**DEAKIN LAW SCHOOL RESEARCH REPORT**

**(No 2 of 2013)**

**2013 LAW SCHOOL RESEARCH FUNDING POLICY**

Research funds available to the Law School for 2013 will be constrained; yet we need to have open, equitable and transparent method for their distribution aimed at providing rewards and incentives for high quality publications.

Building on the present policies and experience, while furthering our goal of ERA Level 4 or 5 (or their equivalents), the Law School will provide $40,000 for the following DEST-point based funding structure involving HERDC (Higher Education Research Data Collection: see below\*) publications posted on the DRO.

Until 2012, when HERDC became an annual event, there was a 12-months lag in collection and verification of the data. Consequently DEST points were distributed not for the previous year, but the year before – in 2012 DEST points were distributed for 2010.

Rather continuing with the old system, we decided to distribute DEST points in 2013 for both, 2011 and 2012 DRO publications. Then, from 2014, we shall be distributing DEST points for the previous year (2013).

In order to cater for the backlog, each **DEST point** will attract **$500**

* Each HERDC article will attract **one** DEST point ($500)
* Each HERDC book will attract **five** DEST points ($2500)
* Each revised edition of HERDC book as well as textbooks will attract **two** DEST points ($1000)
* Co-authored works will attract pro-rata DEST points: 1/2; 1/3, etc of the relevant category of publication

Federal Government does not fund non-HERDC publications. Consequently,non-HERDC publications will not be rewarded, as a general rule, through DEST money.

However, items posted on the DRO with the permission of the Head of School (the test is a ‘*significant or substantial research contribution*’), while formally not attracting DEST points (HERDC classifications are Federal Government’s policy, see below\*\*), will be rewarded internally.

Non-HERDC publications posted on DRO with the permission of the Head of School will attract an equivalent **one** DEST point **($500**).

Recognising

1. that lawyers tend to measure the significance and authority of a legal text by the number of its subsequent editions and reprints; and
2. that legal textbooks greatly enhance our School’s profile among Law students throughout Australia,

**revised editions of HERDC books** as well as **new textbooks** will attract an equivalent of **two** DEST points **($1000**).

NOTE: DEST point funds can be used to attend a conference irrespective of whether you will present a paper. They can be used for research assistance, and with approval of the Head of School, for books.

**LAW SCHOOL RESEARCH HUBS**

Three Research Hubs will be provided with $8,000 each to be distributed for conference presentations and research assistance – applications for these activities are to be discussed by the relevant Research Hub members, with reference to merit, past research record, etc.

**DISCRETIONARY RESEARCH FUND**

Discretionary Research Fund of $16,000 will be administered and distributed by the SMT on competitive basis.

**APPLICATION PROCESS**

1. All applicants must exhaust their DEST allocations before applying for funds from Research Hubs or the Discretionary Fund. Hub or Discretionary funds will be allocated as a 'top-up to' rather than 'instead of' DEST funds. In other words:

first use your DEST point funds; if these are inadequate, apply to your Research Hub for a 'top-up'; if you are not a member of a Research Hub, or a Hub leader, apply to SMT for a 'top-up' from the Discretionary Research Fund.

2. Only applicants who have reported on the output produced from the 2012 Research Funds will be able to access 2013 Hub and Discretionary Funds. Reports should be addressed to Briana McMahon and Danuta Mendelson.

**3. The applications should contain the following details:**

a. Title and short abstract of the presentation;

b Title of the conference; place and date;

c Expected outcomes

d List of DRO-evidenced publications and research grants (2010-2013);

e Report on 2012 grant-associated output

f Budget

It should be noted that due to the fact that the present policy was formulated and approved on 25 January 2013, successful applicants who applied at the beginning of the year will funded out of the Discretionary Research Fund to cover costs above their DEST funding.

**\*2012 HIGHER EDUCATION RESEARCH DATA COLLECTION**

http://www.innovation.gov.au/RESEARCH/RESEARCHBLOCKGRANTS/Pages/HigherEducationResearchDataCollection.aspx

Relevant definitions (woolly though they are, have not been amended for 2013):

1.3.10. **Research**

Research is defined as the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies and understandings. This could include synthesis and analysis of previous research to the extent that it leads to new and creative outcomes. This definition of research is consistent with a broad notion of research and experimental development (R&D) as comprising of creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of humanity, culture and society, and the use of this stock of knowledge to devise new applications

1. 3.11.

This definition of research encompasses pure and strategic basic research, applied research and experimental development. Applied research is original investigation undertaken to acquire new knowledge but directed towards a specific, practical aim or objective (including a client-driven purpose).

Activities that support the conduct of research and therefore meet the definition of research include:

* professional, technical, administrative or clerical support staff directly engaged in activities essential to the conduct of research
* management of staff who are either directly engaged in the conduct of research or are providing professional, technical, administrative or clerical support or assistance to those staff
* the activities and training of HDR students enrolled at the HEP
* the development of HDR training and courses
* the supervision of students enrolled at the HEP and undertaking HDR training and courses

Activities that do *not* support the conduct of research must be excluded, such as:

* scientific and technical information services
* general purpose or routine data collection
* standardisation and routine testing
* feasibility studies (except into research and experimental development projects)
* commercial, legal and administrative aspects of patenting, copyright or licensing activities

1.3.12. **Research publications**

Research publications are books, book chapters, journal articles and/or conference publications which comply with the definition of research and are characterised by:

**substantial scholarly activity**, as evidenced by

* discussion of the relevant literature,
* an awareness of the history and antecedents of work described, and provided in a
* format which allows a reader to trace sources of the work, including through
* citations and footnotes;
* originality (i.e. not a compilation of existing works);
* veracity/validity through a peer review process or commercial
* publisher process;
* increasing the stock of knowledge; and
* being in a form that enables the dissemination of knowledge.

### Commercial publisher

A commercial publisher is an entity for which the core business is producing books and distributing them for sale.

If publishing is not the core business of an organisation but there is a distinct organisational entity devoted to commercial publication and its publications are not completely paid for or subsidised by the parent organisation or a third party, the publisher is acceptable as a commercial publisher.

University and other self-supporting higher education institution presses are also regarded as commercial publishers, provided that they have responsibility for the distribution of the publication, in addition to its printing.

**\*\*ERA 2012 Submission Guidelines**

These Guidelines are unlikely to undergo a significant change for the next ERA (or equivalent) round:

5.4.8. Traditional **Eligible** Research Output Types

The eligible research output types common to all disciplines are:

• Books—Authored Research;

• Book—Chapters in Research Book;

• Journal Articles—Refereed, Scholarly Journal; and

• Conference Publications—Full Paper Refereed.

5.4.8.1. **Books—Authored Research**

Institutions are required to submit information on all eligible books for each year of the research outputs reference period.

**Eligible books** are those that meet **all of the following criteria:**:

1. be a major work of scholarship;
2. be offered for sale in the form of:
   * 1. hard copies, bound,
     2. CD-ROMs, packaged, and/or
     3. e-books, on subscription or fee basis;
3. have an International Standard Book Number (ISBN);
4. be entirely written by a single author, or by joint authors who share responsibility for the whole book; and
5. have been published by a commercial publisher.

The above requirements apply whether the publication is in print and/or online form. However, the ARC recognises that there are cases where a book has only been made available online, and has not been published by a commercial publisher and/or offered for sale. In these cases, the institution can only report the book if it has been through an acceptable peer review process and otherwise meets the relevant eligibility criteria, including meeting the definition of research. Institutions should note that **publishing online by an individual**—i.e. not by recognised commercial publishers, institutions or other organisations—is **unlikely** to meet the peer review requirements or provide sufficient editorial scrutiny. For ERA purposes, an acceptable peer review process is one that involves an assessment or review, before publication, of the research output in its entirety by independent, qualified experts. Independent in this context means independent of the author. A statement from an author that a research output was peer reviewed is not sufficient evidence.

The following **types of books are likely to meet the eligibility criteria** for the ‘Book’ research output type:

• critical scholarly texts;

• new interpretations of historical events; and

• new ideas or perspectives based on established research findings.

Many of the books published by professional bodies do not report original research findings but report the results of evaluations, or repackage existing information for the benefit of professionals or practitioners. It is important that institutions assess these outputs very carefully against the definition of research and include for this research output type only those books which report research activities.

The following types of **books** are **unlikely** to meet the eligibility criteria for the ‘Book’ research output type:

1. textbooks;
2. anthologies;
3. edited books;
4. books that are **not** published by a commercial publisher and/or offered for sale; and
5. revisions or new editions.

For some disciplines, these types of books may be submitted using the other research output categories outlined at 5.4.9.

* + - 1. **Journal Articles—Refereed, Scholarly Journal**

Institutions are required to submit information on all eligible journal articles for each year of the research outputs reference period.

Eligible journal articles are those that, ... have been published in a scholarly peer reviewed journal listed in the *ERA 2012 Journal List*. To be included in the *ERA 2012 Journal List*, a journal must have been active, peer reviewed, have published original research and have an International Standard Serial Number (ISSN), during the reference period. *Journals are not ranked* http://www.arc.gov.au/era/era\_2012/era\_journal\_list.htm

An acceptable peer review process is one that involves an assessment or review, before publication, of the research output in its entirety by independent, qualified experts. Independent in this context means independent of the author.

Articles in journals that are **not** listed in the *ERA 2012 Journal List* cannot be submitted as a journal article. For some disciplines, they may be eligible for submission using the other research output types outlined at .

The following types of **journal article** are **likely to meet the eligibility criteria** for the ‘Journal Article’ research output type:

* commentaries and communications of original research;
* research notes;
* letters to journals, provided that the letter satisfies the definition of research and the subsequent definitions for journal articles provided above;
* critical scholarly texts which appear in article form;
* articles reviewing multiple works or an entire field of research;
* invited papers in journals;
* articles in journals which are targeted to both scholars and professionals; and
* articles in a standalone series.

The following types of **journal article** are **unlikely to meet the eligibility criteria** for the ‘Journal Article’ research output type:

* letters to the editor;
* case studies;
* articles designed to inform practitioners on existing knowledge in a professional field;
* articles in newspapers and popular magazines;
* editorials;
* book reviews; and
* brief commentaries and communications of original research.

**New Journal**

"The Journal of Civil Litigation and Practice , under the editorship of Dr Damien Cremean (formerly an Associate Professor at Deakin), is devoted to discussing issues of a practical nature arising out of civil litigation. Such issues abound:pleadings; class actions; service; discovery; evidence; lawyer's duties--to mention only a few. He is making a call for articles on any such topic you might like to write on. Articles may be anywhere from 3-5000 words. The Journal, although new, has been well received and in the latest issue includes articles by the Victorian Attorney- General Robert Clark and Justice James Allsop, the Chief Justice of the Federal Court. Damien would welcome anyone contacting him on [bdcremean@hotmail.com](https://services.exchange.deakin.edu.au/owa/redir.aspx?C=-e8e7bKG40aMFY-LRUrqB1Zf9dm4zM8I7_uJYRrECL5RFSNGeaRlWmlbqfbPpHt-lZy1nuH5HGk.&URL=mailto%3abdcremean%40hotmail.com) or on 0418 574 976"

**RESEARCH IMPACT**

Samantha Hepburn's article Hepburn, "Carbon Rights as New Property: The benefits of statutory verification", (2009) 31 *Sydney Law Review* 239 was quoted by French CJ and Gummow J in *Spencer v Commonwealth of Australia* (2010) 241 CLR 118 at [6], footnote 16. The *Spencer* case is now being utilised for a CSG challenge in NSW, and Samantha's article article, 'The Nature and Scope of Legal and Equitable Rights of Removal' (2013) 2 Property Law Review 123, analyses the High Court's case, and she has been asked to attend a Coal Seam Gas Industry discussion in Sydney at Maurice Blackburn Offices on Monday, 4 February 2013.

**PAST RESEARCH ACTIVITIES**

Prof Christoph Anton's workshop on ***Internet Freedom and the Law in Asia*** was a great success. Apart from Prof Reto Hilty from the Max Planck Institute in Munich, Law School academics who presented papers at this symposium included Prof Christoph Anton, Associate Professor Elizabeth Adeney, Dr Jane Fu, Dilan Thampapillai and Claudio Bozzi.

**LAW SCHOOL RESEARCH SEMINARS**

Research Seminars will resume in March 2013. They will still be held on Fridays; however, they will need to be moved to **1pm** to **2pm** slot because the School Management Committee (SMT) meetings are scheduled for every 3rd Friday from **11am** till **1pm**.

Alternatively, we could keep the noon till 1pm time, but skip them on the days of the SMT's meetings. We can discuss the final arrangements at the Law School's Retreat next week.

**Please let me know if you would like to present a seminar paper in 2013, the most convenient date, and the topic.**

**LAW SCHOOL RESEARCH HUB MEETINGS**

**Torts, Jurisprudence, and Personal Injury Research Hub**

**I propose that we meet**

**at 10.30am on Wednesday, 6 March 2013**

***please let me know if you would like to present***

**EXTERNAL GRANTS OPEN FOR APPLICATIONS**

**Churchill Fellowships**

Sponsor - Churchill Memorial Trust, Winston – Australia

**Closing Date- Feb 26, 2010**

Abstracts - The aim of The Winston Churchill Memorial Trust is to provide an opportunity for Australians to travel overseas to conduct research in their chosen field that is not readily available in Australia. No prescribed qualifications are required  of the proposed project is a key factor and a desire to share the research findings with the Australian community must be displayed. The subject of the proposed project is limitless provided a benefit to Australia can be demonstrated.  
Fellowships will not be awarded to enable the applicant to obtain higher academic or formal qualifications, but proposals for professional or academic investigations will be entertained where the project would primarily benefit the Australian community.  
Churchill Fellowships will be awarded for the purpose of pursuing an overseas investigative project of a kind that is not fully available in Australia.

Link- <http://www.churchilltrust.com.au/about/fellows/>

**Australia-China Council 2013-2014 Grant Round**

Web Document Location: http://www.dfat.gov.au/acc/grants/index.html

**Location:** AUSWIDE Australia

**Contact:** Enquiries GovDept Department of Foreign Affairs and Trade

Opening date for receiving Expressions of Interest (EOI) online - Monday 18 February 2013

Closing date for submitting EOI - Sunday 17 March 2013 (Midnight, End of Day AEST)

Invite successful applicants to submit full application - Monday 29 April 2013

Notify unsuccessful applicants (EOI Stage) - Monday 29 April 2013

Closing date for receipt of full applications online (by invitation only) - Monday 27 May 2013 (Midnight, End of Day AEST)

Notify unsuccessful applicants (Full Applications Stage) - Early July 2013

Notify successful applicants pending funding allocation for the 2013-2014 Financial Year - Early July 2013

**STANDING REQUEST**

**Could you advise me (with cc to Suzie Miller) of any External Research funding you hold for 2012 and beyond?**

The format is as follows: **Title** , **Source, Staff Member.** **Total Grant.**

**FACULTY FUNDING**

# Call for Academic Study Leave (ASL) Applications for Trimester 2 & 3, 2013 (see attachment)

Applications for Academic Study Leave (ASL) for Trimester 2 & 3, 2013 are now called from eligible staff. Staff considering applying for ASL are encouraged to discuss their application with their Head of School or equivalent prior to submission.   
  
Please be advised that the Academic Study Leave procedure has recently been amended, requiring applicants with an excessive recreational leave balance to submit a plan (with their ASL application) outlining how they intend to reduce their leave balance. For full details please refer to the Academic Study Leave Procedure available on The Guide.   
  
**Applications are due to your Head of School or equivalent by close of business 11 January 2013.**  
For general information and to access the current application form please visit the Academic Study Leave website- <http://www.deakin.edu.au/hr/staff-dev/outside-study.php.>

Staff who are planning ASL are encouraged to include the Faculty of Business and Law's partner institutions in their plans – a copy of the Faculty's current partner institutions is attached for your reference. Your Head of School can also assist you with this.

With kind regards,

*Danuta Mendelson*