

Sections anyone?



By **Natalina Velardi**,
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Since 1 July 2005 members are able to join more than one Section of the Law Institute of Victoria (LIV) without paying an extra fee. This means there is now even more reason to join more than one Section.

This article outlines the function of the LIV's Sections and Networks, how the committee structures operate within Sections, the benefits of becoming involved in Section committees and gives you some insight into how you can get further involved in your professional organisation.

Sections and Networks

Most of the Sections and Networks are run by the Advocacy & Practice area within the LIV. The role of Advocacy & Practice is to assist the Sections and Networks in:

- providing members with relevant, pro-active and practical information on the practise and development of law as it applies in Victoria within each Section's respective area of law; and
- providing innovative and critical legal submissions on current legal issues and law reform initiatives that aim to represent the LIV and its members and to

uphold the best interests of the law and the wider community.

Sections and Networks (other than the Young Lawyers' Section and Later Lawyers' Network) are:

Sections

- Administrative Law & Human Rights Section
- Commercial Law Section
- Criminal Law Section
- Family Law Section
- Legal Practice Management Section
- Litigation Lawyers
- Property & Environmental Law Section
- Workplace Relations Section

Networks

- Government Lawyers' Group
- International Law Committee

Each Section and Network has a dedicated part of the LIV website where information updates, including judgments and interest items, are maintained. Section websites can be accessed through:

<https://www.liv.asn.au/members/sections/>

Most of the Sections operate through a committee structure. The committees for each section are:

Commercial Law Section:	Property & Environmental Law	Litigation Lawyers	Family Law Section	Workplace Relations	Administrative Law & Human Rights
Executive	Executive	Executive	Executive	Executive	Executive
Business Law	Environmental Issues	Courts Practice	Maintenance	Occupational Health & Safety	Administrative Review & Constitutional Law
Companies & Business Organisations	Planning & Local Govt.	Transport Accident Committee	Education	Discrimination Rights	Charter of
Insolvency & Reconstruction (joint LIV/LCA Committee)	Leases	Alternative Dispute Resolution	Courts Practice Law	Employment Law	Disability
Financial Services (becoming a joint LIV/LCA committee)	Liquor Leisure & Hospitality		Children's	Industrial Relations	Refugee Law Reform
Financial Planning & Superannuation	Property				Health Law & Health Law Exchange
State Taxes	Succession Law				Human Rights
Taxation & Revenue Law	Property Disputes (panel which considers property disputes)				Migration Law
Intellectual Property & Information Technology					
Superannuation (joint LIV/LCA committee)					
Trade Practices					

The Criminal Law and Legal Practice Management Sections and the Government Lawyers' Group operate through a main executive committee. For the other Sections, the executive committee is made up of elected members and/or the chairs each of the Section's committees. There is a representative from the Young Lawyers' Section who sits on each Section committee and reports on Young Lawyers' activities. The Family Law Section has a specific committee for young lawyers.

Ad hoc working groups are also created to deal with current issues or the compilation of a specific submission. For example, there are currently working groups which are considering issues relating to electronic conveyancing and indigenous issues.

Benefits of being involved in Section committees

There are many benefits which flow from being involved in Section committees, including:

- Assists you in keeping up to date in your practice area and develop your expertise in your chosen area of law.
- Enables you to take part in law reform and legal change in areas affecting your clients, the legal profession and the general community.
- Enables you to work along side senior practitioners in an area of law and engage them on current issues in your area of practice and expertise.
- Enables you to network and have exposure to practitioners for other law

firms and colleagues who share your passion for a specific area of law.

- Gives you exposure to a broad range of views and assists in formulating your own views on issues thereby enhancing your value to your firm and your clients.

Getting involved in Section committees

Most committees are open to new members.

In order to join a committee you need to:

- Provide a commitment to attend regular committee meetings. These are generally held every four-six weeks. A prior apology is required if you are unable to attend. If you are unable to attend over an extended period, you would be expected to apply for prior leave of absence.
- Contribute to committee activities by:
 - Keeping the committee members updated on their practice areas.
 - Joining in committee discussions and presentations.
 - Writing articles for Section newsletters.
 - Assist by providing ideas for Continuing Professional Development presentations to LIV members on the practice areas covered by the Section.
 - Responding to invitations to make a submission relating to the subject area of the committee.

When considering an application for membership, a committee will usually

require information about an applicant, such as an applicant's current area of practice, work experience and how this relates to the Committee's area of law.

Another way to get involved is to become an alternate for a current committee member, where this is applicable. This means you can attend meetings in place of the committee member or, if space permits, attend as an observer.

Some restrictions on membership apply to certain committees or Networks. For example, in order to join the Government Lawyers' Group you must be a legally qualified public sector employee employed by government. A limit of about 20 people can be part of the more popular committees.

Who to contact for more information

I encourage you to get involved in the LIV's broader Sections and Networks. If you require further information about specific Sections and how to join, please contact one of the following Section solicitors:

- Administrative Law and Human Rights Section, Jo Kummrow, ph 9607 9384 or email jkummrow@liv.asn.au;
- Commercial Law Section, Natalina Velardi, ph 9607 9384 or email nvelardi@liv.asn.au;
- Criminal Law Section, Andrew Closey, ph 9607 9365 or email aclosey@liv.asn.au;
- Family Law Section, Kathryn Smith, ph 9607 9388 or email ksmith@liv.asn.au;

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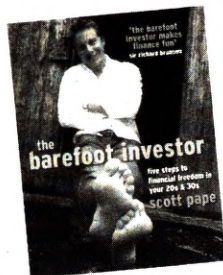
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The Barefoot Investor

By Scott Pape, \$24.95

The *Barefoot Investor*, shows how getting your financial act together can be downright sexy, allowing you to achieve the things that mean the most to you – regardless of your income. Scott shows you how to manage your money to do

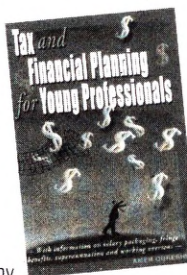
the things you want: whether it's to quit the job you hate to make a career of what you love; buy a cool apartment; go backpacking in Europe; or build a wealth portfolio for the future.



Tax and Financial Planning for Young Professionals

By Amer Qureshi \$24.95

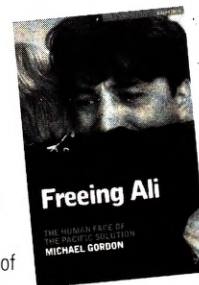
If you are a young professional, you'll have worked hard for your qualifications and made many sacrifices to get where you are today. You may also be under intense pressure at work and with a hectic personal life, have little time to worry about money. *Tax & Financial Planning for Young Professionals* will help guide you towards balanced, healthy living while developing assets and a financial plan to ensure you can make the most of life's opportunities



Freeing Ali

By Michael Gordon, \$16.95

Freeing Ali tells the story of Ali Mullaie, an Afghan asylum seeker who spent three and a half years detained on Nauru. The author backgrounds his profile of Ali and his fellow detainees with a discussion of the impact of the detention centre and the 'Pacific Solution' on the people of Nauru and their country.



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The rules of attraction:

legal professional privilege and inhouse counsel



By **Fiona Hammond**,
Legal Officer,
Office of
Commonwealth
Games
Coordination

In *Commonwealth of Australia and Air Marshal Errol John McCormack in his capacity as Chief of Air Force v Russell Vance* [2005] ACTCA 35 (23 August 2005) (**Vance**), the ACT Court of Appeal unanimously held that it is not essential for an inhouse lawyer to hold a practising certificate in order for their legal advice to attract client legal privilege under the *Evidence Act* 1995 (Cth) (**Evidence Act**). It is, however, a relevant factor to be taken into account.

Vance revisited

The *Vance* case concerned an application for leave to appeal the decision of Crispin J of the ACT Supreme Court, who found that privilege only arises to protect the confidentiality of communications with a lawyer holding a current practising certificate or a statutory right to practice.

Privilege and the Evidence Act

In overturning the decision, Gray, Connolly and Tamberlin JJ held that, in the ACT, the test for whether documents are privileged from discovery is not the common law test but rather the test that is stated in the *Evidence Act*. Section 118 provides that privilege attaches to:

- confidential communications between lawyers and client,
- for the dominant purpose of providing legal advice.

There is no specific requirement for lawyers to hold practising certificates in order for privilege to attach.

Practising certificates – no pre-condition

The Court of Appeal found that Crispin J erred in holding that client legal privilege can only be established where a lawyer holds a current practising certificate. While the existence of a practising certificate is clearly a “very relevant fact” [30] to take into account in determining whether an inhouse lawyer has given independent professional legal advice that would attract a claim for client legal privilege under the *Evidence Act*, it demonstrates, rather than concludes, the issue. To make the holding of a practising certificate a pre-condition for such a claim amounts to an appellable error.

Professional standards

Crispin J also held that inhouse lawyers must be professionally independent of their employer and that lawyers without practising certificates are not subject to the same level of professional discipline as lawyers with practising certificates. However, the Court of Appeal noted that admission to practice of itself imposes duties to the courts and standards of professional conduct, which exist even if a current practising certificate is not held.

Implications

The decision is authority for privilege claimed pursuant to the *Evidence Act*, and as such is not binding in relation to privilege at common law. However, the Court of Appeal referred to a number of first instance decisions



in other jurisdictions where the absence of a practising certificate did not of itself preclude a claim for legal professional privilege and in so doing, appears to support this view.

At the broader level, the findings support an holistic approach in which the right to practice of itself is not a conclusive determinant of whether legal professional privilege subsists in the communications of inhouse lawyers. ■

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- Legal Practice Management Section, Natalina Velardi, ph 9607 9384 or email nvelardi@liv.asn.au;
- Litigation Lawyers, Andrew Closey, ph 9607 9365 or email aclosey@liv.asn.au;
- Property and Environmental Law Section, Nadia Venier, ph 9607 9489 or email nvenier@liv.asn.au;
- Workplace Relations Section, Elizabeth Hayes, ph 9607 9388 or email ehayes@liv.asn.au;
- International Law Committee, Jo Kummrow, ph 9607 9384 or email jkummrow@liv.asn.au; and
- Government Lawyers' Group, Jo Kummrow, ph 9607 9384 or email jkummrow@liv.asn.au.