

Life-long Learning in a Large Australian Law Firm

Abstract: Gail Boelens discusses how library and research training is delivered in a large Australian law firm. She also considers some of the challenges involved, including dealing with multiple jurisdictions, databases using different operating platforms and having adequate resources to develop and deliver training.

Keywords: law firms; legal research; Australia

Introduction – the regulation of legal practitioners in Australia

Australia has governments at federal, state and local level. There are six states and two mainland territories in Australia. The legal profession is primarily regulated at a state government level. There are professional and regulatory bodies for lawyers in each state and territory. In some states there are separate bodies for barristers and solicitors. There is legislation governing the profession in each state and territory. In the last few years there have been moves to harmonise the various state systems and most states have introduced new legislation to bring the various state systems closer together.¹

Admission to practise in Australia

Once students have finished their degree, they have to do either a period of supervised workplace experience (usually articles of clerkship or a period of supervised restricted practice) or a practical legal training (PLT) course. The requirements vary from state to state.²

Continuing Professional Development (CPD)

Some Australian states have introduced compulsory continuing professional development (CPD) as part of the requirements for renewing practising certificates. The other states actively encourage lawyers to participate in non-compulsory CPD activities. The compulsory schemes all require lawyers who hold practising certificates to complete 10 hours of development in a number of skills areas. The introduction of compulsory CPD has worked to the advantage of library training. Lawyers who

attend training in research skills can usually claim their attendance towards their CPD requirements.

Research training in Australian law firms

In many of the larger law firms in Australia, research skills training effort is concentrated on the junior lawyers and in particular at graduate level. The number of graduates that firms take on, and the research skills training offered by the libraries in those firms, vary widely. For the purposes of this article I will discuss the programme of legal research training we offer at DLA Phillips Fox.

About DLA Phillips Fox

DLA Phillips Fox (DLA PF) is one of the largest law firms in Australasia with offices in Adelaide, Auckland, Brisbane, Canberra, Melbourne, Perth, Sydney and Wellington. We are a full service commercial firm servicing a broad cross-section of clients and industries, including local, national and international companies as well as all levels of government. The firm is a member of the DLA Piper Group, an alliance of independent legal practices. We currently have 47 partners across Australia and New Zealand and employ approximately 1,200 staff.

The Training Working Group at DLA PF

Library and research skills training at DLA PF is designed and organised by a small team of library staff led by myself, the Firm Training Librarian, and three other librarians. The team meet via teleconference once a month to discuss issues and plan future training. As well as library qualifications I hold a Certificate IV in Workplace Assessment and Training.

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I am responsible for preparing all training materials, which include workbooks, facilitators' notes, quick tip cards and assessment exercises and are all stored on a wiki for ease of access in all centres. In the near future, e-learning packages will be created using Adobe Captivate.

Challenges

There are a number of challenges when training lawyers in legal research skills in Australia. One of the biggest is the need to research regularly across jurisdictions, both the nine Australian jurisdictions, and the law of overseas jurisdictions.

Australian lawyers may need to master a large range of databases. The main subscription databases used are LexisNexisAU, CCH Intelliconnect, Legal Online (Thomson Reuters), Timebase, Lawlex and possibly Westlaw and Lexis(US). Law firms may also subscribe to a variety of smaller databases and some speciality search facilities. Each of these databases operates differently and most use different conventions for Boolean operators and truncation. Additionally LexisNexisAu, CCH Intelliconnect and Legal Online have undergone major changes to their platform or are in the process of progressively moving their content to a new platform and each time these databases change more training is required.

Getting lawyers to attend training is always a challenge. They are time poor and reluctant to take time out to attend training. When they do attend training, punctuality is often bad.

Graduate research skills training at DLA PF

At DLA PF we had 34 new graduates start with the firm in 2010 in Australia and six in New Zealand.

Graduate training is done on a firm-wide basis with the same basic programme offered to the graduates in each centre, with some allowance for local office cultural and regulatory differences. The programme is called the *Research Skills Programme*.

Partner involvement

A key element of the success of the Research Skills programme for the graduates has been the involvement of a partner who acts as a 'champion' for the programme. A partner has been involved in the Melbourne programme for about six years and most states have had a partner 'champion' for the last two years. Their role is to explain the importance of excellent research skills to the firm, from a partner's perspective and to communicate between the partnership, the graduates and the librarians if any issues arise relating to the programme. In

Melbourne, attendance at the graduate training sessions is almost 100% since a partner became involved.

Effective Research

The first session in the programme proper is seen as the most important. It runs for two and half hours and is based on principles of information literacy. The inspiration for this session comes from the Big 6 skills devised by Eisenberg and Berkowitz³.

The aim is to get the graduates to plan their research. The session covers:

- Defining the research problem and devising a clear-cut set of questions that they have to find the answer to
- Selecting the appropriate research tool
- Finding the research tools
- Using the tools to find information (including developing a search strategy and Boolean logic)
- Using and synthesising the information found
- Evaluating the research process and product.

The session is run in a seminar room rather than the computer training room as the emphasis is on planning, rather than doing, the research. It is interactive and the graduates are all expected to contribute ideas and information. I believe it is this session, in particular, that has led to the success of the programme. It encourages graduates to think critically about their research and to plan the task rather than just taking the "Google" approach of entering keywords in the nearest search dialogue box.

Effective Research II - Searching Secondary Sources

This session runs for two hours and discusses the importance of using secondary research tools such as encyclopaedias, digests, commentaries and journal articles. My aim in this session is to get the graduates to use various secondary sources to find the legal principles rather than finding similar fact cases.

Graduates tend not to use the browse feature in many databases. This session emphasises how browsing in commentaries, digests and encyclopaedia can improve the relevance of results.

Finding Case Law

One of the issues with case law research done by the graduates is that they go straight to full-text searching across all cases with poorly constructed search strategies. In the earlier two sessions I have covered creating better search strategies and the importance of using secondary research tools. The aim of this session is to improve searching when you do have to work with full-text cases, and to cover some other types of search, such as words and phrases judicially considered.

This session covers the uses and limitations of case citators and how to find cases that consider legislative provisions or words or phrases. I demonstrate ways of increasing relevance such as using proximity operators in a full text environment and limiting searching to catch-words, or headnotes, where available.

Finding Legislation

I have found over the years, by doing various assessable exercises as part of the Research Skills programme, that graduates have a poor understanding of how legislation is made, amended and comes into force. This session starts with a detailed discussion of each of these elements and also considers the different types of legislation. We have found that an understanding of the legislative process helps the graduates know where to find legislation and to be aware of the issues when finding out when legislation commenced.

The second part of the session is hands on and covers finding legislation by title and by subject matter, finding interpretative materials and finally finding commencement dates.

Interestingly, while most research dealing with legislation is now done in the online environment, we have found that handing out some hard copy legislation and pointing out how it works helps the graduates to understand how legislation is amended and how this can affect commencement dates.

Consolidation

Finally, the graduates are asked to present two sessions at the Melbourne CLE programme, which is open to all Melbourne staff, on research skills generally. The organisation and general content of this session is left up to the graduates (under the guidance of the Firm Training Librarian and the partner who is working with them). Generally they organise themselves so that one group presents broadly about researching case law and the other about legislation. The ideology behind this is that it consolidates the learning of the graduates and refreshes other lawyers in the firm about the latest research techniques.

Assessment

At the end of each unit the graduates are given a short assessment task to check on their understanding of the material presented. The results of these assessments are presented to the partner in charge of the programme but only reported to the partners at large in general terms. The aim here is not to make the assessment seem like a punitive measure, but rather to make it a learning opportunity. If a graduate does not meet the expected standard in one of the assessments, they are offered the opportunity to do more training.

The partners are given a report on the general results of the assessment exercises and this has improved their

appreciation of the skills level of the graduates and seems to have created more interest in the programme by the partnership.

At this stage the assessment component of the training is only run in Melbourne.

General training

The main training effort at DLA PF is put into the graduates. For other lawyers we offer occasional classes on particular databases, short half-hour lunch time demonstrations of particular research tasks (called *Lunch Time in the Library*) and a cut-down version of the Research Skills programme for lateral hires still in the early years of their career.

We also offer one-on-one and just in time training in most offices. I also use remote meeting and other software⁴ to do remote training when I am asked for help.

It is worth noting that the *Lunch Time in the Library* programme seems to be particularly popular with senior lawyers, especially partners. Perhaps the fact that it is short and does not involve being hands on in the computer room is what makes it attractive to them. It provides an awareness of the techniques but the lawyers do not have to demonstrate any ignorance of the systems.

Finally, I also organise training for the other library staff. This includes regular online meetings that cover topics of interest to the library staff, e.g. changes to databases, refreshers on search techniques, tips on various software use. Ideas for these sessions come from all the library staff and the sessions are run by whomever has the best knowledge of the topic covered.

The future

Finding the time and resources to run an effective training programme is a challenge. There are also identified gaps in the training. Many lawyers come to DLA Phillips Fox via the graduate programme or as experienced lawyers. However, lawyers who are employed by the firm as first or second year lawyers may not have had the benefit of a detailed training programme at another firm and do not get included in our Research Skills programme for the graduates. In past years, in Melbourne, lateral hires and anyone who has indicated an interest in training during in their annual performance review has been offered the chance to attend a cut down version of the Research Skills programme. Acceptance rates for this course have been disappointing.

Other identified gaps in the formal training programme include newspaper searching and the use of RSS for alerting, foreign legal systems and researching foreign laws, general research using the internet and researching clients and companies. While these are gaps in the formal programme, many are covered in the *Lunch Time in the Library* sessions and in ad hoc sessions.

Conclusion

Training at DLA PF is seen as an important risk management exercise. While library staff are available to undertake some of the research, we are not available 24 hours a day, seven days a week. We also do not, as a general rule, have law degrees so we cannot interpret the results found. It is important that the junior lawyers have good research skills to cover the research when library staff are not available. Also, partners and senior lawyers must have the skill to evaluate the quality of the research done by the junior lawyers. The challenge is to get the training to everyone who needs it with the resources available.

Further information

Hichcliff, Carole *How an Australian Law Firm Teaches Legal Research : Some Observations by an Academic Law Librarian* (2003) AALL Spectrum 10–11, 23 - Article includes a detailed description of the graduate training programme

at DLA Phillips Fox – http://www.aallnet.org/products/pub_sp0311/pub_sp0311_Australian.pdf

Our Government, <http://australia.gov.au/about-australia/our-government> as at 28 March 2010 – description of Federal, State and Local governments in Australia

Australian law societies

Australian Capital Territory – ACT Law Society – <http://www.actlawsociety.asn.au/>

New South Wales – Law Society of New South Wales – <http://www.lawsociety.com.au/>

Northern Territory – Law Society Northern Territory – <http://lawsocietynt.asn.au/>

Queensland – Queensland Law Society – <http://www.qls.com.au/content/lwp/wcm/connect/QLS/Home/>

South Australia – Law Society of South Australia – <http://www.lawsocietysa.asn.au/>

Tasmania – Law Society of Tasmania – <http://www.taslawsociety.asn.au/web/en/lawsociety.html>

Victoria – Law Institute of Victoria – <http://www.liv.asn.au/>

Western Australia – Law Society of Western Australia – <http://www.lawsocietywa.asn.au/>

Footnotes

¹More information about the Council of Australian Governments (COAG)/Law Council of Australia National Profession Project can be found at http://www.lawcouncil.asn.au/programs/national_profession/national_profession_home.cfm

²A brief guide to the process of admission can be found at <http://www.cald.asn.au/slra/Practising.htm> or at the website of the various law societies - see the further information session for the names and websites of each of the State and Territory law societies.

³Berkowitz, Robert E & Eisenberg, Mike What is the Big6? 2007 <http://www.big6.com/what-is-the-big6/> as at 28 March 2010

⁴Proxy ProMaster, copyright Funk Software a division of Juniper Networks and Secure Meeting from Juniper Networks - <http://www.juniper.net>

Biography

Gail Boelens is the Firm Training Librarian at DLA Phillips Fox. She has been with the firm for 19 years and is passionate about research skills training. She is responsible for designing research training programmes across all offices of DLA Phillips Fox and delivering training in the Melbourne office. She is also interested in Web 2.0, developments in technology and the possibilities they offer.

Gail has presented papers on Library 2.0 and training at the Australian Law Librarians' Symposium and at the Health, Special and Law Librarians Conference and has had papers published in the Australian Law Librarian.