not at all[ ]  No, not really[x]  Yes, about right[ ]  Yes, exactly what I needed |
| 1. **Should the CPD requirements for more experienced lawyers (>15 years post-admission experience) be changed? If yes, how should they be changed?**
 |
| No. The current prescription of ten points in a couple of areas facilitates sufficient diversity. Less prescription allows more personalised learning plans. More prescription may be less effective, with the exception that it would reflect the reality of the current workplace to allow pro rata points for those who work part time. |
| 1. **Should the CPD requirements for less experienced lawyers (<3 years post-admission experience) be changed? If yes, how should they be changed?**
 |
| No. The current prescription of ten points in a couple of areas facilitates sufficient diversity. Less prescription allows more personalised learning plans. More prescription may be less effective. |
| **2.4 Providers** |
| 1. **In your experience, which type of provider consistently provides the best CPD training?**
 |
| Choose an item. |
| It varies based on individual practitioner's learning styles, experience levels and practice area. |
| 1. **In general, is there a noticeable difference in quality between CPD activities that you or your employer pay for and those that are free? If yes, please describe the difference.**
 |
| No. For example some of the free courses offered by insurers are excellent. |
| 1. **What amount, on average, do you or your employer pay for CPD activities (e.g. an annual sum, or an average fee for seminars or conferences)?**
 |
| Approx $1500 per practitioner plus management time |
| 1. **Would it help you to choose activities if some providers had gained CPD training accreditation?**
 |
| No. Accreditation can be a significant cost that does not necessarily result in more effective training. |
| **2.5 Entity/Employer Role** |
| 1. **If you are employed, what role (if any), does your employer play in assisting you to identify and complete your CPD obligations?**
 |
| * Information on compliance obligations
* Inhouse training - face to face and online
* Budget for external seminars
* Study assistance leave
* Tools to easily maintain compliance records
* Tools to easily monitor compliance and timely all staff reminders
* Compliance monitoring and risk based follow-up eg practitioners who are going on or returning from extended leave
 |
| 1. **(a) If you are employed, does your employer contribute to any CPD activity costs?**
 |
| Yes |
| 1. **(b) If yes, what proportion (as a percentage) does your employer contribute on average?**
 |
| 100% |
| 1. **(a) How would you describe the level of support that you receive from your employer to undertake CPD activities?**
 |
| [ ]  None at all[ ]  Not much/disinterested [ ]  Reasonably supportive[x]  Fully engaged and supportive [ ]  N/A |
| **(b) Please provide any comments about the level of your employer’s support if you wish to.** |
|  |
| 1. **If you do not work as a barrister or sole practitioner, do you think that there is scope for greater recognition of the role that your organisation plays in CPD activities? If yes, please elaborate.**
 |
| Yes. It would be great to have external recognition of our culture and value driven formal performance goals, recognition program and L&D budget. |
| 1. **If you are a partner, director or otherwise responsible for your organisation’s provision of legal services, do you think that having a person who was the accountable officer for CPD obligations would improve your organisation’s engagement with CPD activities?**
 |
| Yes we already have one FTE 0.8 plus administrative support within our People team. |
| **2.6 Obstacles to CPD Participation** |
| 1. **What are the two most significant factors that prevent you from participating effectively in CPD activities? Please elaborate on each factor.**
 |
| [ ]  Cost[ ]  Employer[ ]  Availability[x]  Time[ ]  Accessibility[ ]  Quality [ ]  Relevance[x]  Level of Experience[ ]  Other (Please specify) |
| The pressures of client commitments mean that CPD tends to be de-prioritised until the 'March madness.' |
| **2.7 Regulator’s Role** |
| 1. **Should the mandatory 10 CPD point requirement be retained, abolished or changed? Please elaborate on your response.**
 |
| Retained. The current prescription of ten points in a couple of areas facilitates sufficient diversity. Less prescription allows more personalised learning plans. More prescription may be less effective, with the exception that it would reflect the reality of the current workplace to allow pro rata points for those who work part time. |
| 1. **Should all lawyers be required to prepare CPD plans on an annual basis that identify learning and development needs and activities? Please elaborate on your response.**
 |
| No. Whilst as a firm we have formal written L&D plans and programs, requiring formal written CPD plans, in addition to an annual performance review program, may become a box ticking exercise and overly bureaucratic. |
| 1. **Would you welcome more information from the VLSB+C and/or professional bodies about CPD programs in some or all of the four current subject areas? If yes, in which of the four areas would information be most useful?**
 |
| Yes. It would be great to have hyperlinks to free webinars, particularly on* Ethics and professional responsibility
* Panel discussions via webinar by respected practitioners discussing current topics, war stories and near misses
 |
| 1. **Do you think that a competency framework that described the necessary skills for legal practice would help to create a more useful CPD program?**
 |
| If done well this would be useful. But not overly prescriptive. |
| 1. **Do you think that a voluntary accreditation scheme for CPD providers would provide you with useful information about CPD providers and activities?**
 |
| The market should drive quality and accreditation may only divert budget better used to subsidise quality presentations. |
| **2.8 Compliance and Enforcement**  |
| 1. **How onerous do you find the CPD record keeping requirements? If you think they are too onerous, please provide details of how they could be improved.**
 |
| These are not onerous, so long as the categories are simple. We have an inhouse system that minimises practitioner time to register, monitor and report compliance. Most of our practitioners are now using it. |
| 1. **Would an online solution make it easier for you to maintain your records and receive information and reminders about CPD?**
 |
| This could be an optional tool to assist practitioners from smaller firms. Large firms could perhaps upload annual records from their inhouse tools and this may facilitate risk based auditing. |
| 1. **Have you been audited for compliance with your CPD obligations? If yes, please provide details of your experience, and any suggestions for how the process could be improved.**
 |
| Yes and the process has been satisfactory. |
| 1. **If you work in a firm or organisation, do you think it would be interested in self-auditing its lawyers’ CPD compliance?**
 |
| No, it is important that audits are external and by the governing body to oversee professional development. |
| **2.9 Technical Issues**  |
| 1. **Do you think that the CPD scheme should move to a triennial reporting basis, subject to a minimum annual activity requirement?**
 |
| Yes. This would facilitate long leave practitioners to better manage their return to work and also in depth course attendance for some senior practitioners and may alleviate the March madness. |
| 1. **Do you have any comments on the CPD scheme’s exemption processes?**
 |
| It would be useful if practitioners with over 30 years' experience could be considered on a case by case basis. |
| **2.10 Other Issues**  |
| 1. **Are there any other issues that you think the review should consider in preparing its report?**
 |
| It would be good to allow 30 minutes modules, in line with micro learning trends and also retain the removal of the cap on self-directed learning given the virtual environment. |

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| **2.11 Professional Practice Questions**  |
| Gender identification |
| [x]  M [x]  F [ ]  Prefer not to say  |
| What are your main areas of legal practice (select up to three) |
| [ ]  Criminal[x]  Family[ ]  Personal Injury[x]  Business and Commercial [x]  Property[ ]  Wills & Probate[x]  Migration[x]  Government & Administrative [x]  Banking & Finance[ ]  Taxation[x]  Employment [x]  Civil Litigation [ ]  Intellectual Property [x]  Building & Construction[ ]  Planning & Environment[ ]  Other |
| Your practice location? |
| [x]  CBD [ ]  Regional [ ]  Suburban  |
| The number of years you have held a practising certificate? |
| [x]  <3 [x]  4-10 [x]  11-20 [x]  >20  |
| The type of practising certificate you hold? Principal with trustPrincipal without trustEmployees |
| Choose an item. |
| Your working hours? |
| [x]  Full time [x]  Part time  |

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