

## POSITION DESCRIPTION

<b>Position Title</b>	Senior Legal Counsel		
<b>Organisational Unit</b>	Office of General Counsel		
<b>Functional Unit</b>	Office of General Counsel		
<b>Nominated Supervisor</b>	National Manager, Legal Services		
<b>Classification</b>	HEW 9		
<b>CDF Level</b>	HEW 9 CDF1	<b>Position Number</b>	10605023
<b>Attendance Type</b>	Full Time	<b>Date reviewed</b>	13-MAY-2021

### ABOUT AUSTRALIAN CATHOLIC UNIVERSITY

Mission Statement: *Within the Catholic intellectual tradition and acting in Truth and Love, Australian Catholic University is committed to the pursuit of knowledge, the dignity of the human person and the common good.*

At ACU we pride ourselves on offering a welcoming environment for everyone. At the same time, we are a university committed to standing for something clear. We stand up for people in need and causes that matter. ACU's Mission is central to the University and informs every area – integrating the dignity of the human person, the common good, and ethical and social justice considerations into our core activities of student learning and teaching, research and service.

We are a publicly funded university which has grown rapidly over the past few years. We're young, but we are making our mark: ranking among the top universities worldwide. We have eight campuses around Australia, more than 200 partner universities on six continents, and a campus in Rome, Italy.

We know that our people make us a university like no other. It's your values, action and passion that makes the difference. Whatever role you may play in our organisation: it's what you do that defines who we are.

We value staff, offering excellent leave and employment conditions, and foster work environments where they have the ability grow and develop. We continue to invest in our facilities and workplaces, and actively involve staff in shaping the future direction of the organisation.

Each portfolio consists of several Faculties, Research Institutes or Directorates. The Vice President drives both the Identity and the Mission of the University. In addition, five Associate Vice-Chancellors and Campus Deans focus on the University's local presence and development of the University at the local 'campus' level. For further information about of the University please refer to the Organisation Chart.

All our staff contribute to the achievement of our goals set out in the Strategic Plan 2020-2023 and aim to provide high quality services with a strong focus on service excellence. Several frameworks and standards also express the University's expectations of conduct, capability, participation and contribution of staff.

## ABOUT THE CORPORATE SERVICES PORTFOLIO

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The Corporate Services Portfolio enables and fosters an engaging student and workplace experience through services aligned to the Identity and Mission, and the Strategic Plan of the University. The priorities of Corporate Services are to:

- Lead with respect, integrity and courage
- Strive for excellence through a culture of continuous improvement
- Deliver quality services to students, staff and stakeholders
- Work collaboratively to achieve the best outcomes for ACU
- Act responsibly and sustainably in the stewardship of resources.

The Corporate Services Portfolio is comprised of the directorates of Finance, General Counsel, Governance, Human Resources, Information Technology, Marketing & External Relations, Planning & Strategic Management, Properties & Facilities, Student Engagement Services, Student Success and Student Administration.

## ABOUT OFFICE OF GENERAL COUNSEL

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Australian Catholic University Limited (Corporation) is a public university funded by the Australian Government and operates as a company limited by guarantee. The Corporation was established under the repealed *Companies (Victoria) Code* and its activities are now regulated by the *Corporations Act 2001 (Cth)* and the *Australian Charities and Not-for-Profits Commission Act 2012 (Cth)*. These characteristics make the University largely unique in the higher education sector in that it operates across local, state and federal law and in the context of Canon law from time to time.

The Office of General Counsel (**OGC**) was established in 2011 and plays an important operational and strategic role within the University. It was formed to maximise the quality of decision making and to mitigate legal risks for the Corporation in the context of the day to day operations of the University.

For administrative purposes, the OGC is situated within the Corporate Services Portfolio headed by the Chief Operating Officer. However, for the purpose of providing independent legal advice to ACU as a corporation, upon instructions from stakeholders across all nine Australian and international campuses, the OGC is a discrete and independent functional unit directly accountable to the Vice-Chancellor and President (the Chief Executive Officer) and the Chief Operating Officer (the Corporation Secretary) who in turn report to the Senate.

### Services

The OGC acts on behalf of the University and provides legal advice and services to management and staff across a broad range of legal issues in a coordinated and cost effective manner. It has an oversight function in terms of the University's broader strategic activities and informs stakeholders of relevant legal developments. The OGC also manages the engagement of external lawyers on behalf of the University.

The OGC provides legal advice and services in a variety of as areas including:

- Corporate compliance
- Commercial agreements
- Procurement and commercial tenders
- Consultancy services
- Research grant and funding agreements
- Placement agreements
- Affiliation agreements with other institutions and Universities (such as Cotutelle agreements and credit transfer arrangements)
- Real property transactions (including purchases, sales and leasing arrangements)
- Building and construction
- Planning and development
- Litigation, dispute resolution and court processes (including subpoenas)
- Employment law
- Discrimination, harassment and workplace health and safety
- Information technology agreements
- Intellectual property (including trademark and copyright issues)
- Legislative compliance issues (such as Corporations Law, ACNC, Competition and Consumer Law, Modern Slavery)

- Privacy, confidentiality and access to information
- Research misconduct
- Statutory interpretation and administrative law
- Student / Staff misconduct and appeals
- Student accommodation agreements with service providers
- Sponsorship Agreements
- Philanthropic endeavours (including gifts, bequests and trusts)
- Executing and witnessing documents on behalf of the University
- General legal advice

## POSITION PURPOSE

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Senior Legal Counsel is responsible for providing high-level legal advice and services to ACU through the Office of General Counsel across a broad range of legal and corporate issues in order to maximise the quality of decision making and mitigate legal risks for Australian Catholic University Limited.

Senior Legal Counsel is responsible for promoting quality decision making in areas affecting ACU's legal obligations and interests.

Senior Legal Counsel will also coordinate and oversee externally sourced legal advice and services and implement case management strategies and procedures under the supervision of the National Manager, Legal Services.

## KEY RESPONSIBILITIES

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### Introduction

A number of frameworks and standards express the University's expectations of the conduct, capability, participation and contribution of staff. These are listed below:

- [ACU Strategic Plan 2020-2023](#)
- [Catholic Identity and Mission](#)
- [ACU Capability Development Framework](#)
- [Higher Education Standards Framework](#)
- ACU Service Delivery Model
- ACU Staff Enterprise Agreement including provisions in relation to Performance Excellence and Academic Career Pathways.
- [ACU Staff Reconciliation Action Plan](#)

The [Capability Development Framework](#) in particular is important in understanding the core competencies needed in all ACU staff to achieve the University's strategy and supports its mission.

Responsibility	Scope
<p><b>Legal advice</b></p> <p>Provide authoritative legal advice, recommendations and assistance to a range of University stakeholders including the executive, management and staff on:</p> <ul style="list-style-type: none"> <li>• general legal matters;</li> <li>• State and Federal legislation;</li> <li>• policies and procedures;</li> <li>• University statutes and regulations and the Company's Constitution;</li> <li>• legal agreements (contracts, deeds, licences and memoranda of understanding (MoUs));</li> <li>• intellectual property issues;</li> <li>• construction, property and leases;</li> <li>• compliance, risk assessment and legislative issues, such as trade practices, privacy, freedom of information and telecommunications issues;</li> <li>• corporations, commercial structures and activities;</li> <li>• procurement.</li> </ul> <p>This includes:</p> <ul style="list-style-type: none"> <li>• Keeping abreast of and providing advice across multiple practice areas in various jurisdictions such as workplace health and safety, employment and civil matters;</li> <li>• Understanding the legal and other domains that ACU operates within, including Company law, Federal law and Canon law to strategically identify the domain(s) under which legal matters should be managed;</li> <li>• Undertaking legal research in order to provide advice to the University.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>
<p><b>Legal documentation</b></p> <ul style="list-style-type: none"> <li>• Review the University's legal documentation such as contracts, deeds, MoUs, licences, statutes/regulations and policy from a legal perspective to ensure the mitigation of legal risks.</li> <li>• Analyse, interpret, negotiate and develop contractual and other legal documentation on behalf of the University.</li> <li>• Develop responses to contractual and other legal documents submitted to the University.</li> <li>• Respond to court documents and subpoenas of behalf of the University.</li> <li>• Develop and maintain legal precedents.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>
<p><b>Legal representation</b></p> <ul style="list-style-type: none"> <li>• Select, brief and instruct counsel and external solicitors, when required, and oversee, and remain accountable for, the provision of those services to ensure the quality of their work.</li> <li>• Attend and/or instruct or represent the University in Courts or tribunals in relation to legal matters.</li> <li>• Manage the dispute resolution process and procedure for the University through litigation and/or alternative dispute resolution.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>
<p><b>Case management</b></p> <ul style="list-style-type: none"> <li>• Manage ongoing legal issues on a case by case basis for the University.</li> <li>• Manage and coordinate the tasks and activities required for individual matters under the guidance of National Manager, Legal Services.</li> <li>• Establish communication and documentation mechanisms for effective matter management and correspondence with stakeholders.</li> <li>• Manage matters in a manner aligned with the University's mission, vision and values.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>

<p><b>Key Challenges and Problem Solving</b></p> <ul style="list-style-type: none"> <li>• Maintaining currency of knowledge and interpreting legislation and legislative developments within the higher education sector; managing changing legal and government policy as they relate to the University.</li> <li>• Ensuring that the University is able to meet its legal requirements and obligations by effectively mitigating legal risks.</li> <li>• Developing and maintaining relationships across the University and externally, to act as a trusted advisor and enable the delivery of high quality legal services.</li> <li>• Managing the diversity of internal and external stakeholder relationships to ensure outcomes and legal services meet multiple needs and expectations.</li> <li>• Combining legal skills with sound commercial and practical judgment.</li> <li>• Maintaining the currency of an unrestricted practicing certificate, including through ongoing continuing professional development (CPD).</li> <li>• Maintaining the independence of the Office of General Counsel to ensure that legal professional privilege attaches to all advice provided to relevant stakeholders.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>
<p><b>Decision Making / Authority to Act</b></p> <ul style="list-style-type: none"> <li>• Senior Legal Counsel is required to be closely involved with National Manager, Legal Services in relation to the provision of legal advice. In addition, as a practising lawyer, Senior Legal Counsel must be aware of and deal with issues of conflict, legal privilege and responsibilities to the Court and the University as a client.</li> <li>• University stakeholders are engaged to ensure that appropriate legal requirements/ procedures/ policies and sign-off processes are followed.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>
<p><b>Communication / Working Relationships</b></p> <ul style="list-style-type: none"> <li>• Provides high-level legal advice and recommendations to the Executive to ensure compliance with established sign-off process for legal matters.</li> <li>• Provides legal advice and recommendations to managers and selected staff within defined functional units.</li> <li>• Determines engagement, service level agreements and instructs on legal work with legal service providers.</li> <li>• Liaises with various representatives and key stakeholders such as Church, religious, business, agencies, courts/tribunals and community and government representatives.</li> </ul>	<p>The position contributes to activities; outcomes and goals; that are implemented and have impact across the University</p>

## HOW THE ROLE OPERATES

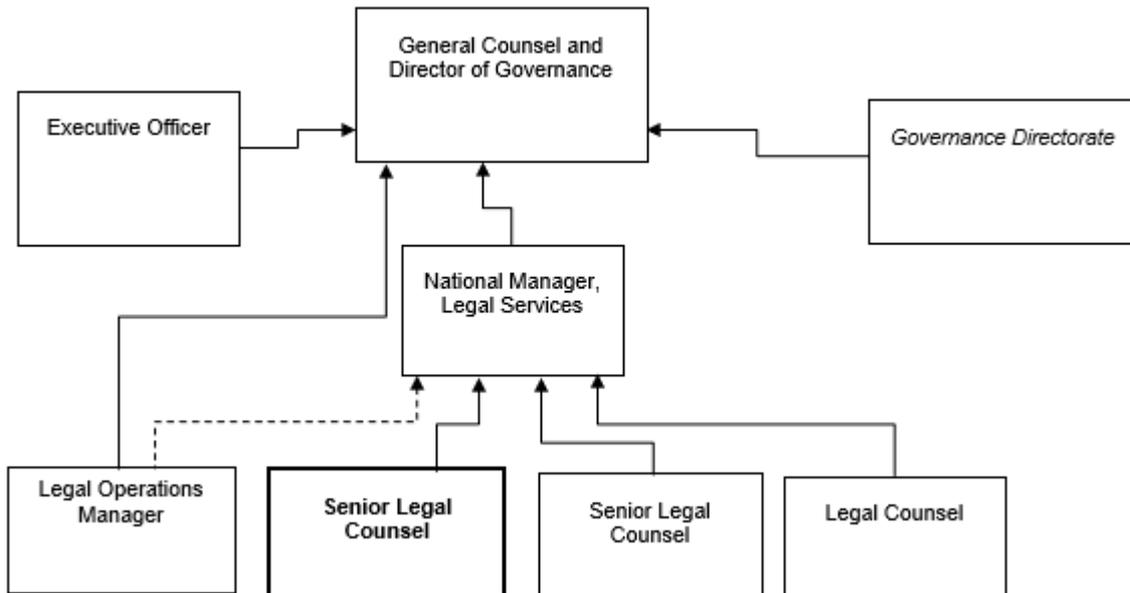
<p>The position will require expert knowledge across a range of different areas and has the capacity to make decisions on behalf of the organisation.</p>
<p>The position will need to provide expert advice to clients/management/their faculty or directorate.</p>
<p>The position requires negotiation skills.</p>
<p>This position does not have managerial responsibilities.</p>

## SELECTION CRITERIA

<p><b>Qualifications, skills, knowledge and experience:</b></p>	<ul style="list-style-type: none"> <li>• Completion of a law degree with subsequent substantial relevant post qualification experience in at least three of the following areas of law within the last two years: commercial contracts, corporations law, intellectual property, administrative law, property law and/or leasing, building and construction law, employment or industrial relations law, litigation and dispute resolution and privacy law.</li> <li>• Current unrestricted Australian Practising Certificate conferring admission to practice as an Australian Lawyer.</li> <li>• Demonstrated ability to provide strategic and legal advice and guidance in an ethical, independent and impartial manner across a range of specialised and complex legal and regulatory issues.</li> <li>• Knowledge of the structure and operations of the higher education sector, laws and major issues and challenges faced.</li> <li>• Sound understanding of the requirements imposed upon corporate entities by the Corporations Act (2001).</li> <li>• Extensive demonstrated experience in negotiating and drafting a wide range of commercial contracts.</li> </ul>
<p><b>Core Competencies:</b></p>	<ul style="list-style-type: none"> <li>• Demonstrate confidence and courage in achieving ACU's Mission, Vision and Values by connecting the purpose of one's work to ACU's Mission, Vision and Values.</li> <li>• Keep stakeholder interest at the core of ACU business decisions and ACU service excellence as a top priority.</li> <li>• Work collaboratively internally and externally to ACU to capitalise on all available expertise in pursuit of excellence.</li> <li>• Communicate with purpose. Gain the support of others for actions that benefit ACU. Negotiate for mutually beneficial outcomes that are aligned with the Mission, Vision and Values of the University.</li> <li>• Take personal accountability for achieving the highest quality outcomes through understanding the ACU context, self-reflection, and aspiring to and striving for excellence.</li> </ul>
<p><b>Essential Attributes:</b></p>	<ul style="list-style-type: none"> <li>• Demonstrated commitment to cultural diversity and ethical practice principles and demonstrated knowledge of equal employment opportunity and workplace health and safety, appropriate to the level of the appointment.</li> </ul>

## REPORTING RELATIONSHIPS

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For further information about the structure of the University, refer to the Organisation Chart <https://www.acu.edu.au/about-acu/leadership-and-governance/leadership/organisational-structure>