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When the guardian locks the gate

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Abstract

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Australian migration agents fall into a unique space within legal work. They are not lawyers, nor are they clerks; instead, section 276 of the *Migration Act* 1958 (Cth) gives them the authority to provide immigration assistance to prospective migrants, migrants moving to permanency and citizenship, migrants who have compliance concerns, and asylum seekers, refugees, and those with no legal status. The *Migration Act* draws a line between migration agents' work and that of lawyers who provide legal assistance regarding immigration. Both lawyers and graduates with the prescribed qualification can register as migration agents.

In 2017 the prescribed qualification for migration agents was changed to a Graduate Diploma to be undertaken at specific universities that had been awarded a government tender to provide the course. In addition, the OMARA designated a stand-alone pre-registration exam to be taken by graduates within a year of the completion of their Graduate Certificate. This exam is currently delivered by one university that is prevented by the OMARA from discussing the course work or exam with the university providers.

The exam has been held three times since the change to the qualification was made in 2017. One hundred and thirty-one graduates have sat the exam during that time, and 13 have passed. The extraordinary fail rate of 87% has called into question both the exam and the efficacy of the universities' teaching. Graduates have considered taking class actions against the provider of the exam, and universities have sought government intervention to assist their students. This article examines the role the OMARA, as the regulator, has played in the education and regulation of migration agents and considers the impact politicisation has had on the development of the education regime.

Keywords

migration agents, professional education, regulatory body, competency frameworks



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Introduction

The first duty of academics teaching into a professional degree must be to their students. This duty includes not only designing a high-quality, evidence-based, experiential learning experience, it includes ensuring they can meet their goal of becoming a member of the profession. Providing such a high-quality education is a particularly difficult burden if the “Guardian” of the profession appears intent on locking the gate.

Increasingly, higher-education providers are called on to meet the demands for professional-practice degrees. These may be in the form of graduate degrees designed to meet the needs of professionals working in fields such as engineering, technology, and health, or they may be courses specified as entry requirements for registration to practice in areas such as law. In many cases, professional accreditation enhances the value of these courses for students seeking a pathway to a new career.

The Graduate Diploma in Australian Migration Law and Practice (the Graduate Diploma) is the entry-level qualification for registration as a migration agent in Australia. However, graduates face a further hurdle before they can register for practice in the form of an external Capstone exam (the Capstone). This hurdle and the pedagogical challenges it poses to those teaching the Graduate Diploma are the focus of this article.

The article outlines the educational requirements for registration as a migration agent in Australia, highlighting the pedagogical issues that emerge when a regulator’s requirements for registration do not align with the regulatory environment for higher education that aims to help students meet graduate learning outcomes. It begins with a brief overview of the development of education requirements for migration agents, to establish how the disconnect with the aims of education providers and the regulator has occurred. It addresses how the imposition of an external Capstone has affected current students and graduates of the entry-level qualification and discusses how the experiences of one university provider and the solutions they have presented to students may provide valuable insight for universities struggling with similar restrictions.

In higher education, regulation of the quality of degree programs and their suitability for purpose occurs through the Tertiary Education Quality and Standards Agency (TEQSA), and through adherence to the Higher Education Standards Framework (HESF) and the Australian Qualifications Framework (AQF). Professional accreditation processes are a common way of providing independent quality assurance and of ensuring graduates possess the knowledge and skills required by the profession they are about to enter. These processes vary, with some regulated by legislation, and others using voluntary accreditation processes that are self-regulated by the relevant professional bodies. The impact of accreditation on course design also ranges from highly prescriptive to a “big picture approach” (PhillipsKPA, 2017, p. 73).

The need for a national standard or agreement on best-practice accreditation processes was identified in the PhillipsKPA report *Professional Accreditation: Mapping the Territory* (2017). Professional accreditation was defined as adherence to requirements that have been established by a professional association for accreditation of higher-education courses to enable graduates to practice or be registered to practice in Australia (2017, pp. 19–20). Accreditation of coursework across multiple providers and state jurisdictions is increasingly common; however, quality outcomes rely upon cooperation between all stakeholders (Maharg, 2017). The PhillipsKPA (2017 p. 4) report noted that “virtually all accreditation of mainstream professions followed a similar pattern ... and identified competencies or core bodies of knowledge against which graduates must be assessed”. Nevertheless,

there is a trend away from input-based models of accreditation to an emphasis on learning outcomes. This has moved the focus away from what is taught to what can be “expected of a graduate in terms of the abilities and skills needed to develop understanding or competence in the subject” (2017, p. 33).

The PhillipsKPA report noted that best practice for accreditation occurs in those professions that accept that TEQSA’s review processes are sufficient for quality assurance (2017, p. 5). For example, the Australian Tax Practitioners Board allows registration as a tax agent by from applicants who have taken a “mix and match” approach to educational qualifications, including cases where it requires no further accreditation from applicants have completed a TEQSA-registered degree in accountancy (2017, p. 37).

Other professions play a more active role in aligning their goals with that of the regulatory framework for higher education. Following the release of the PhillipsKPA report, all Australian law schools and Councils of Australian Law Deans adopted a common set of teaching and learning outcomes (TLOs) for LLB and JD degrees. The Law Admissions Consultative Committee (LACC), which consists of significant stakeholders in the legal profession and academia, released a consultation paper to examine the relationship between TLOs and the 11 academic requirements (prescribed areas of knowledge) needed for admission. The LACC paper asked for comments regarding the prescribed areas of knowledge, and advocated that the present areas of knowledge were, in fact, merely indicative, not prescriptive of how or when they should be taught within a course. The Law Admissions Consultative Council (LACC 2019, p. 4) also rejected the idea of an additional summative assessment, concluding that any revised document of academic requirements should be preceded by comments that included:

Consistently with the TLOs, an applicant is required to demonstrate an understanding of a coherent body of knowledge in a prescribed area. This does not imply that an additional summative assessment of one or all of areas of knowledge is required at the point of graduation.

Despite the ability of professional bodies such as the Tax Practitioners Board to work closely with university providers and educators, the relationship between higher-education providers and the regulatory authority for migration agents has a consistent history of complex oversight and regulation.

Educational Requirements for Registration as a Migration Agent

The registration requirements for migration agents are legislated under the *Migration Act 1958* (Cth) and *Migration Agent Regulations 1998* (Cth). The relevant legislation prescribes a Graduate Diploma in Australian Migration Law and Practice and a Capstone as the entry-level qualification needed for registration. Six universities currently offer the Graduate Diploma. At the time of writing, the Capstone is provided by a school of legal training for law graduates that has no relationship with the six providers of the degree. The current requirements have arisen against a historical background of rigorous intervention by the Office of the Migration Agents Registration Authority (OMARA) and multiple government inquiries and reviews into the regulation and education of migration agents.

The migration-advice sector occupies a unique professional space, with significant overlap with the legal profession. Most migration agents do not possess a legal practising certificate or a bachelor’s

degree in law and are not required to undertake supervised practice. The Migration Agents Registration Scheme (MARS) was introduced in 1992, regulating the practice and entry into the emergent profession of migration agents (Clare, 2013). From 1998 to 2009, the Migration Institute of Australia (MIA) was appointed to constitute a statutory self-regulating body known as the Migration Agent Registration Authority (MARA). The original aim of the appointment was to allow the profession to move to self-regulation (Robinson, 2019). Following three reviews of self-regulation, the MIA was removed from the role in 2009, and the OMARA was created as an independent statutory regulator for migration agents (Kendall, 2014). In 2006 the entry requirements for registration were increased with the introduction of a Graduate Certificate.

The Graduate Certificate was offered by four university providers bound by a Memorandum of Understanding (MOU) with the MARA and its successor, the OMARA. The MOU added layers of external influences on all four courses in the Graduate Certificate. In addition to the AQF and the university's graduate outcomes, the MOU bound each provider to a common curriculum framework that included standardised learning outcomes and course content as well as a common assessment framework. This product-oriented, fixed curriculum placed content transmission at the forefront and restricted university providers from shaping curriculum and assessment to fit the needs of students as learners (Norton, 2009). The sheer volume of content required to be covered in the program also hindered student learning (Ramsden, 2003), as it left little time for students to apply the content and learn essential practitioner skills.

Despite these challenges, the universities worked cooperatively with each other and the regulator for almost 10 years in the Migration Agent Registration Entrance Advisory Committee (MAREAC). This work ensured that the learning outcomes, curriculum course content and assessment throughout the Graduate Certificate program conformed to the basic principles of constructive alignment (Biggs, 1996; Prosser & Trigwell, 2014). The co-operative work within the MAREAC moved the assessment regime from a purely content-based common exam to one that included formative assessments focusing on practice skills. Importantly, it allowed the university providers to close the assessment loop and provide reliability and validity to the shared assessment tasks their students were required to undertake (Smith et al., 2010).

In 2012 the Occupational Competency Standards for Migration Agents (OCS) were developed and changes to registration requirements were introduced; these included a mandatory course of study, the Practice Ready Program (PRP), that agents undertook within 12 months of their initial registration. The PRP program was designed to test an agent's ability to meet aspects of the OCS and assist new agents with practitioner skills. Before undertaking the PRP, new agents needed to have a least one active or completed client file that ensured the program was refreshing and assessing their ability to practice.

The current entry requirements follow the recommendations of an independent review into the OMARA (Kendall, 2014). The resulting Kendall Report (2014, pp. 132–134) made 23 recommendations for the emerging profession, of which four relate to the entry-level qualifications for registration as a migration agent:

1. *Recommendation 11: That a Graduate Diploma in Migration Law and Practice replaces the Graduate Certificate as the prescribed course*
2. *Recommendation 14: That migration agents (non-lawyers) be required to undertake a period of one-year mandatory supervision with an already registered migration agent following the completion of the prescribed course*

3. *Recommendation 16: That the OMARA tender for the development of a stand-alone Capstone exam which would ultimately be prescribed in a legislative instrument. This prescribed examination would be delinked from the prescribed course or any service providers currently offering the prescribed course*
4. *Recommendation 17: That final registration as a migration agent be dependent on*
 - i. *Completion of a newly required Graduate Diploma as the prescribed course;*
 - ii. *Completion of 12 months of supervised practice once the prescribed course has been successfully completed; and*
 - iii. *The successful completion of the Capstone exam taken after completion of the 12-month period of mandatory supervision.*

Kendall (2014, p. 132) also noted the concerns that “no other industry so extensively regulates what not only can be taught, but importantly, how the subject matter should be taught” and recommended “that the OMARA should play no role in dictating how these courses are to be run, assessed or structured. Appropriate legislative amendments should be made to ensure that this occurs”.

The Graduate Diploma was prescribed as the entry-level qualification in 2017. The requirement to complete the PRP was removed, and seven universities were approved as providers, with six ultimately delivering the qualification¹. In their tender documents, potential providers were required to map all course content against the OCS framework. The introduction of the Graduate Diploma, as per the Kendall Report’s recommendation, was viewed by the university providers as positive. The length of the postgraduate qualification meant that more breadth was created in the curriculum for students to apply legislative knowledge by using practical skills such as legal writing, oral advocacy, and file management. Furthermore, the removal of the regulator’s role in setting a standard curriculum or assessment allowed universities to freely design their curriculums in line with the TEQSA, AQF, and HESF.

However, these benefits were outweighed by the piecemeal adoption of Kendall’s recommendation for a Capstone exam (Kendall, 2014, p. 134). While some of the recommendations, such as the appointment of an independent Capstone provider² and the introduction of a Capstone as a stand-alone exam that consisted of a written and oral component, followed Kendall’s advice, other factors were adapted in a way that changed the impact of the exam.

Notwithstanding the genuine issues relating to the implementation of supervised practice for newly registered agents, it remains a persistent gap in the development of competent and professional migration agents. This gap had previously been filled to a small degree by the introduction of the PRP in 2012 (Dickie, 2015). Instead of requiring graduates to complete a year of supervised practice, the new regime requires them to sit the Capstone at any point after graduating from the Graduate Diploma and before registration. As a result, it is argued that the implementation of the Capstone in its current form does not fulfil the purpose for which it was initially recommended in the Kendall Report.

The Kendall Report’s (2014, p. 133) recommendations and comments were clear: candidates were to take the Capstone after a year of supervised practice, and the Capstone was to offer “an independent and nationally consistent competency-based assessment” – in other words, to test competencies learnt in the first year of practice, not to test what was learnt in the Graduate Diploma. However, the OMARA has provided a different intention for introducing the Capstone:

The migration agents Capstone assessment (the Capstone) assesses whether a candidate meets the Occupational Competency Standards for Registered Migration Agents (OCS) available on the Office of the Migration Agents Registration Authority (OMARA) website. Meeting the OCS is the intended outcome of the Graduate Diploma in Migration Law and Practice (Office of the Migration Agents Registration Authority, n.d.).

Despite the connection the OMARA has made between the Graduate Diploma and the Capstone, the implementation and design of the assessment have made this link tenuous. The OMARA interpreted the Kendall Report recommendation to delink the Capstone and Graduate Diploma strictly. As a result, the university providers have had no input into the development of the exam despite the OMARA's (n.d.) description of the development of the Capstone as a "collaborative process". While the OMARA described the general framework of the exam on its website in 2018, the exam's content and pedagogical design have not been shared with the provider universities. This has exacerbated the disconnect between what is taught and assessed within the Graduate Diploma and what is assessed by the Capstone.

Pedagogical Issues Arising from the Regulator's Requirements for Registration

The OMARA website shows an average Capstone pass rate of 22% for Graduate Diploma graduates³ since its introduction in 2018 (OMARA, n.d.). The low pass rate has raised concerns about the fitness for purpose of both the Capstone and the Graduate Diploma (Migration Institute of Australia, 2020, p. 12; Newland Chase, 2020, p. 2; International Education & Visa Services, 2020, p. 2). Within the current system, it is hard to ascertain if these concerns are valid; nevertheless, there is no doubt that pedagogical factors are affecting candidates' ability to pass the exam.

Standardised exams can appear to offer assurances to regulators that those entering the profession have reached a desired level of knowledge and skills (Smith et al., p. 251). The previous Graduate Certificate courses were required to develop and share 45% of their assessment as a common exam for each cohort of students through the MAREAC. This process presented a logistical and economic burden to both the providers and the OMARA, with the need to design a bank of assessment tasks (including supplementary exams) that allowed providers to assess cohorts of students at least three times per year. It is, therefore, no surprise that Kendall's recommendation to proceed with a stand-alone Capstone through one provider was implemented.

Nevertheless, the Capstone in its current form undermines the benefits of removing the OMARA's oversight and the fixed curriculum from the Graduate Diploma program. The current regime lacks the benefits universities gained by working together through the MAREAC to ensure that final shared assessments and exams closed the assessment loop of their curriculums.

University providers are now free to use their teaching and learning expertise to make choices relating to learning outcomes, "criteria for success" (Hattie, 2011, p. 134), assessment methods (Scouller, 1998), workload, and the degree of control that the students have over their learning. However, high-stakes summative assessments, particularly those that must be passed to enter a specific profession, can influence learning and teaching approaches (Dolin, et al., 2018). High levels of student anxiety over passing the Capstone has shifted student focus from learning to practice to

learning to pass. This presents a challenge for Graduate Diploma providers tasked with continually assessing achievement of learning outcomes and OCS within the Graduate Diploma, but with no control over or knowledge about the content, criteria, or standards of the Capstone.

What is clear from publicly available information is that the time-pressured format of the Capstone requires students to recall information rapidly, with no time for research during the exam. Assessment requiring students to rely on memorisation encourages a surface approach to learning and increases the likelihood of poor learning outcomes (Trigwell et al., 1999; Entwistle, et al., 2002). At its simplest level, students who take a surface approach to learning will tend to memorise, not necessarily understand, information that they have received from the lecturer to pass the exam.

It is accepted that teaching approaches affect students' learning approaches (Trigwell et al., 1999). Authentic, collaborative learning experiences that encourage students to actively construct knowledge and understanding by making connections between their prior knowledge and the learning materials, and to monitor their understanding as they progress, may be eschewed for practice testing and exam preparation. While an organised approach to studying may involve elements of surface learning (Lindblom-Ylänne et al., 2019), educators should ensure that the learning framework they employ supports students to reach a deeper level of knowledge and understanding and become lifelong learners, an essential attribute for all graduates. The risk posed by a high-stakes summative assessment is that the broad spectrum of competencies required is sacrificed, and the curriculum narrowed to fit the test (Dolin et al., 2018).

The inability for universities to have input into the Capstone raises the question of validity. The effective outsourcing of competency testing results in a system where test design occurs in a vacuum and those responsible for student outcomes are unaware, and in disagreement of the content students need to learn (Smith et al., 2010).

Dolin et al. (2018) explain that validity is not restricted solely to the design of the assessment because validity is not a simple matter of relating an assessment to a series of standards or tasks. Rather, it is a judgement based on the design. While content validity refers to the subject being taught and can be based on judgements by experts, validity questions can arise through construct irrelevance (Dolin et al., 2018). For example, a lengthy problem-based assessment question will demand good reading skills. For candidates sitting the Capstone, the time required to read and understand a complex legal problem must be considered to avoid the exam producing a biased result by testing reading skills as well as knowledge. Consequential validity relates to the judgement made by the assessors and the inferences they draw from the result. While results may reveal something about a candidate's knowledge in a specific area, they may not be a valid basis for predicting ability across broader aspects of the work or profession (Dolin et al., 2018). University providers take these factors into account when creating assessments. As the design of the Capstone is unknown, providers find it challenging to balance the need to ensure that students pass the exam with the need to teach and assess their curriculum validly.

Feedback from those who have sat the exam along with the sample exam released by the provider indicate that the Capstone focus is predominately on the first three competencies of the OCS⁴. Candidates (Marti, personal communication, September 13, 2020; Moraes, personal communication, September 14, 2020) who have sat the exam have described how they received extensive feedback on their performance. This anecdotal feedback leads to the conclusion that the Capstone goals or design have components of both a summative and formative assessment, even though it is operating outside of an educational program.

As the regulator has stated that the intent of the exam is to test the efficacy of the course work in relation to the OCS, there is no doubt that the exam is predominately summative. While stakeholders agree on the need to ensure that graduates can work as migration agents, they do not agree on what skills and knowledge will enable them to do so (Bartlett & Dickie, 2013). The emphasis on vocational competencies as evidence of skills and knowledge is indicative of this debate. However, a reliance on competencies ignores the complex area of becoming a professional and the actual environment where that transition occurs (Darwin, 2013).

Competency standards such as those designed for migration agents may provide valuable insight into the primary job design, workflows, and general vocational expectations of a migration agent. However, they may also impose an atomised, sequential, and fragmented understanding of what sophisticated professional practice entails, which can be at odds with the requirements of the AQF (Dickie, 2015). Nevertheless, the OCS document states that one of the uses of the OCS framework is as a basis for entry into the profession. As such, the OCS guides what a migration agent must be able to do and to know. Unlike learning outcomes, they do not provide a criteria component for satisfactory performance or a measurement for what distinguishes those “who understand from those who do not” (Maxwell, 2002, p. 7).

The use of competency standards as learning outcomes without transparent criteria remains a concern to the university providers trying to adapt and improve their courses and teaching. The OMARA has imposed a pass mark of 65% on the Capstone. This relatively high pass mark and the inclusion of feedback for candidates who have sat the exam indicates that the providers and designers of the Capstone may have attempted to implement “assessment loop criteria” (Carless, 2019). The use of feedback indicates that the Capstone measures performance against specific criteria, such as learning outcomes. Crucially, it is evidence that the providers of the exam can identify a gap between candidates’ actual level of knowledge and skills and the criteria used to assess competency (Ramaprasad 1983, p. 4, in Taras, 2009). While providers have received limited amounts of general feedback from the OMARA on the performance of some Capstone intakes in 2018 and 2019, determining the actual gap the exam providers have identified in specific cohorts of candidates remains a mystery that university providers cannot solve. The feedback is limited to content that the Capstone provider has assessed as needing improvement but does not reveal the standard required or the assessment criteria.

The OMARA’s website notes that the Capstone provider has indicated that English-language proficiency is a factor in the low pass rate (n.d.). The finding that English proficiency may be hampering candidate success highlights the danger of testing bias in the current exam design. As English-language proficiency is not a component of the OCS, it is impossible to ascertain whether this is a factor of consequential validity (Dolin et al., 2018) or a specific criterion that candidates are expected to meet. Communicating hidden criteria such as this to the university providers would provide transparency and ensure that both the Capstone and the Graduate Diploma evolve to improve the quality of training and outcomes for migration agents.

The tension created between the prescribed course and the prescribed exam is reflected in similar areas of legal education. Curtis (2017, p. 267) describes the need to produce “professional, ethical attorneys who have skills and knowledge and attributes to be competent and responsible members of the profession, with the ability to pass the bar exam” as a “no win tug of war between preparing students for practice and memorisation of a doctrinal heavy exam”. Her solution is one that would go some way to address the repercussions of the OMARA’s failure to implement Kendall’s recommendations in full: she advocates moving from an exam that tests a student’s ability to memorise information to one that tests minimum competence to practice, through the “leverage of

learning outcomes” (2014, p. 268). Leverage would entail the law schools and bar examiners working together to determine common learning outcomes and, importantly, identify learning outcomes to be tested in the exam.

The approach of involving stakeholders who actively work together would present a solution to the current situation facing candidates for the Capstone. If the providers of the Graduate Diploma and the Capstone could work together in ways that closed the assessment loop, the outcomes for students would be rendered reliable and valid. In other words, both providers and the regulator would determine what best suits a one-time summative assessment such as the Capstone and what is best for formative assessment within the prescribed course; this would allow students to adjust their learning approach accordingly. Until this can happen, the disconnect between education and entry into the profession will continue.

Conclusion: Provider Solutions

As a result of the Capstone format, relatively high passing score, and low pass rates, university providers are now placed in the unenviable position of deciding how they can best prepare students for success in the gateway exam. The misguided concept of “teaching to the test” (Popham, 2001; Fjortof et al., 2018, Dolin et al., 2018) is not an option when the design, content, and criteria for the assessment are unknown. Nor would it result in the outcome desired by stakeholders of graduate competency across the desired skills and knowledge requirements (Popham, 2001, p. 21).

The first graduates from the Graduate Diploma to attempt the Capstone sat in February 2019. University providers were informed in May 2019 that the pass rate for the Capstone had been 13%. At Griffith University, this pass rate confirmed concerns relating to the format and lack of alignment described above, and students became understandably anxious to know how they could best prepare for the Capstone. In response, Griffith University has been open and transparent with their students about its concerns and lack of knowledge about the Capstone content, marking criteria, and standards. The university has also been explicit about the positive steps that students can take from their first day of studying in the Graduate Diploma program by using the existing program design and content to learn, practise, and achieve a positive outcome in the Capstone.

Social constructivist learning theory places students at the centre of each learning experience (Ertmer & Newby, 1993), encouraging them to engage deeply with the learning materials to become independent, lifelong learners (Trigwell, et al., 1999). Aware that program and teaching approach positively influence students’ perceptions of and belief in their ability to learn complex legislation and practical skills and to cope with novel challenges (Laurillard, 2012), Griffith University intentionally drew on social constructivist theory to design a program that would encourage students to be active learners and, eventually, confident practitioners. This adapted design enhanced ways to promote self-efficacy through the introduction of authentic learning experiences, activities that enhanced metacognitive awareness of learning and practice, and a specific course module on exam techniques.

Self-efficacy, or a person’s belief in their ability to achieve a specific goal and persistence in the face of adverse circumstances (Bandura, 1977), is a known outcome of constructivist learning environments (Alt, 2015; Schunk & Usher, 2019). To prepare students not only for the unpredictability of practice as a migration agent, but also for the challenge of a largely unknowable Capstone, Griffith University implemented program-wide measures to enhance students’ self-efficacy.

High levels of authenticity have been shown to help students develop self-efficacy in responding to new challenges (Gurvitch & Metzler, 2009). Griffith University had created a program-wide authentic-learning framework by deliberately pairing four courses with a strong content focus, which encourage graduates to build a comprehensive base of legislative knowledge and understanding, with four new practitioner-skills courses in which students apply their legislative knowledge. The practitioner-skills courses follow the OCS in detail, immersing students in the life cycle of a client matter from the initial interview, advice, visa application and lodgement, submission writing, advocacy, and file-closing procedures. In the final course of the program, students repeat this process, albeit with a new client matter, less scaffolding, and reduced access to practising agents as mentors. Students also have the option of finding an external work placement in addition to the embedded client work.

Self-efficacy can also be promoted through metacognitive activities that provide students with opportunities to reflect on their learning processes through collaborative group work and multiple formative assessments (Alt, 2015; Dunlosky, et al., 2013). At Griffith University, each of the eight courses comprising the Graduate Diploma program offers students a variety of individual and collaborative learning activities, for which they receive immediate feedback; students are also allowed to self-test often and over an extended period.

While the existing program framework, curriculum, and teaching approaches optimise student learning, in response to the Capstone challenges, Griffith University has stepped up its efforts to show students how to use these elements to succeed in the program and beyond. In addition to being explicit about how to learn in each module, Griffith University also integrated specific measures to support that learning. A separate online module was developed and *embedded in every course* to help students develop an approach and plan for their study throughout the Graduate Diploma. The module explicitly links learning in the Graduate Diploma with Capstone preparation by explaining how to use the existing tools within the program to engage with the learning materials. The module incorporates a study method that was developed by two Griffith University graduates⁵ who were part of the 13% of successful candidates in the February 2019 Capstone cohort.

The study method includes concrete study skills that show students how to engage with the course content and prepare for the Capstone by creating individualised summaries, tables, and concept maps. The method encourages students to work collaboratively with a “study buddy” to create client scenarios that test their knowledge and understanding. Students are encouraged to consider legal problems that have multiple solutions along with those that have no solution, expanding their ability to engage with the law in a variety of scenarios. By constructing their learning materials in this way, students are refining and synthesising what they have learned in each course and connecting related concepts and integrate legislative rules and exceptions in a holistic way that will prepare them for practice, as well as for the Capstone. Rather than providing a quick fix via rote learning, the online module demonstrates that it is possible to develop an individualised study method to engage deeply and strategically with course materials.

It has not been possible to assess the success of these measures adequately. While the pass rates have improved somewhat to 30% (Office of the Migration Agent Registration Authority, n.d.), providers are not given detailed results of their former students, and thus must rely on piecemeal feedback from graduates. However, the approach taken to integrate study methods into the Graduate Diploma is consistent with and reinforces the overall social constructivist learning framework of Griffith’s program, which encourages students preparing for practice to take a proactive, reflective approach to their learning. This approach prepares them for professional practice as well as for the

Capstone. Learning from successful Capstone candidates who completed the Graduate Diploma at Griffith University sends a powerful message to students relating to self-efficacy and helps to maintain motivation levels.

Griffith University's approach provides guidance to all higher-education providers seeking to balance the short-term goal of preparing students for assessment with the longer-term goal of motivating and shaping students to become lifelong learners and professionals. However, the serious issues relating to the format, structure, and placement of the Capstone have presented a genuine risk to the quality of the Graduate Diploma, as both teaching and learning approaches are affected. The lack of alignment and collaboration between the Capstone provider and university providers continues to hamper efforts made within the Graduate Diploma to ameliorate the exam's impact on graduates. A lack of insight into the assessment design, criteria, and standards of the Capstone, continues to hinder attempts by university providers to react to the Capstone pass rates. Substantial reform of the Capstone is needed to create a fair and transparent summative assessment that accurately assesses graduates' competence and professional capabilities.

Endnotes

1. The Australian National University did not progress with the course provision after being approved to do so.
2. The College of Law announced in late August 2020 that it will cease providing the Capstone assessment from 31 December 2020 (<https://www.collaw.edu.au/learn-with-us/our-programs/professional-development---cpd/migration-capstone/migration-capstone-assessment-faqs>).
3. Some candidates for the exam are graduates of the Graduate Certificate.
4. Standard 1: Make preliminary contact with a potential client. Standard 2: Agree on a course of action based on a detailed knowledge of relevant legislation and government policy and in accordance with the ethical principles of the Code of Conduct. Standard 3: Prepare, review and lodge applications or appeals based on detailed knowledge of relevant legislation and government policy and in accordance with ethical principles and the Code of Conduct. While this study method has been shared with Griffith University, it has not been made available publicly, as it forms part of the graduates' private business assisting candidates to prepare for their Capstone exam; see <https://migrationcapstone.com.au>.

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