Working Paper

Admission and PLT

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This paper is designed to give all of you a little bit of background information for discussion. The point of this discussion is to summarise a few points that council would like me to take to set a direction for the next position paper on this topic.

# Admission Suitability

* Couple of key points to look at here
* Remember here that the test is whether one is a fit and proper person for legal practice. A lot of the material refers that these guidelines are in place to a) maintain the standards of the profession, b) to maintain the image of the profession and c) cement one’s status as on officer of the court
* Firstly, the guidelines state (in Victoria, at least) that if there is anything that you are not sure is worth declaring, than it should be declared
* This creates an onus on the applicant to decide whether something is worth declaring.
* The Act, in Victoria, states that a person must declare whether they have a ‘significant mental impairment’ and that may be grounds for non-admission.
* Previous incarnations used the term ‘infirming’ which was expanded to include Alcohol and Drug abuse.
* Over reasons include, but are not limited to; previous criminal convictions, previous removals from the role, any contravention of an order of the court etc.
* All of these can be refuted, particularly with evidence to suggest you are still of good character
* Mental Impairment is an odd one out, doesn’t relate to actions or contraventions of the law.
* It also on-going and can’t be proven to be ‘out of character’ or, even, irrelevant to character
* Not clear on what the extents of an impairment are or what constitutes significant
* The impetus is on the applicant to decide whether or not to declare a mental illness
* This has a lot of negative possibilities.
* 1) People may refrain from applying for admission out of fear of admitting a mental illness
* 2) People may refrain from seeking help as a result of not wanting to admit to having a mental illness, further increasing the stigma surrounding mental illness
* 3) These are all discretionary and it is possible that someone could be rejected from practice as a result of disclosing a mental illness
* 4) There is an inherent underlying value that someone with a mental illness is less capable than someone without a mental illness
* 5) There is additional stress and trauma applied on someone who is already suffering similar issues as a result of the stigma created by the process
* 6) Privacy and ableism issues also arise at the idea of forcing someone to disclose a personal illness
* My personal position is that such a requirement is unnecessary considering the contemporary understanding of mental illness
* Feedback and views?
* What position should ALSA take?