

## **FACULTY OF LAW SPECIFIC GUIDELINES FOR PROMOTION**

These guidelines apply to academic staff in the Faculty of Law who are applying for promotion. They recognize that the nature of academic work and the expectations of researchers in Law are distinct from that of other faculties and are designed to provide a guide to interpreting Law-specific research outputs and relevant criteria in assessing promotion.

### **1 Journal rankings**

There is no generally accepted ranking of law journals and the appropriateness of journal type varies across law's sub-disciplines. A great deal of legal research is jurisdiction specific, and work of top quality may be more appropriately published in domestic than in international publications. This is particularly true if the field of research is practically and/or nationally focused in the sense of encouraging domestic law reform – an aim consistent with UNSW's strategy of encouraging demonstrably high impact research.

More generally, Law does not have the kind of international hierarchy of generalist journals found in some other disciplines. In 2014, the Council of Australian Law Deans (CALD) issued a statement cautioning against the indiscriminate application of metrics and urged the utilization of a holistic approach to the assessment of research activity and the research quality of individual researchers in Law.<sup>1</sup> In 2016, CALD endorsed the key recommendation of further commissioned research that metrics still remain insufficiently developed to provide a credible and robust proxy to assess law journal quality.<sup>2</sup>

For assessors familiar with a range of extant lists and metrics, it may be helpful to explain some of the limitations:

- There are approximately 16,000 law journal outlets. The very large number of titles, which includes both general and specialist titles, raises significant problems of coverage of the discipline in commercial databases and other lists.
- The **2010 ERA Journal list** is not current and the ARC has specifically advised against its use. It is based on underlying data from perception surveys conducted in 2008-2009.
- Journal ranking conducted by the **Australian Business Deans Council (ABDC)** includes less than 300 outlets. The ABDC Journal Lists are restricted to two areas of sub-specialisation in Law (tax and business law) with rankings weighted in favour of business scope. Consultations on this list have been commensurately restricted.
- The **Washington & Lee Law Library journal ranking** is disproportionately weighted towards US law journals, most of which are student-run and do not require blind peer review. The list contains very few Australian law journals and those included would not necessarily be regarded by Law researchers as higher quality than others not included.
- **Scopus (Elsevier) journal metrics** (Source Normalised Impact per Paper (SNIP) and SCImago Journal Rank (SJR)) are only available for journals indexed by Scopus. Its database is very under-inclusive of law journals – especially non-US law journals. In particular, barely any Australian law journals are indexed by Scopus and those very few included would not be regarded by Law researchers as higher quality than others not included. Because the Scopus database's coverage of a particular field and field-specific citation trends – factors in the field normalization underpinning both SNIP and SJR – are calculated on the basis of citations in journals contained within the Scopus database, citation practices within Law are poorly represented, and non-US Law citation especially so. This means that the resulting metrics are unreliable and may give misleading

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<sup>1</sup> [Statement giving effect to Recommendation 1.6 of the Bowrey Report: Standing Committee on Research and Scholarship March 2014.](#)

<sup>2</sup> [A Report into Methodologies Underpinning Australian Law Journal Rankings. Prepared for the Council of Australian Law Deans \(CALD\) 2016.](#)

- impressions of journals' quality or relative standing in the field.
- **Web of Science (Thomson Reuters) journal metrics** (that is, Journal Citation Reports, including 2- and 5-year impact factors) are only available for journals indexed in the Web of Science Core Collection and are calculated on the basis of citations in those journals. The Web of Science Core Collection is even less inclusive of law journals (and citation in such journals) than Scopus' content database.
  - In recognition of the shortcomings of existing journal lists, **UNSW Law** maintains its own internal list of quality law journals for staff guidance, but this does not rank journals relative to one another and staff are advised that there are many sound reasons to publish high quality work in journals outside this list (e.g., to engage, and ensure greatest impact within, a particular target audience).

Consequently, information about law journal quality can only reliably be sought via peer review (e.g., from referees', the Head of School's and the Faculty Promotion Committee's commentary) on the quality and standing of the journals in which an applicant has published.

The foregoing observations offer guidance only in the assessment of law journals' quality. Many Law researchers publish in social science journals, in other cognate fields, and in interdisciplinary journals for which some of the foregoing metrics may be suitable. In such instances, the advice of peer reviewers (e.g., referees, the Head of School) should be sought as to which is/are the most suitable metric(s) for assessors to consider when evaluating the quality of those journals.

## 2 Citation metrics and indices

Citation metrics and indices are not widely used within Law to assess research or researchers, and lack of citations or low h-indices does not necessarily indicate poor quality research output, lack of readership or paucity of impact in Law. Citation counts generated by Scopus and Web of Science are limited by the very poor coverage of law journals in their respective reference databases. Much quality research output in Law takes the form of scholarly books and citations in these are not included in the Scopus or Web of Science reference databases. Similarly not captured are citations in judicial opinions, government and international institutions' reports and other non-journal locations often important for Law.

H-indices are commensurably limited. Scopus and Web of Science h-indices are generated on the basis of citations to a scholar's work in publications captured in the Scopus or Web of Science reference databases, respectively. Because many quality research outputs in Law will not be cited in journals so indexed, the impact of, and scholarly regard for, those outputs (and their citation in other materials important for Law) will be poorly represented in these h-indices. The Google Scholar h-index does capture citations in and to some books, book chapters, government reports, and conference proceedings, as well citations to and in academic journals not captured by Web of Science or Scopus, insofar as the materials in question are discoverable using Google's proprietary algorithms. However, because Google does not publicly disclose the reach or retrieval capacities of those algorithms, it is extremely difficult to assess their reliability or adequacy. Analysis done at the London School of Economics and Political Science (the LSE) has suggested that Google Scholar h-indices do not represent well the reception of, or regard for, individual Law researchers' scholarly output.<sup>3</sup>

Likewise, for purposes of the Scopus Field Weighted Citation Index (FWCI), the "similar publications" within the Scopus database that serve as the basis for generating the "average" citations for the field (i.e., an FWCI of 1) are so under-inclusive of publications in law journals – especially non-US law journals – as to be unreliable as indicators of the impact and influence of a researcher working in Law, especially researchers whose audience is situated in large

<sup>3</sup> <http://blogs.lse.ac.uk/impactofsocialsciences/the-handbook/chapter-3-key-measures-of-academic-influence/> (19 November 2010)

part outside the US. As Elsevier itself cautions in its SciVal Metrics Guidebook, “Field-Weighted Citation Impact calculates an average value, and these types of calculations are strongly influenced by outlying publications in a small data set”.<sup>4</sup> Law journals comprise a minimal dataset within Scopus, as explained above.

### **3 Type and quantity of research outputs**

Law research output typically includes books and book chapters alongside journal articles, as well as a small proportion of refereed conference proceedings (if any) and, in many instances, non-traditional outputs. Law books can include scholarly research monographs, treatises (specialist explication, doctrinal synthesis and legal commentary), and casebooks (where these include original synthesis and critical analysis). Authorship of a leading Australian treatise or casebook is often an indicator of significant research standing. Non-traditional outputs typically include reports, substantial published policy contributions and law reform submissions.

Outputs such as legal treatises, casebooks, law reform and policy reports and submissions should not be excluded from the scope of ‘research outputs’ simply by classification or because the publication is a new edition. Many will contain significant scholarly work and high levels of new, original and critical analysis. However, applicants for promotion are expected to make a research case if they wish treatises, casebooks and other non-traditional research outputs to be recognised as such. The input of peer reviewers (e.g., referees, the Head of School) will often assist in the evaluation of these arguments for recognition.

It is common in Law to publish fewer works but which are longer. For example, quality law journal publications and book chapters commonly range from approximately 6,000 - 15,000 words, and some (especially articles in US law journals) are longer.

Legal research is often sole authored. Large numbers of shorter jointly authored works or research team publications are rare. Supervisors of research in Law are not typically listed as authors of work by higher research degree candidates except in exceptional circumstances, such as where the work in question is the result of sustained collaboration independent of the student’s research towards a higher degree.

### **4 Competitive research grants**

Competitive grants are less commonly awarded in Law than in some other fields. Some areas of legal scholarly inquiry and approaches to legal research lend themselves to the pursuit of large grant applications (when empirical or archival research methods are employed, for example). However, this is not the case in other areas where high quality research may be conducted without the need for significant funding. Accordingly, an individual Law researcher’s competitive grant funding record will not always be a reliable indicator of the quality or impact of their scholarship, or their standing in the discipline. Holding a competitive research grant should be regarded as desirable but not necessary for promotion to levels D & E. A holistic approach to assessment of the individual legal researcher is essential.

### **5 Postgraduate research supervision**

While the numbers of research students in Law are growing (and UNSW Law is consistently in the Go8 top 3), graduate research in Law remains rather less common than in some other disciplines. Additionally, there are also sub-disciplinary inconsistencies; research candidates – and consequently opportunities for staff to be involved in research supervision – are more common in some areas than others. Consequently, the number of supervisions and

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<sup>4</sup> SciVal Metrics Guidebook (February 2014), p. 54, available at [https://www.elsevier.com/\\_\\_\\_data/assets/pdf\\_file/0020/53327/scival-metrics-guidebook-v1\\_01-february2014.pdf](https://www.elsevier.com/___data/assets/pdf_file/0020/53327/scival-metrics-guidebook-v1_01-february2014.pdf)

completions recorded in respect of any one Law researcher will not always be an accurate reflection of their comparative influence, recognition or effectiveness as a researcher. Rather, this should be assessed holistically on the basis of the researcher's entire record, with attention to their area(s) of sub-disciplinary specialty, and with the input of referees and the Head of School as to the opportunities for supervision available therein.

## **6 Referees**

Again noting the sub-discipline-specific nature of Law, it will be appropriate in some areas to call on domestic referees, and potentially to use referees from outside the academy who can assess the impact of publications upon their target audience. The Head of School may be expected to offer guidance as to the expertise, standing, and appropriateness of each referee in the field(s) in question.