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Editorial

It is a genuine pleasure to introduce this third issue of the European Journal of Legal Education. As I reflect on this past year since our second issue and wonder how we can make legal education work best, two things come to mind. Firstly, the pandemic will change the way we educate. The crisis has been painful for all, staff and students alike, but from it changes will emerge and these will help improve the way we teach and the way we learn. Secondly, the pandemic forced an uptake in technology which, too, will benefit future lawyers. In summary, we have as a result enormous opportunities, experience and good practice for changing the way we teach, learn and work. There is potential for critical conversations in legal education, conversations that can help reconfigure the legal landscape.

Our current issue includes contributions that focus on exactly those critical conversations: analysing the pandemic as a disruptor, albeit one that provides us with inspiration for improvement. Student challenges are highlighted and best practice for early career academics is offered, grounded in the student voice, and also making recommendations for legal educators on how to support the development of commercial awareness in law school curricula. This issue, in summary, has the central theme of regaining positive momentum after a crisis; the emphasis is on empowerment, inspiration, optimizing of learning, teaching, and employability—to enhance the academic and professional experiences of our students. It highlights compassion and teamwork, with themes such as mentoring, peer tutoring, small group teaching and sharing of good practice.

In particular,

Sjoerd Claessens, “The impact of a global pandemic on the uneasy relation between PBL and lectures in a law curriculum” predicts that the pandemic does not mean the end of lectures but that alternatives should be explored.

Daniela Schröder, “Challenges of German first year students – empirical results and implications for legal education” reports on a project at a German

university offering different courses providing students with lasting learning processes and enabling them to develop reflective learning strategies.

Alexander Gilder, Michelle Bentley, Nasir M. Ali, Nicola Antoniou, Daniela Lai, “Peer learning and student ownership in an international environment: A student-created website on human rights and peacebuilding” recount the formulation of a student-led project which utilised approaches of peer learning, student ownership, enquiry-based learning, international collaboration, and social responsibility to build an activity and environment that promoted deeper learning, critical thinking, and social change.

Arwen Joyce and Victoria Ball “A teaching best practice guide for early career academics in UK Law Schools grounded in the student voice” provides advice on three elements of teaching: preparation, delivering in the classroom, and outside of the classroom.

Rachael O’Connor “It makes me feel empowered and that we can make a difference: Reverse mentoring between international students and staff in legal education” shows us how reverse mentoring deserves a prominent place in post pandemic university strategies.

Siobhan McConnell “A systematic review of commercial awareness in the context of employability of law students in England and Wales” makes recommendations for legal educators on how to support the development of commercial awareness in our curricula.

I am sure you will enjoy reading these articles and feel inspired and full of creativity to transform and work in partnership across Europe and beyond. I look forward to our continuing journey.

Greta Bosch
Editor-in-Chief

The Impact of a Global Pandemic on the Uneasy Relation between PBL and Lectures in a Law Curriculum

Sjoerd Claessens*

Abstract

Traditional lecturing has traditionally been one of the most prevalent methods of instructions in law curricula. This tradition dates back a millennium. The method has also permeated into learning philosophies that stand at odds with this instruction method, such as Problem-Based Learning. In the article it is investigated why lecturing is used so widely, whether there are additional reasons to do so in the legal discipline and whether recent developments – most notably the Sars-COV-2 pandemic – would or should lead to a departure from this instruction method. It is concluded that lectures will probably prevail and that there is a place for this instruction method in Problem-Based Learning even more so in a legal curriculum.

Keywords: Lectures; PBL; Pandemic.

Introduction.

Traditional *ex cathedra* lecturing has been part of law curricula since ancient times, and it is still a -central- part of any typical (law) curriculum until today.¹ This even holds true for law curricula that are based in the problem-based learning philosophy (hereinafter PBL), which constructivist approach to

*Maastricht University.

¹ Behr, A.L., *Exploring the Lecture Model: an empirical study*, in: 'Studies in Higher Education' [1988] volume 13(2), pp. 189-200; Bligh, D., *What's the Use of Lectures?*, 2000, San Francisco, Jossey Bass Publishers; Friesen, N., *A Brief History of the Lecture: A Multi-Media Analysis*, in: 'MedienPädagogik', [2014] volume 24, pp. 136-153. See also: Friesen, N., *The Lecture as a Transmedial Pedagogical Form*, in: 'Educational Researcher' [2011] volume 40(3) pp. 95-102.

learning stands at odds with the basic premise of using lectures as a method of learning.²

Irrespective of – or perhaps related to – this central position taken by *ex cathedra* lecturing in law curricula – the effectiveness of this teaching method has been questioned extensively, both outside and inside the legal discipline and both outside and inside the context of PBL.³ With the growth of so-called learning management systems and the rapid developments with regard to the possibilities in creating an editing the discussion for the last decade or so has mainly focused on the question whether lectures should be recorded or not.⁴ Additionally, experiments with so-called knowledge clips were also conducted, albeit on a smaller scale.

The Sars-COV-2 pandemic has had an enormous – unprecedented – impact on (higher) education throughout the world. Literally overnight long standing and slow-moving discussions on development of higher education and the use of methods – such as lectures – therein became moot and education if offered at all – had to be offered online. Now that the first signals of a post-Pandemic reality begin to emerge, the question can be raised as to whether the changes made in relation to the Pandemic can act as a catalyst towards a more permanent change in how teaching and learning takes place in higher education in general, and in a PBL-based Law curriculum in particular.

This article is an exercise in critical thinking in order to investigate whether changes to teaching methods brought about by the Pandemic could or should lead to the abandonment of the traditional *ex cathedra* lecture in a PBL-based Law curriculum. In answering that question a synthesis will be made of different aspects of the discussion regarding *ex cathedra* lecturing based in a more or less doctrinal approach.

² On constructivism see: Sjøberg, S., *Constructivism and Learning*, in: Peterson, P. et al (eds.), 'International Encyclopaedia of Education' volume 5, Oxford, Elsevier, 2010, pp. 485-490. On lectures in PBL see: Fyrenius, A., *Lectures in problem-based learning – Why, when and how? An example of interactive lecturing that stimulates meaningful learning*, in: 'Medical Teacher' [2005] volume 27(1), pp. 61-65.

³ Schmidt, H. et al, *On the Use and Misuse of Lectures in Higher Education*, in: 'Health Professions Education' [2015] volume 1(1) pp. 12-18.

⁴ See for example: Skead, N. et al, *If you record they will not come – but does it really matter? Student attendance and lecture recording at an Australian law school*, in: 'The Law Teacher' [2020] volume 54(3), pp. 349-367.

Why do we lecture?

As stated above *ex cathedra* lectures have been around since ancient times. Cultures – long before they could read and write – would ensure the transition of knowledge to new generations through oral tradition.⁵ During the dawn of the “modern” study of Law in Bologna in the 12th century CE written texts were scarce and the lecture – and therewith the oral tradition – remained necessary.⁶ Absence or shortage of books cannot however explain the need for lecturing since the lecture survived the Printing Revolution and maintained a paramount – if not central – place in university education. That cannot be because of tradition alone. Friesen explains that when the necessity of the lecture as a mechanism to disseminate and literally copy texts that were still scarce was made redundant by the invention of the printing press, the lecture evolved from the authority of the text that was being dictated to the authority of the speaker himself.⁷ The function of the lecture therefore shifted from an opportunity to gain possession of a text, to an opportunity where students could learn from an inspired speaker to interpret and analyse the subject matter before them, an exercise in exegesis and hermeneutics rather than an exercise in copying.⁸

I would agree with Friesen that the lecture is more than knowledge transmission alone and provides – even after all these centuries – for an important vessel of teaching in higher education that has a number of identifiable functions:

- a. Knowledge transmission: The lecture is a vessel to transmit knowledge to students. From being the sole vessel of transmission, it has – over the centuries – become one of the many vessels. Traditionally, it was the direct transmission through the dictation of an underlying (hand)written source, while later it became transmission of knowledge through an exegesis of underlying sources.⁹
- b. Provide authority: Although a transition from the underlying written text to the actual person delivering the lecture, the lecture provides a basis of authority on which a student builds one’s knowledge.¹⁰

⁵ Friesen, N., *The Lecture as a Transmedial Pedagogical Form*, in: ‘Educational Researcher’ [2011] volume 40(3) pp. 95-102, page 96.

⁶ *Ibid.*

⁷ *Ibid.*, page 98.

⁸ *Ibid.*, page 100.

⁹ *Ibid.*, page 97.

¹⁰ *Ibid.*

- c. Transmit inspiration: In the later stages of the development of the lecture it became a manner to bring life to written text in a way to incite and cultivate enthusiasm for the subject matter and the field in general.¹¹

In addition to the more substantive functions of a lecture described above, there might also be more mundane reasons for why lectures would feature in a curriculum. Examples of these can be found in a guideline for university lectures “Teach your best”¹² that states that lecturers like lectures because they are “an easy and safe way to teach”; administrators like lectures because they are “cost effective and easy to schedule” and students like lectures because there they are “told everything we need to know”.¹³ Behr simply states that lecturers are the most common and economical for of teaching and adds the prediction that that will likely remain the case.¹⁴ The Sars-COV-2 Pandemic has also added – or at least made explicit – another function of lectures that might previously be easily overlooked since it was self-evident: Lectures also function as a social gathering.¹⁵ It is an opportunity for students to meet and – often to the annoyance of the lecturer – interact with one another, albeit preferably in the periphery of such lecture. In such a way, lectures contribute to the increase of social cohesion between students in a given cohort. Obviously, that social cohesion goes beyond social interaction alone, it is an important element in the academic formation process of students. Through this type of interaction students will gain a better understanding of what it means to be a university student.¹⁶

Establishing these more mundane reasons, or even – with Friesen – identifying carefully the function of a lecture does not answer the question ‘why do we lecture’? There is no research that shows the benefit of lectures as opposed to other methods of teaching that would provide for an overarching didactically founded decision to include lectures in our curricula alongside or even to the detriment of other vessels of teaching.¹⁷ The answer to the question ‘Why do

¹¹ *Ibid.*, page 100.

¹² Matiru, B. et al (eds.), *Teach your best – A Handbook for University Lecturers*, Bonn, DSE, 1995.

¹³ *Ibid.*, figure 5.10.

¹⁴ Behr, A.L., *Exploring the Lecture Model: an empirical study*, in: ‘Studies in Higher Education’ [1988] volume 13(2), pp. 189-200, page 189.

¹⁵ See for example: French, S. and Kennedy, G., *Reassessing the Value of University Lectures*, in: ‘Teaching in Higher Education’ [2017] volume 22(6), pp. 639-654.

¹⁶ *Ibid.*, page 650.

¹⁷ *Ibid.* French and Kennedy rightly assess the debate as a largely opinionated one, with strong propagators on both extremes of the argument.

we lecture?’ is in my opinion clearly explained through the historical tradition: we lecture because we were lectured to when we were students. History has shown that the lecture is an enormously pervasive vessel of teaching that shows an uninterrupted (yet not unevolved) tradition of at least a millennium.¹⁸

Asking the question ‘Why do we lecture?’ also warrants asking the opposite question: ‘Why should we not lecture?’ I will address that question in the remainder of my argument, most notably in the context of the PBL philosophy, but before that it warrants to investigate whether – in addition to the general overview described above – there would be additional reasons to lecture in a Law Curriculum.

Why do we lecture in a law curriculum?

When modern universities emerged in Europe in the 12th century, they did so as law schools. For quite some time law was among the only academic degrees one could obtain – together with degrees in subjects like theology and philosophy. Law curricula across Europe can be distinguished – perhaps together with curricula in Medicine – from the bulk of other academic degrees since they atypically lead to – or at least are a part of the qualification track of – certain regulated professions. At least in the Netherlands a further distinction between medical and legal curricula can be made in the sense that the overwhelming majority of students who obtain a medical degree end up in medical practice, where only a minority of law graduates ever end up in legal practice. That strong entanglement of the curriculum in the qualification track for certain regulated profession also leads to the situation that regulatory authorities of said professions have -in practice- a large say in the content of the curriculum of a typical law degree. This influence of the professions in the Netherlands takes the form of a covenant¹⁹ agreed between the regulatory authorities for the profession of *advocaat* (solicitor/barrister); *Officier van Justitie* (public prosecutor) and *rechter* (judge) and the nine Law Faculties in the Netherlands in which very detailed arrangements are made with regard to the content of a law degree (in the Netherlands spread over an LL.B. and an LL.M. degree). This leads to an approach in law degrees that is very much

¹⁸ Taking the re-birth of universities in 12th century Bologna as an extremely arbitrary starting point.

¹⁹ *Convenant Civiel Effect*, 22 March 2016, accessed via <www.advocatenorde.nl>, accessed 16 April 2021.

focussed on the transmission of knowledge of positive law.²⁰ The argument that the lecture is the preferred vessel of teaching in this discipline that is focussed on knowledge transmission is easily construed.

There might however be a more important reason as to why it is necessary in an expose regarding the method of lecturing it is necessary to focus particularly on law degrees. As established above, a lecture is first and foremost an exercise in hermeneutics.²¹ As a teaching method the hermeneutics is mainly used to show students how the subject of studies should be interpreted or dealt with. This may be used for any discipline, also in situations where the methodology – or methodologies – of that particular discipline do not include hermeneutics itself. That is where law differs. Since hermeneutics, or at least exegesis or interpretation of texts is one of the most prevalent – and certainly the original-legal method, lectures – as exercises of hermeneutics take on a meta-form, whereby hermeneutics is not only used as a vessel of teaching – helping students to understand the subject matter – but also as an example on how to perform such an exegesis or interpretation, almost as a form of skills training in legal methodology.²² In this way, the lecture becomes an exercise where the master shows an apprentice, or better put a number of apprentices, how exegesis should be done, in such a way that they might learn to perform such exercises themselves later on in their career as jurists. More concisely put, in a law curriculum a lecture is not only a method of teaching but also a teaching of method. That leads to the conclusion that in addition to general findings regarding the necessity or usefulness of lectures in higher education in general, there is added value to lecturing in a law curriculum since it provides students with a way to acquaint themselves with an indispensable part of the legal discipline.

Having established that lectures have basically always been around, and they still fulfil the purpose they were designed to have and having established that for us jurists lectures have added value since they provide a way of teaching (a

²⁰ Or as Wong puts it: ‘Legal education has been dominated by an obsession “to know the law”.’ See: Wong, Y.J., *Harnessing the Potential of Problem-based Learning in Legal Education*, in ‘The Law Teacher’ [2003] volume 37(2), pp. 157-173, page 157.

²¹ Friesen, N., *The Lecture as a Transmedial Pedagogical Form*, in: ‘Educational Researcher’ [2011] volume 40(3) pp. 95-102, page 100.

²² It goes far beyond the scope of this article to discuss the exact definition, extent and application of ‘hermeneutics’ in the legal discipline. For those subjects see for example: Mootz III, F.J., *Hermeneutics and Law*, in: Keane, N. and Lawn, C. (eds.), ‘The Blackwell Companion to Hermeneutics’ *s.l.* Wiley-Blackwell 2016, pp. 595-604.

part of) the legal method, why then would one ask the question “Why should we not lecture?”. In a situation where there is no normative approach in an overarching teaching philosophy with regard to certain vessels of teaching – such as lectures – this is indeed a question that may never be posed. This is however different under the umbrella of an overarching learning²³ philosophy such as problem-based learning (PBL), as employed in my own University, that traditionally frowns upon the use of lectures.

Why do we lecture in a PBL philosophy?

It would go far beyond the scope of this article to give an elaborate introduction on the underlying ideas of PBL²⁴ but I will give a short explanation of the four underpinnings of PBL according to Maastricht University.²⁵ PBL is a constructive, contextual, collaborative and self-directed learning method. In this context these terms are to be understood as follows:

- a. Constructive: PBL is a constructivist learning philosophy.²⁶ In essence, this means that knowledge is not a prefabricated entity that must be shown to or found by the learner but is – in contrast – constructed in the mind (or more accurately put the brain) of the learner. Teachers in constructivism are not the source of the knowledge that must in some way, shape or form be transmitted to learners in their traditional role of instructors, but merely process facilitators who facilitate learning that takes shape in the brains of the individual learners.
- b. Contextual: This is probably the most eye-catching element of PBL indicating that learning takes place in a bottom-up manner rather than a top-down approach, meaning that students learn by tackling problems as they occur in society, rather than being taught a theoretical framework with or without a transition to problem solving later on.²⁷
- c. PBL is a collaborative learning philosophy. The collaborative element is on the one hand an extension of the constructivist element, from the prospect of co-constructing whereby the actual learning of a group is larger than the sum of its individual parts. On a more mundane level it

²³ The reference to *learning* rather than *teaching* philosophy is intentional; referring to PBL as a teaching philosophy would be a *contradictio in terminis*.

²⁴ An introduction to PBL can for example be found in Hung, W., et al, *Problem-Based Learning* in: Spector, J.M. et al (eds), ‘Handbook of Research on Educational Communications and Technology’ London Routledge 2007, p. 485.

²⁵ See: <www.maastrichtuniversity.nl/four-modern-learning-principles-pbl> accessed 16 April 2021.

²⁶ Sjøberg, S., *Constructivism and Learning*, in: Peterson, P. et al (eds.), ‘International Encyclopaedia of Education’ volume 5, Oxford, Elsevier, 2010, pp. 485-490.

²⁷ Traditionally, no attention was paid to such transition, leaving the ability to solve problem to later training, talent or chance.

also prepares students for a professional live where they have to constantly interact and communicate with others.

- d. Also, the self-directedness of PBL is a logical consequence of its rooting in constructivism. Now that learning takes place in the brain in the learner, it is also the learner that must bear problem ownership of her/his own progress in that learning. In other words, there is no (quasi)contractual relationship in which teacher and learner engage or – as an extension of that premise- where the learner can apply a consumer-like attitude towards teaching.

At this point it is good to mention that the core learning node in PBL is a so-called tutorial, a small group (9 – 19 persons) of students in which cases are tackled according to the PBL method, as opposed to more traditional systems where the core nodes are generally lectures.

Having outlined the main features of PBL the question can be posed how a traditional lecture fits in this learning philosophy. On first glance it may already be clear that if lectures fit at all in this learning philosophy, it is not going to be an easy fit. Although lectures can still be aligned with a contextual approach – as described above, case-descriptions can be an ingredient of a lecture as an exercise in exegesis – they collide firmly with a constructivist learning approach since that approach negates starts from the premise that knowledge is not transferred (from a master to an apprentice for example) but constructed in the brain of the learner. In traditional views of PBL lectures therefore have no place. In my faculty for example – that was founded in 1981 as the first Law faculty to apply PBL – that vision was taken to such an extreme level that newly appointed full professors (who were – also in a strict reading of the PBL approach not appointed in a specific subject but as general professors in law) were not allowed to conduct an inaugural address, since such an address would be a lecture, and lectures had no place in PBL.²⁸

Modern interpretations of PBL do not seem so outspoken against lectures.²⁹ Having said that, it remains interesting to explore why lectures – as a form of direct instruction and therewith at direct odds with the constructivist nature of PBL – managed to permeate in this constructivist learning philosophy.

²⁸ Lenaerts, M., *Onconventionele juristen, Vijfendertig jaar Rechtsgeleerdheid in Maastricht*, Maastricht Maastricht Univeristy 2017, page 39.

²⁹ Van Berkel, H.J.M. and Schmidt, H.G., *The Role of Lectures in Problem-Based Learning*, paper presented at the Annual Meeting of the American Educational Research Association (Seattle WA 10-12 April 2001), Fyrenius, A., *Lectures in problem-based learning – Why, when and how? An example of interactive lecturing that stimulates meaningful learning*, in: 'Medical Teacher' [2005] volume 27(1), pp. 61-65.

Literature regarding lectures in PBL does not directly address nor answer this question and seems primarily directed towards measuring the effectiveness of lectures in a PBL setting, seemingly accepting their occurrence as a *fait accompli*.³⁰ How then did these lectures become part of PBL? A possible answer to this question lies in the origin of PBL. PBL was born out of idealism in the nineteen seventies in the medical curriculum of McMaster University in Hamilton, Canada. For Maastricht University, also in the nineteen seventies PBL was the *raison d'être* since the then revolutionary learning approach was an important reason for the government to allow the establishment of another university in the Netherlands. It was also in Maastricht that PBL was applied in other disciplines such as law and economics for the first time. Regarding legal curricula it is therefore interesting to look at how lectures eventually permeated in the strict application of PBL in the formative years of the Faculty of Law in Maastricht. The reason for this was humbly straightforward, down to Earth and – on hindsight – perhaps unsatisfying. As the Faculty grew, more staff were required, and reinforcements brought in mostly lacked the ideological conviction regarding PBL that the founders of the faculty portrayed. At that moment in time, there were no jurists who themselves studied in a PBL context, so when the initial idealism waned new staff brought in their own convictions regarding how jurists should be trained. These convictions were obviously influenced by their own training, and therewith lectures slowly but surely made their entry in the PBL system.³¹ This process continues until today. Only recently the Erasmus Law School in Rotterdam joined Maastricht in applying the PBL system, at least in their bachelor programme, and also in the international field law faculties applying the PBL system are in a minority so that the majority of new staff that comes to work in Maastricht has no background in PBL. Of course, in the early days of the Faculty there was no mechanism for teacher professionalisation in PBL other than the idealism of those who founded the Faculty, but even in the present – in the era of PBL training sessions for new staff and the obligation in the Netherlands to obtain a University Teaching Qualification early on in one's

³⁰ See for example: Azer, S.A., *What Makes a Great Lecture? Use of Lectures in a Hybrid PBL Curriculum.*, in: 'Kaohsiung Journal of Medical Science' [2009] volume 25, pp. 109-115. See also: Moust, J.H. et al, *Signs of Erosion, Reflections of Three Decades of Problem-Based Learning at Maastricht University.*, in: 'Higher Education' [2005] volume 50(4), pp. 665-683.

³¹ Lenaerts, M., *Onconventionele juristen, Vijfendertig jaar Rechtsgeleerdheid in Maastricht*, Maastricht Maastricht Univeristy 2017, page 39. See also: Moust, J.H. et al, *Signs of Erosion, Reflections of Three Decades of Problem-Based Learning at Maastricht University.*, in: 'Higher Education' [2005] volume 50(4), pp. 665-683.

career, the core question – why do we lecture in a PBL based learning philosophy is not even addressed, let alone answered. Regarding Maastricht, the tradition of PBL from one generation to the next lies for a not unimportant part in the hands of staff that is ‘homegrown’, and internal discussions on the sense and nonsense of (elements of) PBL seem to occur in cycles throughout the four decades that the Faculty has existed. Up until now the question as to why we lecture in a PBL system seems to have escaped these cycles.

Lectures as a form of teaching have an uneasy relation with the traditional fundamentals of PBL; as a direct form of instruction, this form of teaching may even be at direct odds with the constructivist underpinning of PBL. Still – as the example of the evolution of lectures in the Maastricht Law Faculty has shown – lectures have become an important element of the PBL teaching philosophy. There is no overarching didactical reason for this, but it occurs mostly due to divergence of a strict application of the model by the introduction of staff members who may not share the strict ideological views of those who chose the PBL model. So, in short, we lecture in a PBL system because staff started doing so.

How do we lecture?

Having established that we lecture – even under learning philosophies that – at their core – would not provide for lecturing as an instruction method – it can be reviewed how we lecture and whether this manner of lecturing has seen any significant development over the years. In this paragraph I will mainly focus on the technical aspect of this ‘how’ question and not on the different forms a lecture can take from a content perspective (i.e. a lecture primarily targeted at knowledge transfer in the bachelor phase, or a lecture designed to critically discuss a paradigm in a master setting for example). Looking at this question from this technical angle, one can observe that not much has changed. Lectures take place in person, in a given time slot, in a setting whereby the lecturer stands – sometimes literally behind a pulpit, or at least with a pulpit close by – opposite from the students who sit – in rooms of different shapes and sizes, who listen and take notes. This setting provides *ipso facto* for a unidirectional teaching style, where – if interaction with the students is introduced – it is done so under the direction and control of the lecturer. Technical developments have – as Friesen notes³² – mainly served as support for this classical form that

³² Friesen, N., *The Lecture as a Transmedial Pedagogical Form*, in: ‘Educational Researcher’ [2011] volume 40(3) pp. 95-102.

lectures take. In essence, there is no difference between a chalkboard, via overhead projectors and powerpoint presentations to the modern pulpits that look like aircraft cockpits to control all the audio-visual support the modern lecturer has at her/his disposal in this regard. At least not on face value. As I will make clear in the next paragraph these support mechanisms – at least some of them – have made an impact on how we lecture, or how these lectures are perceived by their target audiences.

This might be different with the recording of lectures. Since technological abilities arose to do so, there have been lectures that were recorded.³³ This was mostly done for archival purposes since there were no platforms to mass-disseminate these recordings. Recently – over the past decade or so, recording of lectures has become a – sometimes still controversial- point of interest as a standard element in teaching whereby recordings would be made available to students in digital learning management systems.³⁴ The main benefit of this exercise is that students would not be bound to the specific slot in which the lecture was scheduled and were able to (re)visit a recording later- for example for revision purposes. I will revisit this premise -and its implications – later on in this article. First, attention needs to be given to the audience in these lectures.

For whom do we lecture?

From the perspective of lectures – and their persistence as a teaching method throughout history – it is interesting to see whether and to what extent different generations, and their characteristics have – if at all – altered the way in which lectures are conducted. Characterising generations and attributing general behavioural traits or attitudes to these generations is not that old and primarily contained to social science research that originates in the United States.³⁵ At

³³ *Ibid.*

³⁴ See: Dommett, E.J. et al, *Staff and students views of lecture capture: a qualitative study*, in: 'International Journal of Educational Technology in Higher Education' [2019] volume 16(23), pp 1-12; Draper, M.J., *Lecture recording: a new norm*, in: 'The Law Teacher' [2018] volume 52(3), pp. 316-334; O'Callaghan, et al, *The use of lecture recordings in higher education: A review of institutional, student and lecturer issues*, in: *Education & Information Technologies* [2017] volume 22, pp. 399-415 and Skead, N. et al, *If you record they will not come – but does it really matter? Student attendance and lecture recording at an Australian law school*, in: 'The Law Teacher' [2020] volume 54(3), pp. 349-367.

³⁵ See: Cilliers, E.J., *The Challenge of Teaching Generation Z*, in: 'PEOPLE: International Journal of Social Sciences' [2017] special issue volume 3(2), pp. 188-198; Mendoza, K.R., *Engaging Generation Z: A Case Study in Motivating the Post-Millennial Traditional College Student in the Classroom*, in: 'US-China Foreign Language' [2019] volume 17(4),

the moment we are teaching Generation Z, and in a number of years we will start teaching Generation Alpha.³⁶ Both generations are so-called digital natives, meaning that the internet has been around since their birth and has been integrated completely in their lives and upbringing.

The question can be asked – and is addressed in literature³⁷ – whether the general characteristics of these generation lead – or should lead – to differences in how we lecture, or whether we should lecture at all. For part of this answer, we can look to history, although generational characteristics were not researched back then as they are now. The invention of the printing press can be seen as a similar paradigm shift as the invention of the internet, and we have seen that although the general characteristic of the lecture changed from what was basically a copying exercise, to the exercise in hermeneutics we see today.³⁸ Looking at the insights from generational research in relation to teaching in general and lecturing in particular, we see a number of perceived characteristics of Generation Z that impact on the way teaching should be accommodated and that may not be particularly attuned to lecturing in its classic form. Emphasis should be put on the fact that these are perceived characteristics and that there may be serious issues with these types of generalisations.³⁹ Generation Z's attention span is said to be short⁴⁰ for example and therefore not suited for long sustained lectures. Moreover, Generation Z is used to making a lot of subconscious cost-benefit decisions to

pp. 157-166; Mosca, J.B. et al, *New approaches to Learning for Generation Z*, in: 'Journal of Business Diversity' [2019] volume 19(3), pp. 66-74 and Popova, S., *Teaching Generation Z: Methodological challenges and their possible solutions*, in: 'Training Language and Culture' [2017] DOI:10.29366/2017tlc.1.4.2

³⁶ See: https://en.wikipedia.org/wiki/Generation_Alpha, last accessed 30 April 2021.

³⁷ See: Cilliers, E.J., *The Challenge of Teaching Generation Z*, in: 'PEOPLE: International Journal of Social Sciences' [2017] special issue volume 3(2), pp. 188-198; Mendoza, K.R., *Engaging Generation Z: A Case Study in Motivating the Post-Millennial Traditional College Student in the Classroom*, in: 'US-China Foreign Language' [2019] volume 17(4), pp. 157-166; Mosca, J.B. et al, *New approaches to Learning for Generation Z*, in: 'Journal of Business Diversity' [2019] volume 19(3), pp. 66-74 and Popova, S., *Teaching Generation Z: Methodological challenges and their possible solutions*, in: 'Training Language and Culture' [2017] DOI:10.29366/2017tlc.1.4.2.

³⁸ Friesen, N., *The Lecture as a Transmedial Pedagogical Form*, in: 'Educational Researcher' [2011] volume 40(3) pp. 95-102.

³⁹ See for convincing examples on this point: Lester, W.S. et al, *Persistent Myths about the Psychology of Education: Implications for Social Justice and Equity*, in: Parson L. and Casey Ozaki, C. (eds.), 'Teaching and Learning for Social Justice and Equity in Higher Education' (Foundations), Palgrave Macmillan, 2020, pp. 53-73.

⁴⁰ Mosca, J.B. et al, *New approaches to Learning for Generation Z*, in: 'Journal of Business Diversity' [2019] volume 19(3), pp. 66-74, page 67.

decide whether resources should be devoted to the task at hand. Classic multi-hour lectures may not necessarily fit with these types of characterisation.

As stated above, the most recent innovation with regard to lecturing – in response to⁴¹ dwindling attendance and dwindling evaluations of lectures (that – at least in my institution-is consistently observed) – is recording of these lectures.⁴² Recordings are then disseminated via the Learning Management System. This at least plays into the possibility of students to cater the following of lectures attuned to their own attention span and their own schedule.

Such an adaptation warrants the question whether these types of adaptations are neutral to the function of lectures. Having established above that a lecture is first and foremost a hermeneutic exercise, that might even have an added value in a law curriculum not only as a teaching method, but also as teaching of a method, it must be reviewed whether these functions can be retained in a recording. That seems at least doubtful to me. Basically, recordings cater for two types of audiences: those who have attended the original lecture and those who did not. The first category may benefit from the recording during revision and may – through the recording – revisit the hermeneutic exercise they participated in at an earlier time. This does not hold true for the second category. For them, the recording is their first point of contact with the lecture. That means that they have not been a participant in this exercise, but merely an observer. This is underlined by the fact that the recording of these lectures is not per se made for those who only observe. Recordings – at least in my institution- are made with one – fixed – camera (not of the highest quality) and a direct input of the microphone of the lecturer, which is then presented next to the PowerPoint presentation the speaker might use. The lecturer is primarily – and most often exclusively- concerned with those present, and interactions between attendees and lecturer are mostly lost for the observer since the students attending do not use microphones when asking questions (and may

⁴¹ Elphick, L., *Adapting Law Lectures to Maximise Student Engagement: is it Time to 'Transform'?*, in: 'Legal Education Review' [2018] volume 28(1), pp. 1-25.

⁴² See: Dommett, E.J. et al, *Staff and students views of lecture capture: a qualitative study*, in: 'International Journal of Educational Technology in Higher Education' [2019] volume 16(23), pp 1-12; Draper, M.J., *Lecture recording: a new norm*, in: 'The Law Teacher' [2018] volume 52(3), pp. 316-334; O'Callaghan, et al, *The use of lecture recordings in higher education: A review of institutional, student and lecturer issues*, in: 'Education & Information Technologies' [2017] volume 22, pp. 399-415 and Skead, N. et al, *If you record they will not come – but does it really matter? Student attendance and lecture recording at an Australian law school*, in: 'The Law Teacher' [2020] volume 54(3), pp. 349-367.

not be recorded for privacy purposes). So, where recordings might help those who attended, they are most certainly not the full experience for those who did not attend.

The observation above also deserves a small tangent with regard to PowerPoint presentations. Part of the lecture as hermeneutic exercise would also be that students themselves would be able to distil and build a structure from the lecture as delivered. The introduction of – mainly PowerPoint – as a supportive tool with regard to lectures has led to a reliance of students on these slides up to a point that they report that they are no longer able to distil such structure without such a presentation – or at least prefer to be offered such structure.

These observations have led to modest experiments with other types of delivery whereby the characteristics of a lecture were transposed to so-called knowledge clips. Where in a normal situation such modest experiments would most probably have led to a more extensive pilot here and there, and maybe structural implementation after that, external factors dictated otherwise.

A Global Pandemic

Since the tradition of lecturing goes back to classic times, the coronavirus pandemic is by no means the first pandemic that has challenged this form of education. The response with regard to education during the Spanish Flu a century ago is well documented, and there are even historic records regarding the influence of earlier Plague-epidemics on education in those times.⁴³ The point can be made, however, that this pandemic is different. Different in its reach, seeing that most of the globe is affected at the same time (where earlier pan- or epidemics were more limited in their geographical reach – whereby it proved enough to move education from the affected city, to nearby rural areas⁴⁴) and different in that there is the possibility to adapt radically making use of digital devices and solutions that were not available in earlier pandemics (as opposed to lecturing in the open air, as was used during the Spanish Flu⁴⁵). The outbreak of the coronavirus made that the modest developments that were signalled at the end of the previous paragraph, now had to be used as

⁴³ See: www.bestcolleges.com/blog/higher-education-and-pandemics/, last accessed 30 April 2021.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

contingency measures to keep education going. A short reconstruction from the perspective of my own institution:

In the afternoon of Thursday 12 March 2020, the Prime Minister of the Netherlands issued wide ranging restrictions in order to counter a massive spike of coronavirus infection that was at the verge of overwhelming the Dutch Public Health system. Among these far-reaching restrictions was the prohibition to have on-site education in higher education as of Monday 16 March 2020. At that point in time, some 40 courses in the Law Faculty of Maastricht University were at the end of week 5 of a 7-week course period, with an exam week after that. The Faculty had to adapt to this new reality within three days. On Monday the 16th the Faculty was fully operational online. Tutorials – the core educational node in the Maastricht PBL system – were still conducted according to schedule, albeit no longer in person, but via online collaboration tools such as collaborate ultra – or very quickly after that – zoom. Regarding lectures, options were more diverse. In those initial days some colleagues kept lecturing via the same tools through which tutorials were offered, while others resorted to offering their lectures in an asynchronous format, so no longer offering them live, but resorting to different forms of recordings; freeing up lecture slots in the schedule to spend on more interactive contact with students, for example in the form of question-and-answer sessions.

After the initial crisis phase a decision was taken to offer lectures – at least in the bachelor programmes- in an asynchronous form, but no decision was taken on how these lectures would take shape. That meant that the different forms of asynchronous recordings persisted. These take – generally speaking – the following forms:

- Recorded lectures of earlier years;
- Voice recordings over PowerPoint slides (using PowerPoint's voice recording feature);
- Knowledge clips recorded using Zoom or similar platforms;
- Knowledge clips recorded using external audio/visual equipment.

Taking the starting point that lectures are – or should be - an exercise in hermeneutics, it warrants some more attention to see whether the approaches chosen in order to conduct lectures in during the pandemic do indeed fulfil this purpose. For recordings of lectures of earlier years, i.e. lectures that were conducted *in vivo* before the pandemic, much the same can be said as what was said with regard to recording lectures in general above, with the added

observation that the total cohort of students who are confronted with these lectures are now observers rather than participants, meaning that they will at best witness a hermeneutic exercise rather than be part of it. A narrative recorded over PowerPoint slides also falls short of this idea of a hermeneutic exercise and may in line with the tangent on PowerPoint slides above, place too much of an emphasis on the PowerPoint slides as the core of the lecture, basically reducing the lecture to pure transfer of knowledge.

Knowledge clips, however, could come closer to the full experience of an *in vivo* lecture. Knowledge clips – unlike recorded lectures – are designed and made to be watched online and can therefore focus on making viewers feel more engaged with the content of the knowledge clip, and act more as a participant in the hermeneutic exercise rather than a mere observant thereof. The initial investment in creating these knowledge clips – certainly in the midst of a pandemic – with lacunae in skills on the parts of lecturers requested to create these clips, and lacunae in hardware required to create these clips – is high. A workable intermediate was found in recording knowledge clips in zoom or similar platforms, overcoming at least in part the lack of editing skills and hardware requirements for more professionally recorded knowledge clips. Obviously, even though knowledge clips may be better suited to replace lectures than recordings of earlier lectures, they still lack direct feedback or any other form of interaction between students and lecturer.

Regarding lectures the pandemic has served as an unrequested and unwanted catalyst that has put generally modest and small-scale experiments in the natural evolution of these lectures to the forefront and turned them in a bare necessity in order to be able to conduct some form of teaching during such a pandemic. It is to be expected that the pandemic will – eventually – subside where a return to a more familiar normal, or entrance in to a new(er) normal will again be possible. Such a – much anticipated – return also leads to a more uncomfortable question:

Should lectures survive?

The overview above has shown that the method of lecturing, in all its apparent simplicity, has shown remarkable tenacity over the centuries, making it highly unlikely that the Sars-COV-2 Pandemic of 2019-2022 will herald the end of this method that has survived everything up until now, including numerous wars and pandemics. Therefore, it is safe to say that lectures will probably

survive, which does not necessarily mean that they should – or should in the form they existed before the pandemic.

The overview above has also shown that in their tenacity, lectures are also not devoid of evolution; and considerable evolution has been shown in that overview. That has now led to a lecture that has three major objectives: transfer of knowledge; example or provision of authority and provision of inspiration. Answering the question whether lectures should survive should therefore take into account whether a credible alternative is present that would make the lecture obsolete as a form of teaching used for digital natives in a 21st Century post-pandemic world.

For the knowledge transfer element that might be true. Taking into account technological advancements that facilitate the recording and digital dissemination of the knowledge transfer element of a lecture in a way that also fits better with perceived preferences and learning styles of Generation Z and Generation Alpha, it could be argued that this element of lecturing could be approached in equally effective – if not more effective manners. Where recording of lectures was already commonplace in many institutions and modest experiments with other form of presentation of lectures in the digital age were going on before the pandemic, that same pandemic may serve as a catalyst that will speed up this element of the evolution of lectures. That leaves the second and third element of lectures described above, and that define the lecture as a hermeneutic exercise: provision of authority and inspiration. Here my observations lead to a different conclusion: Up to this point there is no evidence that any of the digital alternatives to lectures presented can replace this second and third function of these lectures. They require human interaction and actual participation rather than mere observing. To a certain degree, elements of these two functions can be emulated in a digital form – a knowledge clip – where a lecturer speaks directly into the camera addressing an audience emulates participation in a traditional lecture already much more closely than the distant observing that results from watching a recorded lecture that is addressed to a live audience. To a degree that may help with transferring authority – and for those with talent in producing that particular type of content – inspiration. But those two elements are much more at home in a synchronous – and perhaps even live environment. In that light, it is interesting to see the development of the poorly named Q&A sessions. When lectures were moved to an asynchronous format at the beginning of the pandemic a decision was taken to leave the lecture slots in the timetable and fill those slots with an

opportunity for the lecturer to interact with students in the course – based on issues the students were still having difficulties with even after discussions in their tutorial groups (the core learning node in a PBL system). These Q&A sessions have proven to have the potential to become fertile grounds in which mostly the second and the third element of a lecture – authority and inspiration – take the foreground over knowledge transfer – which both students and lecturers seem to welcome. With the need of knowledge transfer out of the way, such a session provides for an opportunity to have an academic interaction with students that can be highly interactive. It should however be noted that none of these alternatives can replace the social cohesion element of an *in vivo* lecture as described above.

A sub-question in this paragraph could be: should lectures survive in a PBL system? After all, doctrinally – lectures do not seem to have any place in the traditional concept of PBL and they seem to have seeped into PBL-based systems, rather than having been incorporated on the basis of a conscious decision. A disruptive occurrence like a pandemic (of which PBL has – as opposed to lectures – has not seen any since its inception in the nineteen seventies) would be an ideal opportunity to correct this anomaly. Even if that would be true or desired from a formal point of view, I would not agree with that view materially. In my opinion, one of the weaknesses of traditional PBL would indeed be the lack of possibilities to offer – generally put in the words of the previous discussion – authority and inspiration. Those elements, or shortly put, an example, is in my opinion an unmissable element in any decent academic education – or any education for that matter. I am also of the opinion that it is perfectly possible to incorporate these elements of authority and inspiration within the CCCS-principles explained above. That leads to the conclusion that also in a PBL-based curriculum should survive as long as they seek to incorporate the authority and inspiration elements of a lecture as a hermeneutic exercise. The disruption of the pandemic does provide an opportunity to correct the anomaly of the fact that lectures were never properly embedded in the PBL philosophy.

Taking into account the observations above, the future of lectures should – in my opinion – be seen in the light of diversification. When deciding to resort to a lecture or not, course organisers should make a conscious decision on why an *in vivo* lecture is the best vehicle of learning in that particular circumstance, even more so since the pandemic has only broadened the palette of options

when it comes to these learning vehicles. On that palette, *in vivo* lectures always were, and continue to be, an essential element.

Conclusion

In the previous analysis I have tried to do a thought exercise with regard to the question what the position of *ex-cathedra* lectures should be teaching digital natives after the Sars-COV-2 pandemic, more specifically in a PBL based law curriculum like that in my own institution. In order to answer that question, I researched the history of lectures, the way in which lectures have evolved in their function, the evolution in audience and the specific role of lectures in both a law curriculum and in a PBL learning system.

That leads to the conclusion that the modern lecture – based on a very long tradition – has grown into a hermeneutic exercise that has three main functions: to transfer knowledge, to provide authority and to instil inspiration. For a law curriculum, lectures have an additional function: they are not only a method of teaching, but also a teaching of method – since the hermeneutic exercise is an important element of the legal method. I have also established that out of these functions it is only the knowledge transfer that is relatively suitable to be exercised in other manners than a traditional lecture – but that the other elements of the lecture as a hermeneutic exercise – providing authority and inspiration – cannot be (easily) transformed to other means. Lecture-recordings – before the pandemic already an ever-growing practice to accommodate students – reduce students who only watch the lecture recording to observers of a hermeneutic exercise – rather than be participants in that exercise, leading to the conclusion that these recordings cannot serve as replacements of lectures as such. I have argued that dedicated knowledge clips are better suited to simulate the participation in the hermeneutic exercise – certainly where knowledge transfer is concerned – but that also this form lacks personal interaction and is therefore also lesser suited to replace the authority and inspiration elements of an *in vivo* lecture. These functions should therefore be accommodated elsewhere – for example in so-called Q&A sessions that are conducted in such a way that interaction with the students is possible. Even then the social cohesion aspect of a lecture cannot be emulated with those vehicles of learning.

I have also concluded that lectures are a common form of instruction in a PBL based system even if the element of direct instruction of a lecture stands at

direct odds with the constructivist underpinnings of PBL as a learning philosophy. Even in this situation, lectures do fulfil an important role, certainly in legal curricula, since – because of its constructivist underpinnings – PBL lacks a proper integration of the two other elements of lectures – authority and inspiration, that – in my view – are invaluable in any academic education.

The Sars-COV-2 pandemic has turned the calm flow of experimentation regarding alternatives for lectures into whitewater rapids since *in vivo* lecturing was no longer possible. The methods used in the pandemic have managed to safeguard the knowledge transfer element of lectures but fall short of being able to properly transmit the other two – and arguably more important elements of a lecture. Even though the pandemic was – and still is – a large disruptive element in the way university teaching is conducted – it will most likely not be the end of *in vivo* lectures, nor should it be. That does not mean, however, that lectures will not further evolve, as they have in centuries before, perhaps to a point where they may no longer look like lectures as we know them. Alternatives for lectures can and should be explored, as long as the three main elements that lectures seek to achieve are taken into this exploration which should therefore not be limited to knowledge transfer alone.

Challenges of German first-year law students – empirical results and implications for legal education

Daniela Schröder*

Abstract

This article addresses the (self-identified) challenges facing first-year law students in Germany. In particular, this article reports findings of research conducted as part of the third-party funded project *Selbstorganisation und Lernstrategien* [Self-Organisation and Learning Strategies] at the University of Hamburg. In an extracurricular peer-tutoring format, beginners in legal studies were introduced to different learning techniques in conjunction with legal methodology. Based on previous research, students were encouraged to become strategic deep learners by presenting them with a standardised course curriculum consisting of ten thematically defined sessions. All classes were evaluated via a written questionnaire, the results of which are presented here. These empirical findings allow us to determine the difficulties legal beginners are confronted with and to derive sensible didactic improvements for law students, especially those in the early semesters of their studies. In particular, we advance the view that more use should be made of student-led tutorials in legal education and plead for encouraging students to become strategic deep learners. This is especially important in regards to the growing influence of international law in legal curricula. In addition, this article argues that the content of the various law courses should be better interlinked institutionally.

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Keywords: German legal education, first-year students, peer-tutoring, learning strategies, strategic deep learner.

Introduction

Over the last decades, the reform of legal education in Germany has been a perennial issue. However, only a few changes have gained lasting acceptance and, more importantly, the reforms have rarely led to a change in study conditions. There is still much room for improvement when it comes to the way legal content is taught, as the didactic methods on the whole have not been raised to a modern level. This particular aspect of legal education in Germany has thus long been neglected, and it seems that only recently have serious steps been undertaken to deal with this topic at all. But, considering that the student body is becoming more diverse with respect to age, experience level, motivation and learning needs, the need to (at least partly) reform the didactics of legal teaching cannot seriously be denied anymore.

This article and the results reported stem from a project, introduced in Section 3 below, that aimed to improve legal education by designing extracurricular classes, targeting students in their early stage of studies. Our declared goal was to enable students to become proficient in the study of law from the beginning of their university career by teaching them productive learning techniques and skills in a condensed form, always using concrete examples with structures of substantive law. In the classes, students were shown ways of solving problems to form effective learning behaviour and strategies for their further studies and to be able to apply them permanently. Our distinctive approach was to contrive the classes from a learner's perspective. That is, our focus was on the individual student and their academic success, rooted in the observation that when entering law school, some students need more support than others for the transition from school to university. In order to validate whether our classes were successful and really met the students' needs, the participants evaluated the course concerned, and the results are presented here. This article aims to introduce our project and the adapted curriculum to a wider audience, because we believe that the findings presented in this paper are relevant to a wide range of instructors. Moreover, since the findings are entirely data-based, they provide a solid empirical foundation for considerations in legal education reform that goes beyond the audience of German first-year students.

In order to understand better the problems facing current German law students, Section 2 provides a brief overview of the legal education system in Germany before the project is set out in Sections 3 and 4. Section 5 explains how the data was collected and Section 6 presents the results. In Section 7, implications from our findings are considered before Section 8 concludes this paper.

German Legal Education¹ - Structure and Difficulties

As in many other European countries, German law students begin their legal studies without any prior undergraduate degree, ie most students start studying law right after completing the German equivalent of high school.² No formal entrance test or any other admission exam needs to be passed, although many universities, among them the University of Hamburg, have introduced a numerus clausus. However, many students meet this threshold, which is why the number of people beginning their studies of law is usually high. Out of these, the numbers over the last years show that about one quarter (between 24% and 28%) either completely drop out of university or change their major.³ The German system of legal education stands out from its European neighbours insofar as it continues to create the *Einheitsjurist*⁴, meaning that every law student must go through the same legal education no matter which type of legal

¹ For convenient yet more detailed overviews in English see, for instance Stefan Koriath, 'Legal Education in Germany Today' (2006) 24 *Wisconsin International Law Journal* 85 (with a focus on the historical development of German legal education) or Rainer Wernsmann, 'The Structure, Purposes and Methods of German Legal Education' in Christopher Gane and Robin Hui Huang (eds.) *Legal Education in the Global Context* (Ashgate 2016)

² The German school system is tripartite, awarding three types of school degrees. In order to study at university, regardless of the chosen subject, the German *Abitur* is required, the highest school degree. Depending on the type of school one attends and in which federal state, the *Abitur* is awarded after either 12 or 13 years of formal schooling.

³ Ulrich Heublein and Robert Schmelzer, 'Die Entwicklung der Studienabbruchquoten an den deutschen Hochschulen. Berechnungen auf Basis des Absolventenjahrgangs 2016' (2018), <<https://idw-online.de/en/attachmentdata66127.pdf>> accessed 31 March 2022. The numbers also show that the drop-out rate for Bachelor students is 28% on average. Hence, the number of students who do not finish their legal education is not higher than for other majors, although this seems to be the view often expressed in the (German) literature. What is striking, however, is that many students decide to drop out after 4+ years of legal studies, which is alarming. Furthermore, it is of course debatable whether a general dropout rate of more than 25% is a high one or not.

⁴ It is hard to find an adequate English expression for this particularly German phenomenon. I find 'non-specialised lawyer' most suitable. For more information and other translation suggestions, see Annette Keilmann, 'The *Einheitsjurist*: A German Phenomenon' (2006) 7 *German Law Journal* 293

profession they want to pursue. Another peculiarity of German legal education is that it consists of two separate, but consecutive parts: university training and, upon successful completion, a practical training of two years. Legal studies at university take about four and half years⁵ and the curriculum taught at law faculties is largely regulated by state law. The general curriculum is structured into two study sections. During the *Grundstudium* [foundation studies] in the first semesters, students acquire knowledge in the core subjects and need to pass the intermediate examination in order to proceed to the main study period, in which the knowledge previously learned is deepened and broadened. In addition, students begin their so called *Schwerpunktbereich*, or area of specialisation. The contents in the *Schwerpunktbereich* serve to complement and deepen the compulsory subjects related to them and to allow students to specialise in the chosen area. The results of this study period count for 30 per cent of the final exam grade, because, despite the Bologna process, which has led to the implementation of Bachelor and Master's degrees in most other areas of studies, the study of law still requires passing the final state examination. This means that the degree is awarded by passing several written and oral exams at the end of studies. Many students fear this exam because it requires them to have command over the entire curriculum at the point of the examination. The grades the students receive during their studies are mainly used for admission to the final exam. If students do not pass the intermediate examination, for example, they will not be admitted to the final examination.

Since Germany has a civil law system⁶, the focus of German legal education is on understanding abstract, theoretical concepts and how these are systematically formed and arranged. During the first years at university, students have to take classes in the mandatory core subjects of civil law, public law and criminal law. In addition, they have to successfully elect from and pass the so called *Grundlagenfächer* [foundation subjects], in which the historical, philosophical, social and economic principles of law are taught. But it has been argued that precisely this pronounced subdivision into the three core subjects and foundations subjects on the one hand and the systematics-oriented curriculum structure on the other hand impedes the acquisition of a comprehensive orientation knowledge for students.⁷ The (often-found) lack of

⁵ According to section 5a, subsection 1, Federal Judge Act [DRiG §5a]

⁶ For an overview of the German law system in English see Gerhard Robbers, *An Introduction to German Law* (Nomos 2019, seventh edition)

⁷ Judith Brockmann, "'Gute Lehre" in der Studieneingangsphase – Ausgangspunkt und Herausforderungen', HRK *Juristenausbildung heute. Zwischen Berlin und Bologna*,

cross-references between the contents and concepts of the different lectures makes it difficult for students to get an overview early on. Yet it is precisely this larger picture that would be important, because students enter a specialised knowledge domain whose mastery requires a transformation in understanding as well as the appropriation of specific tools, practices and methodology.⁸ Students are expected to learn to evaluate concrete legal situations and cases in light of abstract norms and they commonly struggle with this operationalisation of knowledge, that is, with the application of legal techniques and methodology.⁹ There are orientation events before and at the beginning of studies at the University of Hamburg, which are given by advanced students; however, these only provide informal knowledge with regard to procedures and customs at the institution. In order to rectify the perceived deficit of missing methodological skills, the Faculty of Law at the University of Hamburg has introduced introductory classes to legal methodology called *Einführung in das rechtswissenschaftliche Arbeiten (EidRA)*¹⁰ [roughly corresponding to introduction to legal working techniques (skills)], which are by now compulsory for first-year students.

The project presented here still had a somewhat different focus than the already existing offers of the faculty, which is why it should be understood as a supplement to and not as a replacement for any existing classes.

The project *Selbstorganisation und Lernstrategien*

The project *Selbstorganisation und Lernstrategien*¹¹ was part of the overarching project *Universitätskolleg* at the University of Hamburg, which

<https://www.hrk-nexus.de/fileadmin/redaktion/hrk-nexus/07-Downloads/07-02-Publikationen/270626_HRK_Juristenausbildung_web_01.pdf> accessed 31 March 2022, 38, 39

⁸ Karen Jensen, Monika Nerland and Cecilie Enqvist-Jensen, 'Enrolment of newcomers in expert cultures: an analysis of epistemic practices in a legal education introductory course' (2015) 70 *Higher Education* 867

⁹ Judith Brockmann, Jan-Hendrik Dietrich and Arne Pilniok, 'Von der Lehr- zur Lernorientierung – auf dem Weg zu einer rechtswissenschaftlichen Fachdidaktik' (2009) 8 *JURA* 579, 583

¹⁰ <<https://www.jura.uni-hamburg.de/studium/lehrveranstaltungen/einfuehrungsveranstaltungen/eidra.html>> accessed 31 March 2022

¹¹ A project description (in German) can be found via <<https://www.jura.uni-hamburg.de/studium/lehrveranstaltungen/einfuehrungsveranstaltungen/lernstrategien-selbstorganisation.html>> accessed 31 March 2022

was funded by the Quality Pact for Teaching, initiated and financed by the German Federal Ministry of Education and Research. The goal of the project, which ran from 2013 to 2020, was to offer students, particularly those in the early semesters of their studies, lasting approaches to optimise their learning processes and enable them to develop reflective learning strategies. To this end, the project located at the Faculty of Law provided a set of interlinked modules, each of which served the needs of students in their different stages of studies. The aim of the project was to facilitate the students' start of studies and, together with them, to lay a solid foundation on which they can successfully build and build. In order to respond optimally to the various needs, support was provided individually as well as in small groups. Due to the extracurricular nature of the classes, participation was not mandatory, but encouraged.

In particular, the project consisted of different courses, offered each semester. To begin with, one class format, the tutorial *Lernmanagement am juristischen Fall* [learning management on the legal case], aimed at first-year students; this is explained in detail in Section 4 below. Moreover, there were six prep courses on core subjects (those in which students have to take mandatory exams in the first three semesters, namely civil law, public law, and criminal law, see above). In these classes, the material relevant to exams from the first three semesters was combined with different learning strategies. Each class focused on typical exam situations, in which different learning techniques were productively applied within the group. In this way, the module combined case solution, a structural understanding of substantive law, and learning strategies in an interrelated way. In addition, in a separate exam training class, students were provided with compact knowledge to prepare them to succeed in their examinations by guiding them through all the steps of writing exams - from exam preparation to the procedures during the exam situation - and by conveying quality criteria for exam performance.

Three different individual offers complemented the project. First, we provided a module supporting private study groups, which assisted students in setting up private study groups and also offered selective input on structural or content-related problems by a learning group expert. Extensive materials for study group-based self-study at different levels of difficulty sensitised the students to learning processes and suggested suitable exercise cases. Second, we offered exam coaching, thereby providing students with individual exam advice from trained correctors who had already successfully passed the first state exam. Based on an analysis of the content, structure and style of several exams, the

exam coaching showed students their individual potential for improvement. The express aim was to enable the participants to write exams at a higher level on a permanent basis and to reflect on their own learning processes on the basis of the exams. Finally, mentoring for international students was provided, aiming to focus on strategies to promote the individual learning process and to overcome language barriers. All of these individual classes were offered by student or academic tutors,¹² who were carefully chosen and adequately trained.

Tutorial – *Lernmanagement am juristischen Fall*

The tutorial targeted students in their very first semester of their legal education. It was designed to show the participants ways to overcome the initial difficulties of studying law at an early stage to become ‘enrolled’, to borrow a term from Jensen, Nerland and Enqvist-Jensen, in their prospective expert culture by preparing them to take part in the knowledge practices characteristic of legal discourse.¹³ This was achieved by supporting them to develop and shape their personal learning processes and self-organisation skills, always in connection to legal content. Hence, our tutorial was an integrated skills class, in which legal methodology was taught in relation to learning techniques.¹⁴ Closely related to anticipated individual and current difficulties, and based on concrete questions and concerns, the tutorials combined application-oriented learning and working techniques for law studies as well as basic legal skills for successful studies. Each semester, between four and five tutorials were offered, which were attended by small groups of students, usually between 5 and 15 participants per course. The tutorials ran once a week, with each session lasting 90 minutes. All tutorials were led by advanced students in higher semesters, who were carefully selected beforehand and had to undergo a two-day training by the academic team, which consisted of one professor of law and three research associates, including the author of this paper.

¹² The difference between these two types of tutors is that student tutors are advanced law students whereas academic tutors have successfully passed the first state examination.

¹³ Karen Jensen, Monika Nerland and Cecilie Enqvist-Jensen (n 8) 868

¹⁴ It thus comes close to the ideal type that Heringa envisions. Aalt Willem Heringa, *Legal Education: Reflections and Recommendations* (Intersentia 2013), 56

The tutorials followed a standardised curriculum of ten thematically defined sessions based on the findings by Stadler/Broemel.¹⁵ In their work, the two authors investigated different approaches to learning and empirically identified the ideal learning type of the ‘strategic deep learner’. Students of this learning approach are demonstrably successful in law studies, as measured by their grades. The strategic deep learner is characterised by a low surface orientation and a high expression of the strategic and deep learning style. According to Stadler/Broemel, students with a surface approach to learning display short-term learning geared only to passing the current exam and consequently, this learning process is a passive one, as the main focus is on pure memorisation without understanding. New information is not recognised as building on previous knowledge. The strategic learning style, on the other hand, focuses on achieving the best possible grade, ie it is a primarily performance-oriented learning orientation in which students usually have a good knowledge of the exam requirements and have effective study organisation and time management. People described by Stadler/Broemel as deep learners pursue the primary goal of penetrating the material and being able to recognise and establish higher-level connections. Learning is directed towards this goal, which usually succeeds well due to a high level of intrinsic motivation. Not surprisingly, these learning approaches are rarely present in pure form and almost three quarters of all students are mixed learning types.

These short deliberations should have sufficed to demonstrate why the strategic deep learning style is so promising for academic success: the combination of strategic, well-organised learning and a learning approach oriented towards understanding, making connections and critically questioning the learning content is profitable for thriving in legal studies. It also seems to be a suitable strategy for coping with the enormous amount of material on the one hand and the abstract content on the other. With this in mind, the tutorial thus consisted of different building blocks offering various learning strategies to support students in becoming strategic deep learners. The building blocks were in detail: Visualisation techniques (mind and concept maps), index cards/flashcards, reading techniques and excerpting texts, memorisation techniques, time management, motivation and learning in study groups as general learning techniques as well as law-specific skills such as exam

¹⁵ Lena Stadler and Roland Broemel, ‘Schwierigkeiten, Lerntechniken und Lernstrategien im Jurastudium’, in Judith Brockmann and Arne Pilniok (eds.), *Studieneingangsphase in der Rechtswissenschaft* (Nomos 2014), 37 and the references therein

technique, writing pieces of legal expertise¹⁶ and writing legal research papers. The tutors were free to choose the order of the lessons but were asked to deal with each topic once. At the beginning of each course, students were handed out a script, compiled by the academic team, containing an overview of each of the thematic sessions as well as material for self-study. The tutors were given a more extensive script, including exercise suggestions for class and information about the psychology of learning.

The tutors presented the individual sessions in such a way that the relation to the strategic deep learner was explained to the students for each thematic unit.¹⁷ For instance, in terms of strategic learning, mind and concept maps are suitable strategies for structuring and preparing learning material, condensing and presenting it in a way that is easy to grasp for learning through visualisation. For in-depth learning, mind maps and concept maps are an ideal graphic basis for extrapolating the material. Using these types of visualisations, students are enabled to depict and establish interrelationships and links between content as well as work out regularities (patterns, structures and principles).¹⁸ When it comes to index cards, the tutors drew attention to the fact that they are an appropriate means for effective study organisation and through comprehension-oriented repetition knowledge can be recalled in the long term. Moreover, the creation of index cards encourages the students to compress the material and to filter out the essentials. From the point of view of deep learning, a flashcard system is therefore particularly suitable for creating one's own structure - the learning material or content of texts is transferred into one's own words, condensed and released from the abstract structures of the text. As far as reading techniques are concerned, students were made aware that it makes sense to choose the appropriate reading technique depending on the objective, ie the systematic use of reading techniques is also a way of organising work effectively. Regarding time management, effective learning planning and organisation in the form of good time management is a significant focus of

¹⁶ The German legal education system uses a very distinct, highly structured text type called *Gutachten* (legal expertise or legal opinion). In almost every exam, students have to adhere to the strict formal rules of writing this type of text, in which they must provide legal opinion on cases by applying statutes, legal doctrines and the like and reach a conclusion. Yet, how to write such a structured text is seldomly taught.

¹⁷ Some exercises from that class have been published in Daniela Schröder and Milan Kuhli 'Selbstorganisation und Lernstrategien – Vorschläge für das (digitale) Selbststudium' (2021) *Der Wirtschaftsführer für junge Juristen* 8

¹⁸ More detailed explanations can be found in Barbara Lange, *Jurastudium erfolgreich. Planung – Lernstrategie – Zeitmanagement* (8th edition, Vahlen 2015), 357-363.

strategic learning. This is highly relevant in law studies, especially considering the enormous amount of material that has to be mastered. Without a well-developed and elaborate time plan, it seems impossible to learn strategically.

Data collection and analysis

All tutorials were evaluated by the participants at the end of each semester via an online questionnaire. These evaluations allowed us to not only continuously monitor the progress of the project, but moreover, the feedback from the students let us target the needs of the participants. The questionnaires were developed in collaboration with the team of the *Wirksamkeitsanalyse* [efficacy analysis], another project of the *Unviuersitätskolleg*, and improved where necessary, which ensured a certain degree of validation. The team of the *Wirksamkeitsanalyse* continuously advised our project and supported us in our goal-setting, operationalisation, evaluation implementation and continuous reflection. In this way, the research methodological expertise and knowledge of the *Wirksamkeitsanalyse* team could be optimally combined with our expertise.

The data presented here were collected in all tutorials that took place between the winter semester 2017/18 and the summer semester 2020, ie a total of six semesters. The previously used questionnaire was fundamentally revised for the winter term 2017/18, which is why the evaluation results from the earlier semesters cannot be considered here. The tutors were instructed to have the students complete the questionnaires after about two-thirds of the course. To increase the response rate, the evaluation took place within the course time. The questionnaires were provided via ‘Limesurvey’ and, in addition to the link to the survey, the students also received a QR code with which they could also conveniently complete the survey via their smartphone. It goes without saying that all answers were given anonymously. A copy of the questionnaire in German is available upon request.

The questionnaire consisted of several, thematically delimited question blocks. The first part asked for personal information. In addition to gender and the question about the (linguistic) background of the students, this also included questions about how the students became aware of the tutorial (so that we would know where and how to advertise the classes), how often they participated in the (voluntary) sessions and what they were studying and in which year of study. In addition, the students were asked what other courses

offered by the faculty they had attended. Since students were told the course schedule at the beginning of the semester, which showed the topics of each session, it was interesting for us to see which lessons students had actually chosen to attend. It was also possible, although not necessarily desired, to be present at lessons only selectively, depending on one's personal preferences. The purpose of the second block of questions was to determine how the students evaluated the topic of learning strategies after attending the tutorial. Here, it was particularly important for us to find out which techniques were assessed by the participants as especially helpful for their own learning process and which of them they would also like to use in the future. The next step was to ask about general challenges encountered in the early phase of the study. To answer this question, the participants were given a list of potential difficulties that we had anticipated based on previous research. Multiple answers were possible. The next block of questions dealt with the gains from the tutorial. Of particular interest was to find out which of the previously mentioned difficulties could be overcome or at least mitigated by attending the tutorial. For this, the students were again presented with a list of possible answers, which was supplemented by a free-text field where the participants could note for which problems the tutorial did not offer any solutions. Finally, the participants were invited to provide an overall assessment. For this purpose, the participants were asked what their expectations were when they came to the tutorial, whether these were fulfilled and how beneficial they felt the tutorial was for them overall. In addition, the students had the opportunity to note in free-text fields what they found particularly good about the tutorial and which aspects they would improve.

Results

In what follows, all questionnaires were included in the analysis, regardless of whether they were completed or only partially completed by the students, which explains the sometimes different number of respondents. In order to better understand the data, the respective population size is always provided. The data are always the combined numbers of all semesters.

To begin with a general overview, our results show that averaged over all six semesters, about two thirds of participants (64%) are female. Considering that the number of female students at the faculty is about 60%, women are only marginally overrepresented in our classes. With respect to the background of our participants, the data show that almost three quarters (73%) of students

stem from a monolingual German household. Another 16% stated that they speak German and an additional language at home, whereas one in ten participants stated that they speak a language other than German at home. Among these, a wide range of languages can be found (Dari, Kurdish, English, Russian and Turkish are the relatively most frequently mentioned ones). Not surprisingly, the vast majority of participants (97%) are in their first semester of their legal education. Very occasionally, students in their second semester attended the tutorial.

When asked if studying in general comes naturally to them (to be marked on a seven-point Likert scale, consisting of the answer options strongly agree / agree / moderately agree / neither agree nor disagree / moderately disagree / disagree / strongly disagree), 44% of the participants (n = 131) replied that they at least somewhat agree with the statement that studying is generally easy for them. However, almost another 40% state that this only partly applies to them (neither agree nor disagree). 16% reject the statement as (rather) inaccurate. These numbers suggest that a slight majority of students seems to encounter generally some difficulties when it comes to studying. The positive aspect about this otherwise rather disquieting result is that the students are obviously aware of these difficulties and therefore attend the course. Thus, it can be assumed that the target group - namely those students who struggle early in their course of studies - has been reached.¹⁹

Furthermore, the outcomes reveal that almost 70% of the participants attended (almost) all sessions, to wit between 9 and 10. Another 25% attended at least 6-8 sessions, which means that 95% of all participants were present for more than two thirds of the course dates. These figures can be interpreted as a high acceptance of the classes and are quite remarkable for extracurricular courses. In the end, this means that once students have decided to take the course, they participate during the whole semester, which on the one hand indicates the effectiveness of the course and on the other hand also testifies to a high intrinsic motivation of the participants.

¹⁹ Furthermore, we are also optimistic that the paradox reported by Herrmann, which states that students relying on surface approaches to learning seemingly are the ones least likely to respond to tutorials in the way they were intended, has been avoided. See Kim Jesper Herrmann, 'Learning from tutorials: a qualitative study of approaches to learning and perceptions of tutorial interaction' (2014) 68 *Higher Education* 591

Since the course was advertised in advance in relatively general terms as one that focused on study techniques in conjunction with legal skills, we were interested to inquire about the specific expectations the participants had before attending the class. In order to collect this information, the students were given a list of possible expectations to tick off. Multiple answers were possible, as was the option to mark “other”. Figure 1 illustrates the range of given answers (n = 486).

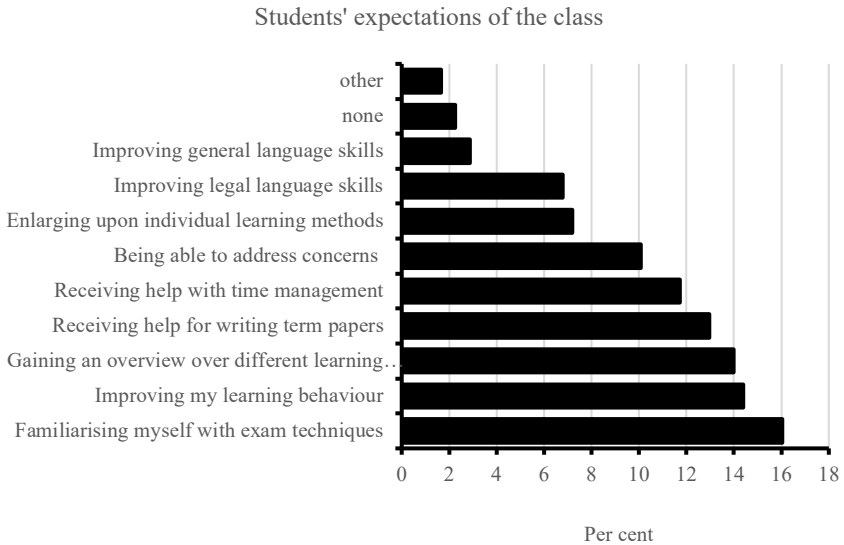


Figure 1: Students' expectations of the class

Figure 1 demonstrates that although no clear trend is detectable, most students attended the class to familiarise themselves with exam techniques, that is, with the specific requirements of German legal exams (see footnote 15). The second most mentioned expectation was that the participants wished to improve their learning behaviour, closely followed by the desire to gain an overview over different learning techniques. Receiving help with legal term papers and with general time management are also relatively frequently mentioned. Improving their general as well as legal language skills, on the other hand, did not seem to be of concern for students. On the whole, the numbers suggest that both general and legal-specific topics were of interest for the students.

In response to the subsequent question of whether these expectations were met, almost 80% stated that this was indeed the case. An additional 19% replied that

their expectations were partially fulfilled. For just 0.8% of the participants the class did not contribute to satisfying their expectations. Taken together, these figures are an indication that our course format has worked well.

Another question aimed to find out which circumstances pose a challenge for students at the beginning of their studies. In order to answer this item, the participants were again given a list of anticipated difficulties to tick off. Here, too, multiple answers were possible and in fact, most students named more than one challenge. Due to the large number of answer options, Figure 2 only visualises the eight most frequently chosen ones. All answers with a frequency of less than 5% (n= 1039) have been neglected here for reasons of space. The full output can be found in the Appendix.

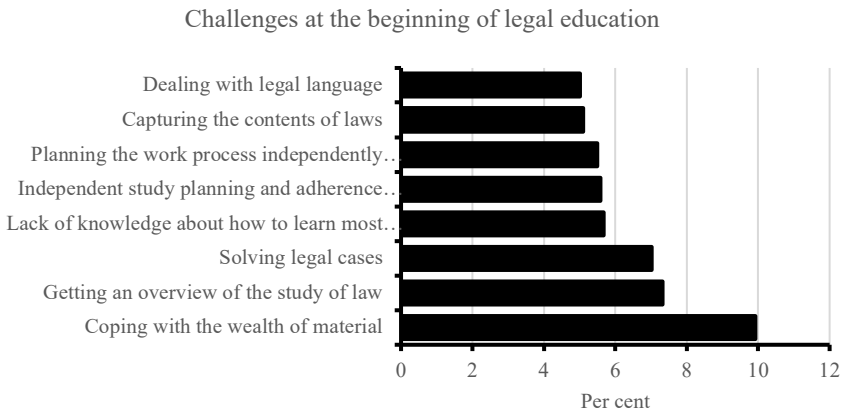


Figure 2: Reported challenges at the beginning of legal studies

While most students face a number of challenges at the same time, visible from the large population size, Figure 2 shows that specific legal problems seem to cause most difficulties.²⁰ Out of the eight most frequently occurring challenges, five relate directly to the study of law. Coping with the wealth of material is mentioned most frequently, which seems to indicate that the sheer amount of knowledge to be gained is perceived as more difficult than the actual legal contents.²¹ For us, this constitutes an important finding because it suggests that

²⁰ This is in line with what Bosse reported. Elke Bosse, 'Gelingendes Studieren in der Studieneingangsphase am Beispiel der Rechtswissenschaft' (2018) 3 ZDRW 208

²¹ In a similar vein, Larcombe and colleagues found that realistic expectations about the amount of independent study involved in studying law were associated with academic

students should be primarily supported in developing suitable strategies for dealing with the amount of legal material. Difficulties in understanding legal contents thus appears to be a secondary problem, quite possibly resulting from the quantity of contents to learn (but note that understanding the contents of laws is the seventh most frequently checked challenge). Unlike the expected result that solving legal cases causes problems for students at the beginning of their legal studies, the finding that many students report having troubles getting an overview of the study of law came as a bit of a surprise to us, since the University of Hamburg has installed orientation events prior to the beginning of studies to alleviate this problem (see above). Our data show that most participants took part in those events during the orientation week. Therefore, we find it somewhat difficult to explain why a considerable number of students nonetheless struggle with orientating themselves in their studies of law.

These particular legal challenges are followed by general problems concerning learning and learning behaviour, namely a lack of knowledge of how to learn skilfully and how to plan one's personal work schedule independently, effectively and self-sufficiently while meeting the given deadlines. These challenges were precisely the ones we had in mind when designing the class. Hence the data can be seen as evidence that our approach was purposeful. For the sake of completeness, it should be mentioned that just 2.5% of the participants picked the option "citing correctly" as a challenge, which very likely results from the fact that all students attended the *Eidra* class (see Section 2 above), in which correct referencing is explicitly dealt with.

Space and time restrictions do not allow us here to present every result in detail. Nevertheless, in what follows the most compelling findings with respect to the success of the class are put forward. Figure 3 exhibits the responses ($n = 122$) to the question whether the tutorial has contributed to the management of the wealth of material, to be marked on a seven-point Likert scale. Given that this was the most frequently-mentioned challenge students face at the beginning of their studies, evaluating whether the class succeeded in addressing this issue is of utmost importance.

performance. Wendy Larcombe, Pip Nicholson and Ian Malkin, 'Performance in Law School: What matters in the beginning?' (2008) 18 *Legal Education Review*, 119

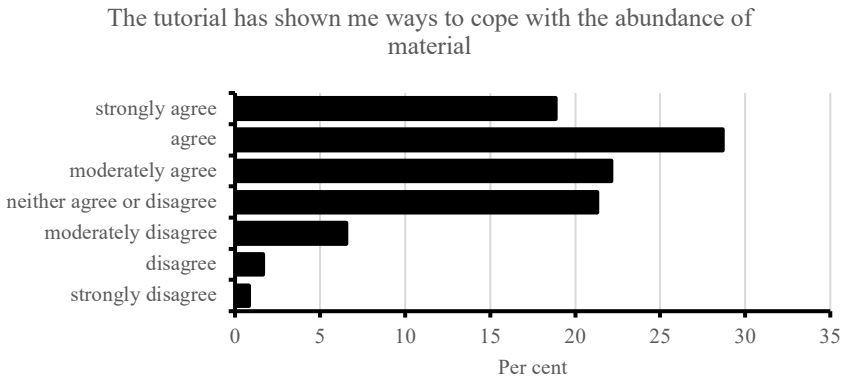


Figure 3: Impact of the tutorial with respect to handling the abundance of material

The data show that for 69% of the students (strongly agree / agree / moderately agree) it was possible to show them ways of coping with the abundance of material. For about one in five (21%), this was only partially successful (neither agree nor disagree) for reasons yet to be determined. For the remaining 10% (moderately disagree / disagree / strongly disagree), the tutorial was not (so much) helpful in providing ways of dealing with the wealth of material. Overall, however, for the overwhelming majority of participants this impediment was adequately removed.

In a similar fashion, the evaluation results indicate that the tutorial was successful in providing the participants with an overview of what the study of law entails as almost 90% indicated that they gained an overview over legal studies, the lack of which constituted the second most frequently-expressed challenge. Thus, the tutorial's accomplishments in this respect are worth pointing out as well. Likewise, as regards the third most frequently mentioned challenge, the solving of legal cases, the participants' responses indicate that also this difficulty has been satisfactorily addressed in the tutorial, as Figure 4 demonstrates.

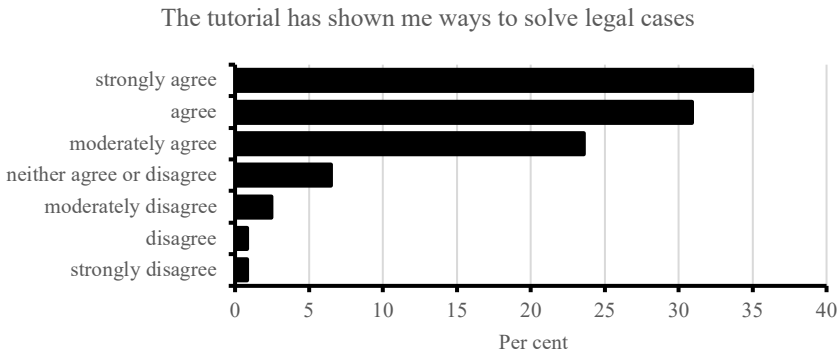


Figure 4: Impact of the tutorial with respect to the difficulty of solving legal cases

From Figure 4 it can be deduced that again almost 90% ($n = 123$) report that the tutorial has shown the students ways to solve legal cases. Thus, the class was also effective in counteracting this expressed issue.

Concerning the general difficulties pertaining to learning which the students mentioned, our data reveal that the tutorial also took remedial action in this regard. For instance, when asked whether the class showed them how they can learn effectively, 75% ($n = 124$) responded that they “strongly agree”, “agree” or “moderately agree”. Another 16% neither disagree nor agree whereas slightly less than 9% express that they “moderately disagree”, “disagree” or “strongly disagree”. Because three quarters of students convey that they know how to learn sensibly after attending the tutorial we interpret these numbers as a success of the class.

Similarly, the results of whether the tutorial helped students to plan their studies independently and effectively while adhering to deadlines can be read as evidence of the impact of our course, as Figure 5 exemplifies. Here, too, the vast majority of students, almost 85% ($n = 123$), were able to (moderately) agree with the statement that they could now plan their studies independently and meet the various deadlines after attending the tutorial. For more than one in ten (11%), this was partly possible. Hence, this difficulty was also addressed by the tutorial. Similar results are obtained for the expressed challenge of having to plan one’s work independently and self-sufficiently.

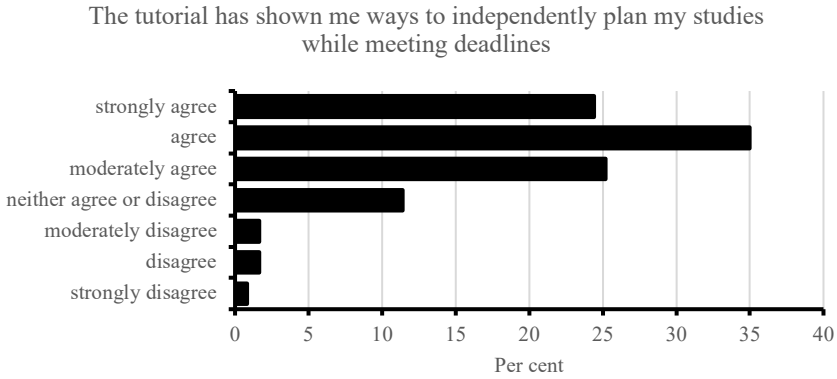


Figure 5: Impact of the tutorial with respect to independent planning and deadlines

Finally, we turn to the outcomes that evaluate the benefits of the individual units for the students. The participants were asked which of the ten learning methods presented during the course of the tutorial they would like to use in their studies in the future. From these results, it can then be indirectly deduced how important and how helpful students judge the different learning techniques. Figure 6 visualises the findings (n = 599, multiple answers possible).

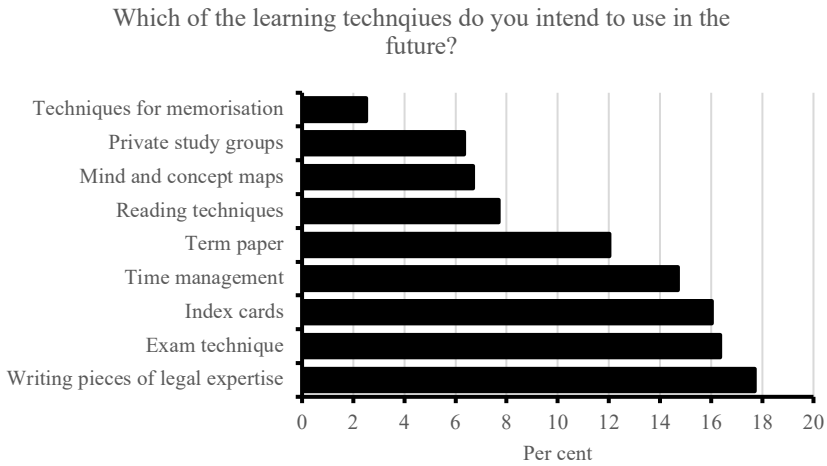


Figure 6: Plans to use learning techniques in the future

The fact that law-specific skills such as writing pieces of legal expertise and applying exam technique were frequently mentioned should not come as a surprise since these are basic tools for legal work and thus necessary prerequisites for succeeding in the study of law. Term papers, on the other hand, usually do not play a role in the first semester²² and therefore, it may well be the case that students do not yet see the importance of this demanding skill.

Of the other, more general learning methods, index cards were mentioned most often, followed by time management. Taking into account that students reported to have difficulties with effective work organisation and mentioned that they attended the tutorial, among other things, to receive help with time management (see Figure 1), this finding is satisfying. It seems fair to conclude that the sessions on time management had an impact and thus proved helpful for the participants. In the same way, we acknowledge that students were evidently able to benefit from the session on index cards and share our assumption that these are a reasonable way to deal with the amount of material to be learned.

However, it is equally true that other techniques deemed relevant by us did not appeal to the participants so much. Most notably, the significance of private study groups was obviously not (yet?) recognised.²³ In the same vein, visualisation techniques, and even more so methods for memorisation, were

²² Students have to write three term papers in total within the first five semesters in order to pass the intermediate examination, in addition to seven written exams, see <<https://www.jura.uni-hamburg.de/studium/studienablauf.html>> accessed 31 March 2022. Very likely, students in the first semester cannot yet appreciate the challenges of term papers at all, so the importance of this technique usually arises later during or after writing.

²³ Combined with the experiences gained in our individual classes of tutoring private study groups, it is our impression (and no more than that!) that the whole topic of learning in a group seems to be inexplicably difficult for students. Our study group tutorial was initially designed to provide existing groups with suitable material and offer them support in effective organisation of the study group, ie discussing with them the different roles the different members take, how to deal with a lack of preparation, and so forth. Very quickly, we had to adapt our concept to function as a 'matching agency' for individual students wishing to join either an existing group or find peers via us to form a group. We are a bit at a loss to explain these observations satisfactorily, but we assume that this has to do with the often-reported anonymous atmosphere in the study of law and the at times intense sense of competition between students. Moreover, it could be that study groups only become really relevant to students when no more accompanying courses are offered by the university and at the same time the grades become relevant for the first time. Typically, this occurs during the *Schwerpunktbereich* (see Section 2) and during the exam preparation, so rather late in the course of studies.

indirectly rated by the students as least helpful. We can only speculate here as to why that is. To begin with, mind and concept maps is something students are usually familiar with, as these are regularly utilised at school. Yet, it is not unlikely that students are sceptical about these types of visualisations because the methodology may previously either not have been sufficiently explained to them or these maps have been applied in inappropriate contexts.²⁴ Provided that this is correct, the tutorial did not manage to overcome the rejection associated with mind and concept maps. As regards memorisation techniques, the non-success may primarily lie in our planning since the schedule for this lesson was simply overloaded: students were introduced to no less than six different methods,²⁵ which, in retrospect, very likely overwhelmed both the tutors and the students. Notwithstanding that the students were able to read about these techniques in their script at home, integrating six different techniques into a 90-minute session was ill-conceived and did not teach the students but us a lesson.

Implications

In summary, the general results from our class evaluations paint a positive picture in that, by and large, our course design was rewarding and the students were able to benefit from it. We take the outcomes to propose the generalisation that our learner-centred approach, which was based on previous empirical research, was successful. Therefore, even though our results are by no means representative and must thus be met with the necessary caution, they all the same contribute to an increasing body of evidence-based research into legal education. We hope to have shown that devising a course according to the students' actual needs is beneficial and proactively guiding students through their first year is probably more promising than having to react to a (real or perceived) deficit in students' success or a (presumed) threat to the profession.²⁶

In any event, we believe that our findings are encouraging and should be taken as an incentive to be more venturesome and experiment with new class formats

²⁴ This is at least what Lange suggests, Lange (n 18) 358.

²⁵ These included methods of mental imagery, rhymes and mnemotechnic verse, stories and sayings derived from initials.

²⁶ Compare also to Julian Webb, 'Gallop off madly in one direction. Legal education reform, the (im?)possibility of evidence-based policy making and a plea for better design thinking', in Ben Golder and others (eds.), *Imperatives for Legal Education Research. Then, Now and Tomorrow* (Routledge 2019), 196, 200

in legal education. We are aware of ubiquitous budgetary and time constraints, but we contend that well-planned efforts will pay off, in every sense of the word. Especially, but not only from a financial point of view, student-led tutorials are an obvious choice. In terms of monetary considerations, student tutors are usually less expensive than graduated academic staff such as research associates, let alone professors. Peer-tutoring hence capitalises on existing human resources (ie students) at low or no cost and without extensive involvement of additional staff.²⁷ Once a standardised course syllabus has been designed (which, admittedly, is a time-consuming process and deserves proper planning), the further administrative workload is comparably manageable and cost-effective. Equally importantly, based on the generally agreed upon underpinning that the students themselves are in the best position to identify their own institutional needs,²⁸ peer tutorials have the great advantage that they speak to two stakeholders at once: the students who participate and the ones acting as tutors. For instance, tutees have been reported to gain a higher degree of confidence by participating in academic discourse, they learn to collaborate and come to tolerate uncertainty.²⁹ Moreover, there is ample evidence demonstrating that students involved in teaching duties profit from being peer tutors in several respects. For instance, it could be shown that they learn to be better learners by being more conscious of and actively engaged in the learning and teaching process³⁰ and that they improve both their cognitive and metacognitive strategies and their social skills.³¹ Furthermore, by stepping outside their usual identity as learners and becoming teachers, students act as partners in supporting other students in their learning.³² This way the feelings

²⁷ José L. Arco-Tirado, Francisco D. Fernández-Martín and Juan-Miguel Fernández-Balboa, 'The impact of a peer-tutoring program on quality standards in higher education' (2011) 62 *Higher Education* 773, 783

²⁸ Karen Carter and Jane McNeill, 'Coping with the darkness of transition: Students as the leading lights of guidance at induction to higher education' (1998) 26 *British Journal of Guidance and Counselling* 399, 403

²⁹ Dominic Fitzsimmons, Simon Kozlina and Prune Vines, 'Optimising the First Year Experience in Law: The Law Peer Tutor Program at the University of New South Wales' (2006) 16 *Legal Education Review* 110, 113

³⁰ Alison Cook-Sather, 'Students as Learners and Teachers: Taking Responsibility, Transforming Education, and Redefining Accountability' (2010) 40 *Curriculum Inquiry* 555, 568

³¹ José L. Arco-Tirado, Francisco D. Fernández-Martín and Juan-Miguel Fernández-Balboa (n 27) 783

³² Mick Healy, Abbi Flint and Kathy Harrington, *Engagement through partnership: students as partners in learning and teaching in higher education* (The Higher Education Academy 2014), 40,

of competition and rivalry, which undoubtedly exist between (German) law students, may be attenuated as well. Not the least important, acquiring skills necessary for teaching (managing people, presenting in front of a group and mastery of the appropriate software, verbal communication and so forth) also enhances later employability of the tutors. Based on our experiences, we also strongly recommend meaningful evaluation of the classes in order to monitor the impact of the classes and ensure a high-quality standard. In short, we want to strike a blow for implementing more peer tutoring schemes into legal education.

Whereas the specific situation in legal education recorded here may be unique to German law schools, we are convinced that our findings also have ramifications for other European countries and their legal education. It is to be expected that aspects of international law, most notably European Law, will be even more tightly integrated into curricula in the next years all over Europe.³³ Hence, it will not be sufficient anymore for a prospective lawyer to know national law, but interdisciplinary and international aspects of law require increasing attention in legal education. Future lawyers thus will have to understand how international decisions shape and influence domestic law.³⁴ It is to be feared that this circumstance potentially leads to an overloaded curriculum, which consequently overburdens the students with a higher amount of material they have to master. Since it does not seem desirable to trade facets of international law for any other of the numerous contents currently taught in the curriculum, the only reasonable option appears to be to amend the curricula. Recall that having to deal with the amount of material is the most frequently mentioned challenge of our legal beginners. If this finding also applies to other first-year students, law faculties should keep this aspect in mind and not jeopardise students' academic success with an overcrowded curriculum. Related to this point is that a stronger international focus requires students not only to have expertise in different legal cultures, but also to have sound competences in the field of languages. Otherwise, they will not be able to

<https://www.heacademy.ac.uk/sites/default/files/resources/engagement_through_partnership.pdf> accessed 31 March 2022

³³ For the situation in Germany see Michael Stürner, 'The Internationalisation of Legal Education in Germany' in Martin Schmidt-Kessel (ed.), *German National Reports on the 19th International Congress of Comparative Law* (Mohr Siebeck 2014), 135

³⁴ Claas Friedrich Germelmann, 'Challenges and Approaches to Modern Legal Education in a European Perspective' in Claas Friedrich Germelmann (ed.), *Innovative Teaching in European Legal Education* (Nomos 2021), 17

follow and understand supranational legal decisions.³⁵ However, the growing importance of multilingualism threatens to become a further strain on the students. Therefore, our findings that German law students already struggle the most with the amount of material they have to cope with can be taken as a warning. A possible solution out of this dilemma is proposed by Germelmann who states that while students should be kept up to date regarding major developments in the case law of the courts, teaching specialised knowledge seems less promising. Instead, the general principles governing international decisions should be focused on.³⁶ In other words, the underlying legal structures can (and should) be clarified on the basis of landmark decisions. From the point of view of our adopted strategic deep learning approach, this suggestion can only be supported.

Finally, we argue that our results also have some repercussions for teaching in legal education. Very generally, it is advisable for instructors to guide students on their way to become strategic deep learners, which can be achieved by an array of means. Simple in theory but surprisingly complicated in practice, a better collaboration between faculty members, particularly the lecturers of the different courses, is a procedure standing to reason. If colleague A is aware of what colleague B teaches in their class, it is almost effortless to make connections between the contents, by which students are permitted to establish links. At the same time, this course of action is evidence of an institutional anchoring of cross-disciplinary thinking and leads to a higher degree of credibility and, arguably, more authority. Moreover, it is advantageous for students if the lecturer incorporates different learning techniques into their class, which, in an ideal case, would be briefly explained and exemplified. Reading techniques would be a prime example as these can be integrated into any course at any time. Other possibilities include not presenting the students with ready-made visualisations in the courses but encouraging them to create graphic representations of the content on their own. In addition, even in large lectures it should be possible to motivate students to form study groups because despite our discouraging findings in this respect we maintain that these are a viable resource for effective learning. If necessary, the faculty may consider installing offers of assistance, as we did. All of these recommendations are easy

³⁵ *ibid*

³⁶ *ibid* 22

to implement and only take up a few minutes of precious teaching time. However, the effect for the learners may be immense.

Conclusion

In sum, the experiences gained in the project evince that new and innovative approaches to legal education are both possible and reasonable. In particular, our data suggest that peer tutoring represents a potential that has not yet been fully exploited in legal education.³⁷ The level of student contentment expressed in the class evaluations should motivate us to concentrate more on students' needs not least because, as Heringa shows, the expectations the students have and how satisfied they are with their studies (besides academic fit) constitute variables influencing the success rate in law school.³⁸ In addition, we impel to make more use of well-founded class evaluations, as these are, if designed and applied appropriately, an efficient tool to guarantee a certain quality standard while simultaneously allowing the institution to adapt the course to students' needs.

Finally, as a reviewer remarked, it should be said that even our course programme could not, of course, solve the often-noted and frequently criticised problem that examinations are given more importance in German law studies than the teaching of legal thinking and working methods. However, we are confident that by empowering students to become strategic deep learners a first step in the right direction has been taken. Encouraging students to focus on understanding, making connections and critically questioning the content are ultimately skills they need to become a good legal practitioner.

³⁷ The approach adopted by the Erasmus School of Law at the University of Rotterdam to establish a problem-based learning approach in the Bachelor programmes still seems to be rather an exception than the rule. Details of the programme including the effects it has can be found in Marit Wijnen and others, 'Is problem-based learning associated with students' motivation? A quantitative and qualitative study' (2018) 21 *Learning Environmental Research* 173

³⁸ Heringa (n 14) 46

Appendix

Reported challenges at the beginning of legal studies

Challenge	Absolute Numbers	Per cent
Coping with the wealth of material	103	9,91
Getting an overview of law school	76	7,31
Solving legal cases	73	7,03
Lack of knowledge about how to learn most skilfully	59	5,68
Independent study planning and adherence to deadlines	58	5,58
Planning the work process independently and effectively	57	5,49
Capturing the contents of laws	53	5,10
Dealing with legal language	52	5,00
Balancing university obligations and private interests in terms of time	50	4,81
Selecting adequate research literature	47	4,52
Learning how to write pieces of legal expertise	47	4,52
Developing suitable learning strategies	44	4,23
Meeting fellow students	43	4,14
No overview of appropriate learning strategies	39	3,75
Meeting the requirements of classes	38	3,66
Understanding legal issues	36	3,46
Establishing connections between the individual areas of law	36	3,46
Meeting requirements for oral/written expression	34	3,27
Orientation at the faculty	34	3,27
Anonymous atmosphere	33	3,18
Citing correctly	27	2,60
TOTAL	1039	100

Peer learning and student ownership in an international environment: A student-created website on human rights and peacebuilding

Alexander Gilder, Michelle Bentley, Nasir M. Ali, Nicola Antoniou, and Daniela Lai*

Abstract

In light of COVID-19, activities under the remit of the Legal Advice Centre at Royal Holloway, University of London needed to adapt. Technology and the normalisation of online collaboration presented an opportunity for international cooperation between students at universities around the globe. To capitalise on the changing dynamics, Royal Holloway established a Memorandum of Understanding with the Institute for Peace and Conflict Studies in Somaliland with the aim of pursuing student-led projects, as well as other research related collaboration. In this article we recount the formulation of a student-led, inclusive, international project that saw students in the UK and Somaliland work together on a website (www.knowaboutpeace.com) that freely disseminates information on human rights and peacebuilding for stakeholders in Somaliland and the Horn of Africa, with additional relevance for UK actors working in Somaliland. The project utilised approaches of peer learning, student ownership, enquiry-based learning, international collaboration, and social responsibility to build an activity and environment that promoted deeper learning, critical thinking, and social change.

Keywords: Peer learning, student ownership, human rights education, peacebuilding.

* University of Reading; Royal Holloway, University of London; University of Hargeisa; Royal Holloway, University of London; and Royal Holloway, University of London, respectively.

Introduction

Students must learn how to collaborate and work across cultural boundaries in today's internationalised working environment. It is important that we prepare graduates for roles where they must work in teams – not only within their organisation but with partner organisations and other stakeholders. Cultivating effective and successful relationships is key in a globalised working environment. To support both the learning and professional development of students at Royal Holloway, University of London (Royal Holloway) and the Institute for Peace and Conflict Studies, University of Hargeisa (IPCS) we put into action a student-led project whereby students from both institutions worked together in collaboration to produce a publicly accessible website. The website (www.knowaboutpeace.com) provides information on peacebuilding and human rights to interested persons in Somaliland and the Horn of Africa, as well as targeting relevant actors in the UK working on issues in Somaliland, such as the Representative Office of the UK in Hargeisa. In so doing, the project sought to put into practice research on peer learning, student ownership, enquiry-based learning, international collaboration, and social responsibility to mutually benefit students in the UK and Somaliland and promote more effective learning. Below we outline the formulation of the project and our collaboration with IPCS, the usefulness of inclusive peer learning in an internationally-collaborative learning environment, and reflect on future projects and lessons learned.

Building international projects into the Legal Advice Centre at Royal Holloway

Opening in early 2020, Royal Holloway's Legal Advice Centre has begun numerous clinics and projects, such as advice for the local community on contract, land and family law, Street Law, and legal advice leaflets. We wanted to go further than traditional offerings regularly seen under university Legal Advice Centres and introduce projects not only on international legal issues, but also multidisciplinary clinics and projects which non-law students could become involved with from other departments, such as Politics and International Relations. However, amidst COVID-19 the running of the Legal Advice Centre and its programmes needed to adapt to the changing circumstances. One project that started during the UK's first national lockdown was a collaboration with the Afghanistan & Central Asian Association

(ACAA), based in Feltham.¹ The project aimed to increase access to both users of the Legal Advice Centre at Royal Holloway and ACAA to legal information and guidance, that is presented in a way that deals specifically with COVID-19 related legal issues. As part of summer placements, students researched the effects of COVID-19 on employment, social isolation and domestic abuse, and housing vulnerabilities in order for ACAA to be able to better advise its service users. The relationship with ACAA has developed further and the Legal Advice Centre at Royal Holloway and the Law Clinic at King's College London are working together to create legal information to assist those affected by recent events in Afghanistan, and who managed to come to the UK.

The next step was to not only undertake work internationally with more partner organisations, but importantly to involve a range of students in those new projects. To achieve this, in November 2020 Royal Holloway concluded a Memorandum of Understanding (MoU) with IPCS in Somaliland. The key purposes were to pursue student-led, international projects under the remit of the Legal Advice Centre, promote research collaboration between the two institutions, and carry out impact generating activities aimed at building the reputation of both institutions. We collaborated with Royal Holloway's Centre for International Security (a multidisciplinary centre housed within the Department of Politics and International Relations) to bring on board colleagues from other departments and build a partnership that students and staff at Royal Holloway across a variety of programmes could benefit from. The MoU also sought to tie in with IPCS's strategic objectives and ongoing programmes for knowledge dissemination and peace advocacy. The partnership with Royal Holloway for a student-focused project complemented IPCS's existing research-focused partnerships with other UK institutions including University College London, University of Manchester, Durham University, and the University of Birmingham.

The first project under the MoU would be a student-focused and student-led research project under the Legal Advice Centre. Research skills are important for both Royal Holloway and IPCS's students, as is engaging with external stakeholders. A diverse array of careers may include active collaboration with external partners and speaking to audiences beyond the employee's

¹ Nicola Antoniou, Jill Marshall, Alexander Gilder and Rabia Nasimi, 'Royal Holloway, University of London and Afghanistan and Central Asian Association: New Partnerships and Challenges during Covid-19 in the Clinical Legal World' (2020) 27 *International Journal of Clinical Legal Education* 155-178.

organisation. The distinguishing feature of the project though would be performing research collaboratively where students in the UK and Somaliland mutually benefit, gaining new perspectives, insights, cultural awareness, shared resources, and networking possibilities. Making use of new online collaborative tools we could explore innovative methods of engaging our students and providing enquiry-based and experiential tasks was one way of doing this. An enquiry-based online project would, at least in the short term, provide a way for students to work internationally with one another on topics of mutual interest.

The resulting project produced a publicly accessible website that provides information on peacebuilding and human rights to interested stakeholders in Somaliland and the Horn of Africa. When we advertised the project in early 2021, we importantly did not require students to submit grades or CVs. Instead we asked for broad expressions of interest via submission of a form that asked students to explain their motivation, what they would bring to the project, and what skills they hoped to gain. We wanted to ensure students would not be disadvantaged due to their performance in previous years of study or to deter first year students from becoming involved. It is all too common for selection processes to unconsciously favour applicants from particular backgrounds where a student has experience or can receive help on such an application that requires a cover letter or CV, for example. To be inclusive and build a project where peer learning would take place in a diverse environment it was key to encourage a range of applications based primarily on motivation to be involved.

Importantly, no students who expressed an interest in being involved were turned away from the project. We received more applications from Royal Holloway students, which was to be expected due to the size of the institutions (13 from Royal Holloway and 7 from IPCS) and all applicants went on to participate. We ensured (1) all applicants were given roles in either research or administration of the project to allow all interested students to benefit from the project and opportunity to collaborate internationally and (2) students from IPCS were all assigned research roles to encourage IPCS students (all of whom were master's level students) to assume leadership roles in the conduct of the research. The students represented degree programmes from several disciplines including law, peace and conflict studies, and politics, multiple nationalities, and from all levels, including first year undergraduates up to master's students.

The students were split into two teams, one to focus on human rights and the other on peacebuilding. The teams were made up of a range of students from IPCS and Royal Holloway with the project leads ensuring balance on the research teams to remain conscious of the need to prevent the project from advancing a neo-colonial view of peacebuilding and international human rights law. The project leads also wanted the students to experience working with students on different degree programmes and at different stages of their studies. To that end, both teams had a variety of students from first year undergraduates through to master's students and a mix of law, criminology and peace and conflict studies students.

Accounting for the disciplinary experience of the IPCS students, one team made up of four IPCS students and four Royal Holloway students examined peacebuilding and created explainers for the website on the role of individuals and local communities in the peacebuilding process. Drawing on literature on 'everyday peace' and localism in peacebuilding the website explains how the local has become an integral part of post-conflict reconstruction. More importantly, the peacebuilding section links to existing work undertaken in the region by IPCS and makes suggestions for where future work can enhance 'everyday peace' in the Horn of Africa.

The second team, made up of five Royal Holloway students and the remaining three IPCS students, investigated human rights protections in Somaliland. The website outlines international human rights standards applicable to those living in Somaliland and provides easily understandable explainers of how those rights function. The team also examined the deeper issues underpinning human rights in Somaliland – examining the key concerns in their wider academic context and the theoretical frameworks behind them including conceptualisations of human rights as well as ideas around national and transnational justice. In both teams students were encouraged to divide the responsibilities for research to ensure a diverse array of points of view from the students accounting for cultural diversity in the final work produced. Each team was allocated a further two students to assist with administration and proof-reading materials. The students allocated to the support roles were predominately first year undergraduates. The decision was made to include support roles in the project for inclusion of all students and importantly for less experienced students to learn from others.

The website was wholly produced by the students and has been disseminated publicly and more specifically to various stakeholders in Somaliland, such as civil society and community leaders to promote peace and human rights, a core objective of IPCS. Both teams had the opportunity to engage in a range of activities examining peacebuilding and human rights, such as writing easily understandable explainers of human rights applicable in Somaliland, examples of how communities can mobilise to promote peace, and individual blog posts from students where they explored a topic of their choice related to the project. Emphasis was placed on the freedom of students to choose what they wanted their blog post to cover to promote enquiry-based learning.

Each group of students were assigned two staff supervisors to guide their work. Supervisors were from both IPCS and Royal Holloway, and within Royal Holloway from both the Department of Law and Criminology and Department of Politics and International Relations. By having staff from both institutions provide supervision the project was able to continuously remain conscious of the need to incorporate different cultural perspectives and be locally-led ensuring relevance of the research for the target populations. Despite having supervisors, the onus was placed on the students to manage their project and assume leadership responsibilities with supervisors taking a backseat. Students were expected to liaise with one another, divide tasks, set internal deadlines etc. Supervisors could be called upon to attend team meetings and to review drafts, but project management would be the responsibility of students. To emphasise this point, students were asked to sign Legal Advice Centre volunteer agreements committing to the project for a fixed period.

Inclusive peer learning in an international environment

We actively sought to incorporate several important pedagogical approaches into the project in order to benefit the participating students and support both their intellectual and professional development. We specifically ensured that students would have and develop extensive ownership of the project – as well as to work together, across cultural and international boundaries, to expand and lead their own work and research activities. By giving the students significant freedom to choose their direction – in particular the selection of topics for their solo blog posts – the participants have then been able to develop autonomy as learners and researchers through enquiry-based learning and to improve their social and communication skills through the processes of peer learning. In addition, the project incorporates core aspects of social responsibility in order

to garner motivation from the students that they are working on, and learning about, highly important global issues and that their work will be disseminated to interested parties to have real impact in respect of social development and political decision-making. Furthermore, that – in relation to the group nature of the project – the *shared* social responsibility between the students involved has enhanced the international collaboration as the learning participants were able to advance their ability to work across cultural boundaries, learn new skills from their peers, and build trust – all while working towards the achievement of shared goals.

In considering these benefits in more detail, student ownership advances educational skills and achievement by encouraging and facilitating students to take responsibility for their own learning. Ownership is considered here to be more than commitment, identification, or internalization on the part of a learner – where this is understood in respect of this project as a mental connection to a learning experience ‘in which individuals feel as though the target of ownership (material or immaterial in nature) or a piece of it is “theirs” (i.e., “It is MINE!”)’.² This pedagogical approach towards promoting ownership ties into experiential modes of learning, whereby the focus is placed on ‘learning by doing’ and in which the student is guided to question and engage with their own learning and the processes which underpin this – and where this autonomy encourages the learner to take control of that experience and so develop both their learning and the core educational, professional, and social skills involved, including critical analysis.³ This approach is also associated with higher levels of student satisfaction.⁴ Significantly, student ownership has been shown to be especially beneficial in relation to group learning projects – such as the one developed in this project.⁵ Within the group interactive structure, students become ‘more personally involved in the experience and are able to express their individuality and personality’; Woods adds that this approach to collaborative learning also promotes a ‘sense of friendly rivalry’ that increases

² Jon L. Pierce, Tatiana Kostova and Kurt T. Dirks, ‘Toward a Theory of Psychological Ownership in Organizations’ (2001) 23(2) *The Academy of Management Review* 298-310, 299.

³ Linda H. Lewis and Carol J. Williams, ‘Experiential Learning: Past and Present’ (1994) 62 *New Directions for Adult and Continuing Education* 5-16; David A. Kolb, *Experiential Learning: Experience as a Source of Learning and Development* (Pearson 2015).

⁴ Xuesong Zhai, Jibao Gu, Hefu Liu, Jyh-Chong Liang and Chin-Chung Tsai, ‘An Experiential Learning Perspective on Students’ Satisfaction Model in a Flipped Classroom Context’ (2017) 20(1) *Journal of Educational Technology & Society* 198-210.

⁵ Charles M. Wood, ‘The Effects of Creating Psychological Ownership among Students in Group Projects’ (2003) 25(3) *Journal of Marketing Education* 241-49.

student interest and engagement, leading to higher levels of self-reported learning.⁶

In response to these identified benefits, the outlined project explicitly gave the student participants extensive control over, and responsibility for, the website content to significantly enhance their commitment to learning, where this relates to the project, their degree more widely, and also in respect of developing employability skills. Students have undertaken formal organisation of meetings and the keeping of meeting minutes to arrange their activities and decide amongst themselves the division and nature of tasks. Supervisors have advised on the possible paths forward and draft material to be published on the website – not least to ensure that the students still felt supported in terms of their learning process, to ensure the work was legally accurate prior to publication (as this is intended as a publicly accessible and usable online resource), and where professional overview by educators is recognised as an important aspect of peer-led learning – but students were still given the primary responsibility of deciding key features of their work, such as core content issues on what topics would be covered and issues such as how their work will be presented to audiences online.⁷

In addition – and facilitated by the group structure of collaborative learning projects – incorporating ownership into education exercises is also positively connected to the promotion of peer learning, which comprises a further core aspect of this learning project.⁸ Peer learning has been shown to dramatically improve academic achievement, social/communication skills, as well as learner motivation for study.⁹ When engaged in peer-led learning, students ‘take greater ownership of their learning experience, show fuller engagement, improved grades, and demonstrate better retention’.¹⁰ These benefits are

⁶ *Ibid.* 247.

⁷ Barbara Crossouard, John Pryor, ‘Becoming researchers: a sociocultural perspective on assessment, learning and the construction of identity in a professional doctorate’ (2008) 16(3) *Pedagogy, Culture, & Society* 221-237, 234.

⁸ David Boud, Ruth Cohen, Jane Sampson, ‘Peer Learning and Assessment’ (1999) 24(4) *Assessment & Evaluation in Higher Education* 413-26, 413-4; Kyle W. Galloway and Simon Burns, ‘Doing it for themselves: students creating a high quality peer-learning environment’ (2015) 16(1) *Chemistry Education Research and Practice* 82-92.

⁹ Keith J. Topping, ‘Trends in Peer Learning’ (2005) 25(6) *Educational Psychology* 631-45, 635.

¹⁰ Christine Keenan, ‘Mapping student-led peer learning in the UK’ (Higher Education Academy, 2014) <https://www.advance-he.ac.uk/knowledge-hub/mapping-student-led-peer-learning-uk>, 5.

especially relevant in terms of online learning.¹¹ This approach includes and encourages the development of virtual learning communities, of the type promoted within the outlined project; in particular, that ‘collaborative group work and the utilisation of online discussion forums provide important avenues for students to discuss, negotiate and obtain peer feedback about their work’.¹² In addition, peer learning is associated with higher levels of psychological well-being – which has been especially important during COVID-19 and has become a core aim of the exercise.¹³ This aim is in response to analyses that demonstrates the positive impact of virtual learning communities on student wellbeing and learning during the pandemic.¹⁴ With these benefits in mind, our outlined project has given students the opportunity to form new relationships (despite the pandemic), particularly with students internationally and across different levels of study, to contribute to their learning experience. By participating in a longer-term and more culturally diverse collaborative project than they may have experienced elsewhere in their degree, learning from peers with different cultural outlooks, and the focus/social interaction this project gives them during the pandemic, has: changed how they think about learning (to be more inclusive and open to alternative ways of learning); significantly improved their academic skillset (especially research, critical thinking, and understanding/explaining complex concepts); and had a positive impact on their mental health.

Maximising engagement and student motivation is important – which we sought to achieve by ensuring that learners feel they are working on topics which they feel give them drive to carry out research and make a difference, including in respect of political impact. In developing this point, we additionally wanted to avoid a situation wherein students felt they were carrying out a project wholly envisaged and guided by staff interests, but

¹¹ Charles Juwah, ‘Interactions in online peer learning’, in Charles Juwah (ed), *Interaction in Online Education: Implications for Theory and Practice* (Routledge 2007); Zehra Altinay, ‘Evaluating peer learning and assessment in online collaborative learning environments’ (2016) 36(3) *Behaviour and Information Technology* 312-320.

¹² Mike Keppell, Eliza Au, Ada Ma and Christine Chan, ‘Peer learning and learning-oriented assessment in technology-enhanced environments’ (2006) 31(4) *Assessment & Evaluation in Higher Education* 453-64, 463.

¹³ Jana M. Hanson, Teniell L. Trolian, Michael B. Paulsen and Ernest T. Pascarella, ‘Evaluating the influence of peer learning on psychological well-being’ (2016) 21(2) *Teaching in Higher Education* 191-206.

¹⁴ See e.g. Doris Laury Beatriz Dzub Moo, ‘Impact of Virtual Learning Communities on University Students During Confinement by Covid-19’ (2020) 16(76) *Revista Conrado* 56-62.

instead to provide space for students to make the project their own, linking to the importance of student ownership. To promote these aims, we specifically adopted an enquiry-based learning approach as the basis of our pedagogical design. Enquiry-based learning involves the outlining of an area of investigation, allowing students to identify key questions and research objectives themselves, facilitating the students to investigate sources on a largely independent basis, report back to their peers, and to reflect on the overall learning process.¹⁵ Such enquiry-based learning has been shown to strongly promote learning achievement and engagement,¹⁶ successfully producing ‘independent learners with transferable skills’,¹⁷ through greater learner autonomy,¹⁸ and also via a deeper sense of pride in their own work and the new capabilities they have developed.¹⁹ As well as responding to an innovative challenge, our students are learning for themselves how to comprehend/explain difficult ideas, design/manage a project, present their academic work in clear and effective ways, and undertake individual work on topics of their choice to maximise their interest. Enquiry-based learning is also demonstrated to promote employability skills.²⁰

Of all these benefits of enquiry-based learning, we were especially concerned with the promotion of critical thinking. The Australian Technology Network outlines that university-level learning should articulate qualities, skills, and understandings which its students will develop during their period of study; within this context, one key skill that is valued as a graduate outcome across a range of disciplines is critical thinking.²¹ Critical thinking is an extremely broad and heavily contested term than can refer to many different forms of

¹⁵ Mark Hepworth, ‘Developing academic information literacy for undergraduates through inquiry based learning’ (2009) 8(2) *Innovation in Teaching and Learning in Information and Computer Sciences* 2-13, 3.

¹⁶ Noel Capon and Deanna Kuhn, ‘What’s So Good About Problem-Based Learning?’ (2004) 22(1) *Cognition and Instruction* 61-79.

¹⁷ Tim Deignan, ‘Enquiry-Based Learning: perspectives on practice’ (2009) 14(1) *Teaching in Higher Education* 13-28.

¹⁸ Mike D. Bramhall, Justin Lewis, Allan Norcliffe, Keith Radley, Jeff Waldo, ‘The strategic development of learner autonomy through enquiry-based learning: A case study’ (2010) 24(2) *Industry and Higher Education* 121-25.

¹⁹ Sue Palmer ‘Enquiry-Based Learning Can Maximise a Student’s Potential’ (2002) 2(2) *Psychology Learning & Teaching* 82-86, 84.

²⁰ Rysia Reynolds, David Saxon, Graham Benmore, ‘Impact on the Student Experience of Extending Problem-Based and Enquiry-Based Learning’ (2006) 20(5) *Industry and Higher Education* 359-70.

²¹ Nickolas James, Clair Hughes, Clare Cappa, ‘Conceptualising, developing and assessing critical thinking in law’ (2010) 15(3) *Teaching in Higher Education* 286-297.

analytic capacity across different disciplines,²² although this concept is more widely associated with the top three tiers of Bloom's taxonomy as a general understanding.²³ In response to this variety of interpretations, and in seeking to engage with the identified plurality of understanding, we sought to expose and educate students concerning a range of critical modes of thinking – including those that fall outside the types of analysis they may have previously been used to within their own discipline where the project involved students across the social sciences; indeed, that enquiry-based learning is recognised as a particularly effective means of engaging in interdisciplinary teaching, specifically for the purposes of promoting critical thinking.²⁴ By actively involving a mix of students – from law, criminology, and politics and international relations – participating students were able to engage in means of critical thinking that draw on both disciplinary commonalities and differences, enriching their learning experience and skills development. For instance, an IR student may introduce their team to a specific critical theoretical approach which influences the group's research and subsequent critical writing. Whereas a law student can show their team how to utilise primary legal sources and how to break down provisions to describe particular human rights.

In particular, critical thinking was promoted by encouraging students to think about how they would solve real-world problems which can be encountered in both international human rights law and international relations – where this is demonstrated to comprise an effective model of enquiry-based learning.²⁵ In achieving this, enquiry-based learning was considered especially important within the context of the outlined project as a means to encourage information literacy.²⁶ Students at all levels of study, reflected across our project teams,

²² Henry J. Ruminski, William E. Hanks, 'Critical Thinking Lacks Definition and Uniform Evaluation Criteria' (1995) 50(3) *Journalism and Mass Communication Educator* 4-11; Jennifer Wilson Mulnix, 'Thinking Critically about Critical Thinking' (2012) 44(5) *Educational Philosophy and Theory* 464-479; Tim Moore, 'Critical thinking: seven definitions in search of a concept' (2013) 38(4) *Studies in Higher Education* 506-522.

²³ Robert H. Ennis, 'Critical thinking assessment' (1993) 32(3) *Theory Into Practice* 179-186, 179.

²⁴ Tarsem Singh Cooner, 'Learning to Create Enquiry-based Blended Learning Designs: Resources to Develop Interdisciplinary Education' (2011) 30(3) *Social Work Journal* 312-330.

²⁵ Katja Brundiers and Arnim Wiek 'Educating students in Real-World Sustainability: Vision and Implementation' (2011) 36 *Innovative Higher Education* 107-124; Rachel Spronken-Smith, Rebecca Walker, Julie Batchelor, Billy O'Steen and Tom Angelo, 'Enablers and constraints to the use of inquiry-based learning in undergraduate education' (2011) 16(1) *Teaching in Higher Education* 15-28, 22.

²⁶ Hepworth (n 15) 3.

were encouraged to become familiar with relevant political and legal databases/resources for research and success in their projects. With this in mind, we do also acknowledge that enquiry-based learning in this context does require a commitment from students to engage in the process, be willing to develop their own ideas, to have both the commitment and confidence to implement the path they have chosen, and also to reflect on their own development through enquiry-based forms of learning.²⁷ Saying that, we still accept that enquiry-based learning is an effective means of promoting critical skills that will substantially benefit a student learner – and this was a core motivation of the pedagogical learning design.²⁸

As well as these pedagogical skills and benefits to the learner, we additionally wanted our students to develop strong teamworking skills through the project – specifically abilities that account for intercultural differences in approach and required them to find solutions and learn from each other’s unique perspectives and lived experiences. Particularly in relation to an academic project concerned with human rights and peacebuilding, the students from Royal Holloway were in a prime position to empathetically learn a significant deal from IPCS students who have lived experiences pertaining to the concerns recounted in the research for the project – not least where ‘strategic empathy’ is itself considered a powerful pedagogical tool.²⁹ Within this context, the project builds on a pedagogical recognition that international collaboration vastly improves learning of global and intercultural issues, as well as providing ‘an educational experience that extends the boundaries of learning beyond the campus’.³⁰ Working with peers from a different country additionally builds trust, which in turn makes learning relationships with staff and peer learning more effective.³¹ Students have also been given the opportunity to develop new professional relationships to carry forward into their careers in a similar way to

²⁷ Margaret Roberts, ‘The challenge of enquiry-based learning’ (2013) 38(2) *Teaching Geography* 50-52.

²⁸ Alastair Summerlee, Jacqueline Murray, ‘The Impact of Enquiry-Based Learning on Academic Performance and Student Engagement’ (2010) 40(2) *Canadian Journal of Higher Education* 78-94.

²⁹ Michalinos Zembylas, ‘Pedagogies of strategic empathy: navigating through the emotional complexities of anti-racism in higher education’ (2012) 17(2) *Teaching in Higher Education* 113-125.

³⁰ Phil Klein, Michael Solem ‘Evaluating the Impact of International Collaboration on Geography Learning’ (2008) 32(2) *Journal of Geography in Higher Education* 245-267, 245.

³¹ Catherine Cronin, Thomas Cochrane, Averill Gordon, ‘Nurturing global collaboration and networked learning in higher education’ (2016) 24 *Research in Learning Technology* 1-14 <http://dx.doi.org/10.3402/rlt.v24.26497>.

how studying abroad develops a range of important relationships for career development. Staff report that students have responded very positively to alternate cultural interpretations and ways of learning from their international peers, specifically to develop their own learning skillset and capacity. In terms of carrying out these aims, a positive of the effect of COVID on higher education is the normalisation of new methods of collaboration that facilitated this aim of international working and deep collaboration, such as online communication between the learner participants – whereas, in the past, exorbitant amounts of funding would have been needed for students to travel and collaborate internationally and where this could potentially disadvantage non-traditional students, such as those unable to travel.

What goes hand in hand with the international nature of the project is the students' shared social responsibility. When we asked students to detail their motivation for the project when applying, many spoke of being deeply interested and concerned about peace and human rights – and this is a factor we wished to emphasize in terms of the overall learning experience. Social responsibility deeply encourages students to wish to develop their learning skills to a higher level, promotes academic integrity in learning, promotes wider community cohesion, causes students to take seriously the perceptions of others, and boosts learning self-esteem.³² Moreover, that 90% of students and campus professionals believe social responsibility should comprise an intrinsic aspect of the higher education learning experience.³³ Through this project, our students are genuinely motivated to work with students in the Horn of Africa to improve human rights protection and improve stakeholder understanding of these important issues – as such, they strive to learn more effectively to produce a very high standard of work, so that their content can be as helpful and impactful to others as possible (based on staff observation and student comments).

³² Robert D. Reason, Andrew J. Ryder, Chad Kee, 'Higher Education's Role in Educating for Personal and Social Responsibility: A Review of Existing Literature' (2013) 164 *New Directions for Higher Education* 13-22, 18-20; Ingrid Fonseca, Jayson Bernate, Milthon Betancourt, Benjamín Barón, Juan Cobo, 'Developing Social Responsibility in University Students' (2019) Proceedings of ICETC 2019 215-218.

³³ Eric L. Dey, 'Civic Responsibility: What is the Campus Climate for Learning?' (Association of American Colleges and Universities, 2009) https://www.aacu.org/sites/default/files/files/core_commitments/civicresponsibilityreport.pdf.

As a final, overarching, concern there is the need within UK higher education to encourage graduate-level employment in response to the Teaching Excellence Framework (TEF). In the context of law graduates, it has been noted before that law schools need to turn their attention to the legal profession when deciding the direction in which to take their LLB programmes.³⁴ In response, some LLB programmes have had standalone skills-based modules for a number of years which teach skills such as advocacy and commercial awareness as well as, like Royal Holloway, clinical programmes for students to participate and develop transferrable skills.³⁵ Admittedly, law students do not all enter the legal profession – and, as with other degree programmes, a law clinic must develop transferable skills for a range of graduate employment options. Moreover, we specifically sought to develop an interdisciplinary project that would be inclusive of students from multiple degree programmes and go beyond a focus on the development of legal skills within a law clinic. With this in mind, we considered that students who are seeking graduate-level roles outside the legal profession will need good oral communication skills both for interviews, presentations and meetings in their future career.³⁶ Team working – explicitly within online environments and across different cultures – being able to explain complex concepts in an accessible manner, and the normalisation of supervisory relationships and formalisation of working process are also key. As such, the skills developed through this project are all experiences the students can transfer into a range of career pathways and which are now demonstrable on the part of the participants to future employers.

Best practices and reflection

This section concludes by sharing several reflections on how the project has contributed to the Legal Advice Centre as a whole, including future work with IPCS and considerations for others conducting similar projects. We reflect on the partnership with IPCS as well as our pedagogical practices in the project. By carrying out this project, the Legal Advice Centre stepped into the unknown

³⁴ Philip Roberts, 'Career development in the LLB' (2009) 43(3) *The Law Teacher* 297-309, 301.

³⁵ *Ibid.* 301-2; John Russell, 'Enhancing employability for LLB law graduates – initiatives with ILEX and Clinic at London South Bank University' (2011) 45(3) *The Law Teacher* 348-360, 350; Jenny Knox and Melanie Stone, 'Embedding employability skills for the legal professionals of the future' (2019) 53(1) *The Law Teacher* 90-101, 94.

³⁶ Juliet Turner, Alison Bone, Jeanette Ashton, 'Reasons why law students should have access to learning law through a skills-based approach' (2018) 52(1) *The Law Teacher* 1-16, 5.

by running an entirely online and distance-based project with a new partner organisation. In the past, an international project where students work across institutions on a global scale to fulfil the targets we set would have required an extreme amount of funding, administrative and institutional support, and logistical organisation. Instead, we were able to utilise existing infrastructure within the Legal Advice Centre and the Centre for International Security to provide a unique opportunity for our students at minimal cost, under the pressures of a pandemic.

The Legal Advice Centre aims to encourage student volunteers to give back to the community and address the needs that are often unmet. This project has internationalised the Legal Advice Centre's contributions to the delivery of free, accessible information for communities. The Legal Advice Centre is also a vehicle for study, and this project has allowed the students to put theory into a practical project that can be used by a variety of stakeholders. We also prioritised the opening up of Legal Advice Centre opportunities to non-law students. This is important both for relationships across the institution but also for the students to develop a range of skills and relationships with a diverse array of peers. Particularly for non-law students, multidisciplinary activities encourage students to step out of their comfort zone and explore new career avenues and engage with staff from different corners of the institution.

For employability in today's internationalised working environment it is crucial that students be able to explore methods of collaborative work in international environments that cross disciplinary and cultural boundaries. This project has sought to prepare graduates for roles where they must work in teams – not only within their organisation but also with partner organisations and other stakeholders. Cultivating effective and successful relationships is key in a globalised working environment and non-traditional Legal Advice Centre projects such as this, alongside engaging with other extracurricular activities as part of their studies, can prepare students for new and emerging working dynamics they will face upon graduation.

There are also benefits for staff by expanding the reach of the Legal Advice Centre's projects into multi- and interdisciplinary activities. Our team very strongly believes in the pedagogical concept that interdisciplinary co-teaching is itself 'a form of professional development' and reflective practice – whereby colleagues successfully learn from each other by maintaining a 'meaningful

dialogue'.³⁷ Projects such as this create a community between both the collaborating Departments within the institution and a gateway for new networks between researchers and practitioners at the partner institutions. Such new relationships have led to research collaboration between the project supervisors, mentorship, and the continued sharing of teaching practices. In addition to regular group meetings that achieved this active reflective dialogue and sustained relationships, we will now undertake a thorough project review with an external 'critical friend' to identify improvements for future iterations.

International partnerships must benefit both institutions and provide space for growth. Institutions in the Global North must be mindful of the power structures at play when forming partnerships with institutions in the Global South. The project with the Legal Advice Centre is just one element of a broader MoU with IPCS, but served as an excellent starting point for developing trust between collaborating staff. As a result of the MoU with IPCS, we have pursued external funding for research that would build the capacity of researchers at IPCS and will develop further educational and research projects to complement IPCS' strategic plan. One project supervisor has taught as a visiting professor at IPCS and another has facilitated discussions regarding joint educational programmes. Capacity-building consultancy has been provided by staff on IPCS's strategic planning particularly to lessen IPCS's reliance on overseas expertise for the running of its educational programmes to prioritise local knowledge in the long term. Projects such as this allow the partners to go further than only providing consultancy and instead provide personal development opportunities for students. As a result of the experience of working on a research project that is available to the public, students at IPCS may be encouraged to engage with further research that leads to a growth in locally available expertise.

Supervisors of similar projects need to similarly be conscious of the power dynamics between students from different cultural backgrounds when working together on projects. As explained above, the project leads remained aware of the need to ensure IPCS students were able to incorporate their cultural perspectives into the research and that all students were able to have an individual voice in the resulting website. For instance, all students had the

³⁷ Judith Haymore Sandholtz, 'Team Teaching as a Form of Professional Development' (2000) 27(3) *Teacher Education Quarterly* 39-54; Bill Perry, Timothy Stewart, 'Insights into effective partnership in interdisciplinary team teaching' (2005) 33 *System* 563-573, 572.

opportunity to produce an individual blog post which resulted in many students exploring areas of personal interest and offering unique insights based on their lived experiences and cultural perspectives.

When undertaking such projects, supervisors need to ensure the students work collaboratively and incorporate a balance of views for cultural sensitivity. When we received initial feedback on the website from local stakeholders it became clear that one of the webpages included content which could be perceived as culturally insensitive and inflammatory. The project leads, including the IPCS Director, worked with the student who authored the blog post to present a culturally aware point of view while being able to retain their critique. In another situation, a student made remarks which were not supported by sources. Peer-review of materials prior to publication ensured the supervisors could work with the student to edit their contribution.

We also need to reflect on the student experience of the project. We improve by adopting the ethnographic approach recommended by Baker and Daumer – which uses anonymised transcripts of learning activities as the basis of reflective practice.³⁸ We also aim to develop future interdisciplinary team teaching with student evaluations in mind in order to create projects which are of the most relevance for student needs and will contribute to interdisciplinary skills. We asked students to reflect on the following questions,

1. Do you feel yourself and the other students had ownership of the project? If so, how did the experience differ from other activities you have undertaken during your studies?
2. To what extent do you feel the project allowed you to explore areas you were interested in and how do you feel this contributed to the learning experience?
3. Have you learnt any new skills as a result of the international collaboration between students based in the UK and Somaliland? If so, do you believe these skills will assist you in future working environments?

When asked whether the skills learnt and international collaboration could assist students in future working environments one student commented in their project evaluation form: “[b]eing able to overcome barriers of communication,

³⁸ W. Douglas Baker, Elisabeth Däumer, ‘Designing interdisciplinary instruction: exploring disciplinary and conceptual differences as a resource’ (2015) 10(1) *Pedagogies: An International Journal* 38-53.

differing ideology, and workload is definitely something necessary for successful international collaboration and was definitely a key part of producing this project. It pushes participants out of their comfort zone and into a more accommodating and collaborative mindset. It is important to recognise that these barriers are not burdensome but are great for personal and academic growth and resulted here in the sharing of great ideas to produce informative and accurate content using the lived experience of others.” Several others commented on the usefulness of this experience for developing techniques for working with students internationally.

In response to question two, one student spoke of how “[b]eing able to choose from such a wide variety, meant that everyone could choose something of interest to them, which allowed for increased motivation and the creation of better work as good work and passion tend to go hand-in-hand.” Another appreciated being able to work with the project leads on editing the materials and learning what considerations are needed for a public audience. We also asked students whether they felt they had ownership of the project and how the activity differed from other activities undertaken during their studies. One student explained how they “took on the responsibility of organising our team, selecting our own research areas, setting our own deadlines in line with the guided timings, and uploading this content. This differs from other research experiences as it has more freedom of choice and exploration of leadership and team dynamics as there are no assigned topics or roles.” On the peacebuilding team a student from IPCS assumed leadership responsibilities which included liaising with team members and editing research. On the human rights team a student from Royal Holloway undertook these responsibilities and also undertook the majority of the work on uploading material to the website.

However, several students expressed concerns with one student summing up the shared concerns by stating “collaborative projects do require contributions from everyone involved and so teamwork skills and reliability are essential to the success of these projects.” Despite signing agreements with the Legal Advice Centre committing to participating in the project, many students failed to engage for the entirety of the project and the Director of the Legal Advice Centre was required to contact non-engaging students on several occasions. Even where the Director stepped in, the workload of the project fell to a smaller number of students who engaged with the project very well. Those who wish to replicate such a collaboration will need to carefully consider the extent of supervision provided alongside the desire to give students ownership of the

process. Our team will be exploring different supervision models that allow us to track student contributions while allowing students to continue to assume responsibility and organise the teams.

With the website now live and freely available to the public, students having enjoyed being able to explore topics of their choice and have their work published, and collaboration continuing between both the project leads individually and the institutions, we consider the project to have been a success. Nevertheless, it is clear that future student-focused collaborations we undertake must have several other aspects built into the project design. For instance, project leads need to more rigorously and visibly ensure cultural sensitivity has been accounted for and those accessing the information should be able to easily see that the material has been produced by a diverse set of students. We also need to review engagement monitoring methods and supervision models that balance student ownership of the project with supervisory oversight that does not detract from the leadership and independence being shown by students. This should also include careful consideration given to students who we can see are assuming additional responsibilities that may have a detrimental effect on their studies more broadly. We hope this overview of our project encourages others to explore collaboration possibilities internationally that provide unique opportunities for students. We will be implementing the lessons learned in the course of this project as we explore future ideas for ways to continue to offer international opportunities for students at Royal Holloway and IPCS under the remit of our MoU.

A teaching best practice guide for early career academics in UK law schools grounded in the student voice

Victoria Ball and Arwen Joyce*

Abstract

This paper draws on empirical data exploring undergraduate law students' experiences of small group teaching in a UK law school. The results and analysis are presented in the form of a best practice guide for early career academics in law. Advice gleaned from the academic literature on effective small group teaching is combined with focus group data to create a guide grounded in the student voice with a focus on recommended approaches for overcoming common challenges. The paper begins by exploring the pedagogical purpose and benefits of small group teaching sessions and the challenges early career academics may encounter due to a growing 'student-as-consumer' mindset. The paper goes on to provide advice related to three stages of teaching: preparing to teach, in the classroom, and outside the classroom, including helping students prepare for exams. The guide aims to provide the kind of friendly advice and support that an early career academic might receive from a supportive peer network.

Keywords: Early career academics, law school, graduate teaching assistants, small group teaching, best practice guide.

Introduction

Early career academics, including hourly-paid PhD researchers and Graduate Teaching Assistants are important members of law schools' teaching staff who routinely engage with students on a broader and deeper level than their relative

* King's College London and University of Leicester, respectively. This research was conducted while the authors were GTAs at the University of Leicester. Charlotte Mills was an essential part of the team during the study design, data collection and data analysis phases of this work. This work was supported by an ALT Research Grant from the Association of Law Teachers.

lack of experience and seniority suggests. Still, teaching for the first time can cause anxiety and lead early career academics to question their competence. Those teaching for the first time may question their teaching ability, their knowledge of the subject and whether their students are satisfied.¹ These anxieties are shared in multiple online fora, blogs and articles on the topic of teaching in higher education for the first time,² and some institutions do not offer adequate support or training to alleviate these fears. Encouragingly, student feedback collected in a recent study indicates that as long as effective teaching methods are employed, students are not overly concerned with the seniority of their law tutors.³

Teaching-related fears and anxieties experienced by early career academics are heightened in the UK by external factors such as an increasing emphasis on the Teaching Excellence and Student Outcomes Framework (TEF),⁴ which has both a financial and reputational impact on law schools, and on the results of the National Student Survey (NSS).⁵ These metrics have increased UK universities' focus on measuring and achieving consistently high teaching standards and improving the student experience.

¹ Hin-Yan Liu, 'Teaching without Authority' (2012) 46 *The Law Teacher* 146, 147.

² See, for example, Justin Bengry, 'On Being A Teaching Assistant (TA) In Grad School' (*TalentEgg Career Incubator*, 13 December 2010)

<<https://talentegg.ca/incubator/2010/12/13/head-of-the-class-being-a-ta/>> accessed 23 April 2021; Felicity Loughlin, 'Teaching Undergraduates for the First Time' (*Pubs and Publications*, 15 May 2015) <<https://www.blogs.hss.ed.ac.uk/pubs-and-publications/2015/05/15/teaching-undergraduates-for-the-first-time/>> accessed 23 April 2021; Adam Forrest, 'What It's Like to Lecture at University While You're in Your Twenties' [2016] *Vice* <https://www.vice.com/en_uk/article/pp4vpn/young-university-lecturers-teaching-in-twenties> accessed 23 April 2021; Charlotte Jones, 'Bane of the Postgrad Lecturer: Teaching Students Your Own Age' *The Guardian* (22 June 2017) <<https://www.theguardian.com/education/2017/jun/22/postgraduates-who-teach-how-to-lecture-undergraduates>> accessed 23 April 2021.

³ Victoria Ball, Arwen Joyce and Charlotte Mills, "'They Just Have More of a Vibe of Being 'One of Us'": Undergraduate Law Student Perceptions of PhD Tutors' (2020) 54 *The Law Teacher* 327.

⁴ The Teaching Excellence and Student Outcomes Framework is an assessment mechanism implemented by the Department of Education's Office for Students in England to promote excellence in teaching at universities and colleges. See <<https://www.officeforstudents.org.uk/advice-and-guidance/teaching/about-the-tef/>> accessed 23 April 2021.

⁵ The National Student Survey, commissioned by England's Office for Students, is open to all final-year students in a university or college in England and gathers opinions about students' university experience. The results are made publicly available to help prospective students make informed decisions about what and where to study. See <<https://www.thestudentsurvey.com/about-the-nss/>> accessed 23 April 2021.

In addition, a trend has been observed in UK higher education towards a ‘student-as-consumer’ mindset,⁶ which Tomlinson describes as a shift in power from education providers to students.⁷ Previous research has found links between this mindset and an increase in university fees.⁸ Those who are new to teaching in higher education may be fearful that this shift will result in them not being able to meet ever-increasing student expectations with respect to teaching quality and availability.

While those new to teaching will find guidance in online fora and the pedagogical literature on small group teaching,⁹ a small group teaching best practice guide grounded in the voice of undergraduate law students adds a unique and valuable perspective to these existing resources. To that end, this paper draws on empirical data exploring undergraduate law students’ experiences of, and preferences related to, small group teaching. The results and analysis from this empirical study are presented in the form of a best practice guide for early career academics in law. Advice gleaned from the academic literature on effective small group teaching is combined with focus group data to create a guide grounded in the undergraduate law student voice with a focus on recommended approaches for overcoming common challenges.

This paper begins by exploring the pedagogical purpose and benefits of small group teaching sessions and the challenges early career academics may encounter in relation to a growing ‘student-as-consumer’ mindset. Next, the methodology behind the study and the compilation of the best practice guide is explained. The best practice guide that follows in Section 4 is organised into

⁶ Louise Bunce, Amy Baird and Siân E Jones, ‘The Student-as-Consumer Approach in Higher Education and Its Effects on Academic Performance’ (2017) 42 *Studies in Higher Education* 1958, 1958.

⁷ Michael Tomlinson, ‘Exploring the Impact of Policy Changes on Students’ Attitudes and Approaches to Learning in Higher Education’ (The Higher Education Academy 2014) 50 <https://www.heacademy.ac.uk/sites/default/files/resources/Exploring_the_impact_of_policy_changes_student_experience.pdf>.

⁸ Janice K Currie and Janice Newson, *Universities and Globalization: Critical Perspectives* (SAGE Publications 1998); Ball, Joyce and Mills (n 3) 18.

⁹ See, for example, Paul Ramsden, *Learning to Teach in Higher Education* (2nd edn, Routledge 2003); Phil Race, *The Lecturer’s Toolkit: A Practical Guide to Assessment, Learning and Teaching* (Routledge 2019); Keith Taber, *Classroom-Based Research and Evidence-Based Practice: An Introduction* (SAGE 2013); David Mills and Patrick Alexander, ‘Small Group Teaching: A Toolkit for Learning’ (The Higher Education Academy 2013) <<https://www.advance-he.ac.uk/knowledge-hub/small-group-teaching-toolkit-learning>>; Chris Ashford and Jessica Guth, *The Legal Academic’s Handbook* (Macmillan International Higher Education 2016).

sections that align chronologically with three different stages of teaching: preparing to teach; in the classroom; and, interacting with students outside of class, including helping students prepare for exams. The guide aims to provide the kind of friendly advice and support that an early career academic might receive from a supportive peer network. In addition, highlighting the pedagogical benefits of tutorials may encourage the adoption of small group teaching more widely across the sector.

The purpose of tutorials and the challenges of a ‘student-as-consumer’ mindset

Law students are tasked with digesting a vast amount of technical information, from case law and statutes to procedural rules and academic commentary, and then building on this foundation to create arguments and to critically analyse how the law is, or should be, applied. Lectures and assigned readings are good sources of the necessary underlying technical knowledge, while small group teaching sessions, essays and exams are opportunities to apply that knowledge, contextualise it, and to develop and eventually demonstrate a deeper understanding of the material.

In UK law schools, the objective of small group teaching sessions is ‘for students to explore and deepen their understanding of the law.’¹⁰ At Leicester Law School, undergraduate teaching follows a lecture-tutorial format. Lectures, attended by all students on a module, are followed by tutorials attended by eight to ten students. Readings and essay and problem-based questions are assigned in advance of each tutorial and the sessions are designed to develop problem solving, debate and critical thinking skills. Tutorials should not be mini lectures that repeat material presented elsewhere but rather are an opportunity for students to actively engage with a subject,¹¹ consolidate what they have learned, both in lectures and in independent study, and to develop their understanding further.

¹⁰ Emily Finch and Stefan Fafinski, *Legal Skills* (Seventh Edition, Oxford University Press 2019) 197.

¹¹ Promoting active learning is one of the hallmarks of effective teaching. John Biggs, ‘What the Student Does: Teaching for Enhanced Learning’ (1999) 18 *Higher Education Research & Development* 57, 59–60; Ramsden (n 9) 97.

The format of small group teaching is based on the constructivist pedagogical approach proposed by Russian psychologist Lev Vygotsky¹² who saw learning as an ‘interactive, social process, within which the teacher facilitates the transition of the learner into “zones of proximal development”’.¹³ In keeping with this approach, students are expected to play an active role in tutorials in order to construct their own knowledge and understanding and to contribute to the learning of others.¹⁴ When students come prepared and contribute actively to the discussion, they can receive ‘immediate and detailed formative feedback, both from each other and from their tutor.’¹⁵

The issues explored in tutorials are often nuanced and complex by design in order to challenge students to develop their views on the law. Some focus group participants understood and appreciated this while others expressed an expectation that they would leave each tutorial with clear and complete ‘correct’ answers to each tutorial question. The latter view is not surprising given the previously noted trend observed in higher education towards a ‘student-as-consumer’ mindset.¹⁶ A growing student-as-consumer mindset may create a gap between students’ expectations about the ‘service’ they are receiving and law teachers’ aspirations for the learning environment they want to create. Bunce *et al* note that this mindset may pose a risk to academic standards, may lead students to make demands of universities that are not in their academic best interest, and may promote ‘passive instrumental attitudes to learning’.¹⁷

This presents a particular challenge for early career academics who are new to teaching law and may be unsure of how best to manage student expectations in order to bridge this gap. It is important to acknowledge that learning is not always an easy or comfortable process for students, and teaching practices that are effective in terms of fostering a challenging and rewarding learning experience may be unpopular. Conversely, just because a teaching method is preferred by students does not necessarily mean it is ineffective or should be

¹² See Lev S Vygotsky, *Thought and Language* (MIT Press 1962); LS Vygotsky and Michael Cole, *Mind in Society: Development of Higher Psychological Processes* (Harvard University Press 1978).

¹³ Mills and Alexander (n 9) 12.

¹⁴ Roseanne Russell and Rachel Cahill-O’Callaghan, ‘Speaking in the Classroom: The Impact of Gender and Affective Responses on Oral Participation’ (2015) 49 *The Law Teacher* 60, 61.

¹⁵ Mills and Alexander (n 9) 7.

¹⁶ Bunce, Baird and Jones (n 6) 1958–1961.

¹⁷ *Ibid*, 1959.

avoided. Some strategies discussed herein for developing effective teaching practices despite the challenges presented by a growing student-as-consumer mindset include building confidence as a tutor in order to teach with authority, setting expectations for student preparation and participation early in the term, and setting and maintaining appropriate boundaries.

Methodology

Despite the aforementioned worries about a growing student-as-consumer mindset and the potentially harmful implications thereof for teaching practice, research suggests that many students view themselves as active participants in their higher education learning¹⁸ and are good judges of what constitutes effective teaching.¹⁹ Taking this as a methodological starting point, the choice to collect data for this study through focus groups was driven by an epistemological belief that asking students directly about their preferences and experiences is a valid and effective method of collecting data about effective teaching practices. Furthermore, concerns related to not having all the answers and not being able to command respect are often framed in online fora and opinion pieces in terms of not meeting students' expectations. Therefore, an effective way to allay such concerns is to ask students directly instead of making assumptions about their expectations of tutors and tutorials. Importantly, the data collected from the student focus groups aligns with and complements the advice gleaned from the academic literature on effective small group teaching. These two strands are brought together herein to create a useful small group teaching best practice guide.

Focus groups are a particularly effective method of collecting empirical data about the social world by asking about people's views and experiences. This method is useful for exploring 'not only what people think but how they think and why they think that way.'²⁰ For this reason, semi-structured, interactive focus groups were conducted to collect a 'deeper level of data'.²¹ Open-ended

¹⁸ Michael Tomlinson, 'Student Perceptions of Themselves as "Consumers" of Higher Education' (2017) 38 *British Journal of Sociology of Education* 450, 461.

¹⁹ Ramsden (n 9) 87; see also Peter A Cohen, 'Student Ratings of Instruction and Student Achievement: A Meta-Analysis of Multisection Validity Studies' (1981) 51 *Review of Educational Research* 281, 304.

²⁰ Jenny Kitzinger, 'Introducing Focus Groups' (1995) 311 *BMJ: British Medical Journal* 299, 299.

²¹ Naomi Winstone and Darren Moore, 'Sometimes Fish, Sometimes Fowl? Liminality, Identity Work and Identity Malleability in Graduate Teaching Assistants' (2017) 54 *Innovations in Education and Teaching International* 494, 499.

questions and task setting (such as ranking a set of statements in order of importance) were used to prompt discussion and elicit anecdotes illustrating the students' experience of small-group teaching. Task setting has also been shown to facilitate comparison across different groups and aid in data analysis.²² The researchers received ethical approval to conduct this study from the University of Leicester and collected the data in November 2019. This work was funded by a grant from the Association of Law Teachers. All focus group participants received an invitation to participate with a GDPR-compliant privacy notice and a participant information sheet and completed and signed an informed consent form.

A total of 21 students participated in four hour-long focus groups held over a two-week period.²³ Only LLB students who had completed their first year of study were eligible to participate in order to ensure that all participants had sufficient experience of tutorials to inform their views about effective small group teaching. An LLM student who had never taught undergraduate students served as a research assistant and conducted the focus groups in a non-teaching room in the library at the University of Leicester. The aim was to create an environment where participants would feel comfortable sharing their honest opinions and experiences of tutorials. The data collected during the focus groups were anonymised upon transcription.

The focus group sessions began with an open-ended question asking the students to reflect on their experiences of small group teaching. Next, the facilitator invited the participants, in subgroups, to put themselves in the shoes of an early career academic and create a list of three things they would do to make tutorials more effective. This was followed by a ranking task in which participants were asked to rank positive and negative comments about tutors gleaned from the results of Ball, Joyce and Mills' empirical study.²⁴ The research assistant was empowered to ask follow-up questions if time allowed and if certain topics, such as how tutors can support students in preparing for exams, had yet to be addressed. The research assistant concluded each session by asking the participants what advice they would give to early career academics who are new to teaching or who are interested in teaching law to undergraduates.

²² Michael Bloor and others, *Focus Groups in Social Research* (SAGE 2001) 47.

²³ If the pilot study participants are included, 25 LLB students attended focus groups.

²⁴ Ball, Joyce and Mills (n 3).

The researchers adopted an ‘open coding’ approach to analyse the focus group data, coding the responses based on the content of participants’ statements. The codes were informed by, but not limited to, the findings of previous studies on student perceptions of PhD tutors.²⁵ The researchers adopted a holistic approach to coding, analysing all the data collected together instead of separating them by focus group, question or task, and employed a process of induction to identify codes that emerged from the data.²⁶ The codes or themes that emerged from the focus group data fell into six categories: preparation and time management; creative teaching techniques; classroom management; tutor confidence; tutor accessibility outside the classroom; and helping students prepare for assessments.

The sample size of 21 undergraduate law students represents a range of students across the three-year and two-year ‘senior status’ LLB degree programmes at Leicester Law School. While these research findings are not generalisable to all undergraduate law students in the UK, the results of this qualitative study provide useful insights into these students’ experiences of LLB tutorials. Importantly, the focus group data, which was taken as a starting point to structure the best practice guide, aligns with and complements the advice gleaned from the academic literature on effective small group teaching. Quotes from the focus groups are incorporated into the analysis to centre the student voice in the guide and reassure those new to teaching law that, in general, their students are likely to both appreciate and respond positively to their efforts to deliver effective teaching both within and outside of the classroom.

Notably, the training and support offered by universities to new teaching staff varies widely. While some institutions insist that new teaching staff undergo training and continuing professional development or even acquire a teaching qualification, others take a ‘hands off’ approach. This guide will be especially useful to anyone teaching in a context where institutional training and support is lacking. In addition, higher education institutions adopt different teaching philosophies and pedagogical approaches in terms of class size, format and frequency of teaching sessions. This guide will be particularly useful for early career academics who are new to teaching or are considering teaching in higher education institutions that deliver teaching through a combination of lectures

²⁵ For example, Taber (n 9) 163.

²⁶ A similar approach was used by Taber, *ibid.*

and small group teaching sessions.²⁷ Nevertheless, the advice included herein is designed to be broadly applicable across a range of institutional settings and irrespective of the institution's overarching teaching philosophy.

Results and analysis: best practice guide

This section is presented in the form of a best practice guide, which combines advice gleaned from the academic literature on effective small group teaching with focus group data to offer recommended approaches for overcoming common teaching challenges. The best practice guide is organised into sections that align chronologically with three different stages of teaching. The guide begins with advice related to preparing to teach, then discusses issues that arise in the classroom, and concludes with a section on interacting with students outside of class, including helping students prepare for exams.

Preparing to teach

Whether you are giving a lecture or leading a tutorial, preparation is key in order to deliver effective and engaging teaching. As Mills and Alexander counsel, '[T]he preparation you and your students do before your session begins is as important as the dynamic within it.'²⁸ Even when teaching in a subject area you know well, preparing to teach by reviewing the relevant material and thinking carefully about how to structure a class session are indispensable parts of the process. Gathering and reviewing the relevant material will take longer when teaching a topic for the first time, especially one outside of your primary area of research.

Reviewing course material

Preparing thoroughly for each tutorial, especially when the material is new to you, will not only increase your confidence as a new tutor, it will create a better learning environment for your students. One focus group participant shared, 'When [a tutor is] well prepared, the tutorials just go really well, you get loads out of it [and] you engage more.' On the other hand, two focus group participants bemoaned, 'If [the tutor is] not well prepared, I'm not going to get

²⁷ At Leicester Law School, undergraduate teaching follows a lecture-tutorial format. Readings and essay and problem-based questions are assigned for tutorials, which are focused on problem solving, debates and critical thinking.

²⁸ Mills and Alexander (n9) 4.

anything out of it’, and ‘if [the tutor] doesn’t prepare then obviously it can’t be a very good tutorial’.

The objective of small group teaching is to help students deepen and develop their understanding of the law by actively engaging with a topic. King notes that in order to help students ‘build on previous learning experiences’ and ‘engage in deeper-level discussions’ the facilitator of small group teaching sessions must be prepared to act as a subject-specialist.²⁹ Race adds that facilitators of small group teaching should not only prepare for each session but make that preparation visible to students so they ‘can see that you are taking [each tutorial] as seriously as you want them to do.’³⁰ While taking on the role of subject-specialist can be daunting for early career academics, a formula for success is to combine adequate preparation with a willingness to admit to not having all of the answers.³¹

The first step in preparing for a new term is to read the module handbook for any module on which you are teaching. This document will contain important information about the module materials, the topics covered, and the type of assessments students will be asked to complete. Many questions students ask can be answered with reference to this document, so it is important to know where it is and what it contains. In addition, ensure you can access copies of all assigned textbooks online or request desk copies³² from the publishers.³³ Reading the same material as your students is essential to understanding how to answer the tutorial questions and will enable you to anticipate potential areas of confusion or difficulty for students.

If your school uses a virtual learning environment like Moodle or Blackboard, make sure you have access to the module page and subscribe to the discussion board to keep abreast of the kinds of questions posed by students and the responses provided by other members of the teaching team. Listen to the recorded lectures delivered by other members of the module teaching team that

²⁹ Francis King, ‘Facilitating Small Group Discussions’, *The Legal Academics Handbook* (Macmillan International Higher Education 2016) 128.

³⁰ Race (n 9) 237.

³¹ This is discussed further under ‘Preparing to teach: Building confidence to teach with authority’.

³² Depending on the publisher, desk copies may also be referred to as sample copies, inspection copies, or evaluation copies.

³³ This can usually be done using an online form on the publisher’s website or by emailing the publisher’s customer service representative for your area.

are made available through the virtual learning environment. As one focus group participant observed:

[When] my tutors refer back to what was said in the lecture...it's reassuring to know that [the tutor] has been keeping up with the lectures as well so they are not making inconsistent points.

Finally, when preparing to teach, make a list of points for discussion related to each tutorial question. As one focus group participant advised, 'Be really organised, detailed and anticipate the issues we're going to have before we get there.' Some module convenors will provide tutors with detailed crib sheets, others take a more short-hand approach. Either way, a tutor should avoid reading directly from the tutorial sheet. Doing so indicates a lack of preparation and confidence and is less engaging than a more conversational approach. As one focus group participant noted, a less effective tutor is one who is 'more robotic and just reads from a sheet.'

Structuring a tutorial

Good time management in a tutorial requires advance preparation and having a well-thought-out structure. It is good practice to provide context for the session with a brief mention of how the tutorial fits into the module content, and to clearly establish the intended learning outcomes of the session.³⁴ Several focus group participants highlighted that they appreciate when a tutor 'start[s] off the tutorial [by asking] general questions, like, "how did you find [this topic]?"' or 'how are you finding it, are you understanding everything ok?'. In the same vein, it is advisable to finish a session by asking if the students found the tutorial useful or if there are things about which they are still unclear.

When structuring the main content of the tutorial, consider how much time roughly you can spend on each question to fill the allotted time. Otherwise, as one focus group participant noted, 'you may find suddenly that you've spent 40 minutes on the first question and then it's a rush to get through the other questions.' As the facilitator and leader of the tutorial, keep an eye on the clock and ensure that class discussions remain useful and on topic.

³⁴ Philip Race, *In at the Deep End: Starting to Teach in Higher Education* (2nd revised edition, Leeds Met Press 2009) 29.

If the list of tutorial questions is ambitiously long, consider which questions or activities you will prioritise if you begin to run out of time. Focus group participants appreciated when tutors asked them which question(s) they found the most challenging and then ‘allocate[d] more time to go through that [question] step by step.’ If it’s not possible to address every question on the tutorial sheet during the session, explaining what you intend to focus on, and what will be discussed in less detail at the outset will help manage students’ expectations. On the other hand, if there are just a few brief questions on the list, consider what else you could ask the students to do or discuss if you begin to run out of material. As one focus group participant advised, ‘always leave more time for discussion than you expect [and] always plan a back-up activity in case you finish early.’

Even with sufficient advanced planning, delivering a tutorial to a particular group may not proceed as expected. As such, being flexible and responsive to the group dynamic is key.³⁵ It can be daunting to have to restructure a tutorial at the last minute if, for example, only two students turn up and you had planned to facilitate an activity in small groups. Luckily, flexibility is a key strength of the small group teaching format.³⁶ While a class of one or two students will not be able to benefit from the knowledge and experience of their missing peers, they will benefit from more individualised attention from their tutor and the opportunity to assess their progress and further their understanding.

Building confidence to teach with authority

Teaching for the first time can be daunting. Liu described the anxiety he felt when teaching as a PhD student, which stemmed from a fear that he lacked sufficient knowledge and expertise to teach with authority.³⁷ Similarly, Roach suggests that early career academics who are relatively closer in age to their students ‘may have to work harder to establish appropriate teacher-student distance [and] may have to work harder to project themselves as competent in teaching’.³⁸

³⁵ This is discussed in more detail under ‘In the classroom: Class management’.

³⁶ David Kember and Carmel McNaught, *Enhancing University Teaching: Lessons from Research Into Award-Winning Teachers* (Routledge 2007) 64–66.

³⁷ Liu (n 1).

³⁸ K David Roach, ‘Effects of Graduate Teaching Assistant Attire on Student Learning, Misbehaviors, and Ratings of Instruction’ (1997) 45 *Communication Quarterly* 125, 132.

While students may pick up on a tutor's lack of confidence, they are likely to be baffled by it. One focus group participant noted, 'Why would you not feel confident...when you are the one in charge?'. Others shared, even if a tutor is not 'an expert in the topic...[to] a student, they're expert enough'; 'you don't necessarily need to be an expert to provide relevant advice'; and an early career academic 'will know more [than an undergraduate] and for what they are teaching, it's sufficient'.

A common fear among early career academics, especially when teaching on core undergraduate modules or outside of their specialist area of research, is that students will ask questions they can't answer. A new teacher may worry that admitting to a gap in their knowledge will undermine their authority. But Mills and Alexander argue that small group teaching is exactly the kind of learning context where "good" teaching involves admitting that you are not all-powerful or all-knowing'.³⁹ In fact, being honest in that moment may help reinforce the role of the student as an active participant in the learning process and encourage reticent students to ask questions and participate in discussions.⁴⁰ Of course, you can always defer the question until you have had time to look into the issue and offer to follow up in the next session or by email, or ask the students to research the question themselves and bring what they find to the next session.

One way to appear more confident is to infuse your teaching with energy and enthusiasm. Focus group participants appreciated when tutors shared their passion for a topic and found that enthusiasm contagious. Comments in this regard included: 'Show your interest and passion in the topic. [When you] find it interesting, students [will] become more interested as well.' Others shared, 'the best tutors I've had were more upbeat [and had] more energy'; '[tutors should] create an enthusiastic environment to encourage learning'; and 'you don't want somebody who is not enthusiastic because then you're not going to feel enthusiastic about it either'. It is not always easy to be upbeat and enthusiastic, especially at 9am on a Monday morning or at 4pm on Friday after a long week, but students take their cues from the energy you bring into the classroom. If your natural energy is lacking, faking it usually works just as well.

³⁹ Mills and Alexander (n 9) 24.

⁴⁰ Roach (n 38) 132.

Boost your confidence by seeking out training and support and developing a network of teaching mentors and peers that you can turn to for advice. Attend teaching workshops and training sessions offered by your institution and through professional bodies and networks such as the Association of Law Teachers⁴¹ and Advance HE.⁴² Ask the module convenor or other members of the teaching team with more experience for additional teaching resources and tips. They may have notes, sample answers and teaching strategies they are willing to share. Finally, when teaching a new topic for the first time, ask if you can observe another tutor's classes first to see how they deliver the material.

Remember that you will be the most senior and experienced academic in the room, and you have the skills and knowledge to teach, support and inspire students. It is impossible to satisfy every student in every class so take gratification from connecting with engaged students and creating an environment in which tutorial groups can develop their knowledge and understanding. Preparing to teach, identifying and reflecting on your teaching style, and building support networks of teaching mentors and peers can help.

In the classroom

Once you've sufficiently reviewed the teaching materials and have made a teaching plan, it is time to get into the classroom and meet your students. This section of the best practice guide focuses on setting the tone for the upcoming term, managing through common challenges and disruptions in a classroom setting, and increasing opportunities for active learning.

Setting the tone

The purpose of tutorials, and expectations for students' behaviour in them, is not self-evident. Students' socio-economic status and prior educational experiences can affect their understanding of tutorials as a pedagogical tool.⁴³ As Ashwin's study demonstrates, students entering university are often unfamiliar with how the tutorial system is meant to function pedagogically and

⁴¹ The Association of Law Teachers is a community of academics, professionals and practitioners engaged in legal education across countries. See <http://lawteacher.ac.uk>.

⁴² Advance HE is a British professional membership scheme promoting excellence in higher education that works with higher education institutions across the world to improve higher education for staff, students and society. See <https://www.advance-he.ac.uk>.

⁴³ Mills and Alexander (n 9) 23.

are not sure what it is meant to achieve.⁴⁴ The present study's focus group data confirmed these findings. Some participants revealed an expectation that they would leave each tutorial with the 'correct' answers saying: 'I just want the answers' and 'I want a clear summary of the law, a perfect answer'. One student said, 'It's [fine] to engage in discussions but at the end of the day I want to know that my notes are right.'

Far from being a forum to provide students with the 'correct' answers, law school tutorials are an opportunity for students to actively engage with a subject, consolidate what they have learned and develop their understanding further.⁴⁵ Some focus group participants appreciated this. One said succinctly: 'lectures are the bones; tutorials are the flesh.' Another noted, tutorials are 'the best part of the academic experience because...when you prepare for tutorials all of that information [you received in lectures] is consolidated.' Another shared, 'The main purpose of tutorials is [engaging in discussions] around the subject and [to] consolidate everything.' If every student shared this understanding, and came to tutorials prepared to contribute, the expectations of students and law teachers would align, and the objectives of small group teaching sessions would more easily be achieved. But, as Mills and Alexander note, 'students [must] learn about small group teaching before they can effectively participate in it.'⁴⁶

The format of small group teaching is based on a constructivist pedagogical approach.⁴⁷ Explain to students that in keeping with this approach, they will be expected to play an active role in tutorials in order to construct their own knowledge and understanding and to contribute to the learning of others.⁴⁸ In order for these pedagogical goals to be achieved, students must come to the session prepared to discuss and debate the readings and assigned tutorial questions. Ideally, a tutorial should be a setting where students deepen what they have learned in their preparatory reading, thinking and writing through group discussion and feedback.⁴⁹ Therefore, it can be disappointing when

⁴⁴ Paul Ashwin, 'Variation in Students' Experiences of the "Oxford Tutorial"' (2005) 50 *Higher Education* 631.

⁴⁵ Biggs (n 11) 59-60; Ramsden (n 9) 97.

⁴⁶ Mills and Alexander (n 9) 21.

⁴⁷ *Ibid* 12.

⁴⁸ Russell and Cahill-O'Callaghan (n 14) 61.

⁴⁹ For times when this idyllic outcome is not achieved, 'In the classroom: Class management' addresses how to manage through common challenges in a classroom setting.

students arrive at a tutorial unprepared. Remember that preparing for and actively participating in a tutorial is hard work and may not always be a comfortable process for students. A tutor's role is to support students through this process, encourage and reinforce good study habits, and employ effective teaching methods to help students achieve a higher level of understanding.

Another important point to make clear to students is that your primary role as their tutor is to facilitate discussions, coordinate learning among students, and inspire their interest in the subject matter. You can reassure them that as a facilitator you will underline important points made by other students to ensure they have been heard by all.⁵⁰ You will provide clarity when an area of the law is confusing to help students learn how to think about legal questions.

Finally, it is your role to gently correct students who have misunderstood or misapplied the law. Focus group participants stressed the importance of this, saying: 'Just tell us so that we know that we're wrong'; 'Trying to be nice doesn't help anyone because it'll either confuse people or waste time'; and 'Just correct people when they are on the wrong track.' Interestingly, one participant observed, 'I've noticed that my less experienced tutors are less willing to say when we are wrong.'

In addition to setting expectations for preparation and participation, consider how you can create a classroom environment that will facilitate active learning. For early career academics who do not have their own office space to teach in, arrive at the classroom a few minutes early to adapt its layout to the needs of your tutorial. The arrangement of the chairs, and where you choose to sit or stand in the room will influence how students interact.⁵¹ In this regard, a focus group participant noted, 'Small things like [the tutor] not sitting behind the desk but sitting with the students... give rise to a more discursive environment.'

Set a friendly tone and encourage participation by introducing yourself and getting to know your students in the very first session. Briefly tell the students about your background, let the students know how to address you, and write your email address and office hours, if applicable, on the white board. Even if your contact information is available in the module handbook or online it is

⁵⁰ Kate Exley and Reg Dennick, *Small Group Teaching: Tutorials, Seminars and Beyond* (Routledge 2004) 8.

⁵¹ *Ibid* 17; Debra D Burke, 'Scale-Up! Classroom Design and Use Can Facilitate Learning' (2015) 49 *The Law Teacher* 189, 197.

worth repeating. One focus group participant admitted, '[Senior members of staff] are easier to access, they post their office hours, you can send them an email. I didn't even know you could email a PhD tutor.'

Facilitate an ice breaker in your first class by inviting students to briefly introduce themselves and share a fun fact, like their favourite law-themed TV series or what they wanted to be when they were a child. This will help you get to know your students and help them feel more comfortable with each other. As Race counsels, 'One key to working and learning with other people is...the ability to lower barriers and become friends with would-be strangers, while acknowledging differences and respecting different viewpoints.'⁵² Ice breakers can help reduce students' anxiety about speaking in front of their peers and create a pattern whereby the learner shares and the instructor listens. Filene and Bain agree that actively engaging students from the beginning sets the tone for subsequent sessions: 'Whatever you do at the outset will largely determine student behaviour throughout the semester. [So, on] the first day, make sure that students talk at least briefly.'⁵³

Finally, some tutors find it helpful to create a set of ground rules for tutorials. Circulate some basic rules in advance of the first tutorial via email or bring them to the first session and ask for students' input. Inviting students to contribute their ideas and to set expectations for how the tutorials will proceed can help them feel more invested in the process and in their own learning outcomes. It can also help to set students' expectations about what you hope to accomplish in tutorials and what you expect from them in terms of their preparation and participation.

Class management

Effective small group teaching can inspire enthusiasm and passion for learning and offer students an opportunity to develop their own academic identity. But achieving a high level of engagement from every student in the class is rare. Two common challenges encountered in a small group teaching context are a reluctance to participate and dominant students who commandeer class discussions. Mills and Alexander caution that in both of these circumstances, social and power dynamics play a role 'and it is important to [ascertain] why

⁵² Race (n 9) 217.

⁵³ Peter Filene and Ken Bain, *The Joy of Teaching: A Practical Guide for New College Instructors* (University of North Carolina Press 2005) 64.

particular students are more or less dominant before acting to curtail or encourage participation.⁵⁴ It is a skill to be able to ‘read’ the group to determine whether individual students are understanding the material or falling behind and to steer a discussion to keep the group focused and avoid unproductive tangents.⁵⁵ Developing these skills, overcoming common challenges and finding innovative ways to increase student engagement not only improve learning outcomes but also make teaching more enjoyable and rewarding.

As one early career academic shared, ‘The worst thing that can happen is if you ask an open-ended question...and get silence.’⁵⁶ When this happens, resist the urge to immediately fill the silence. It is easy to ‘fall into the trap of talking in those silences or giving out answers.’⁵⁷ Leading a class without dominating the discussion is an important skill to master when teaching in a small group setting and, as Mills and Alexander note, ‘talking “at” students is a sure-fire way of draining the life out of a group’.⁵⁸ Students may not speak up in a tutorial for any number of reasons from under-preparation to anxiety about speaking in front of their peers. As one focus group participant shared, ‘not everyone may be very comfortable speaking [but] sometimes being quiet doesn’t mean you don’t understand.’ That may be true, but for many students engaging actively in a tutorial provides an opportunity to consolidate and further develop their understanding of the material.

If sitting in a silent classroom does not come naturally to you, you’re not alone. Studies have estimated that tutors in small group teaching contexts talk between 60 and 80 per cent of the time, although the average time spent talking is reduced when problem-based methods of learning are employed.⁵⁹ Even if it feels interminable, a few seconds of silence may be the space a student needs to find the courage to speak up.

⁵⁴ Mills and Alexander (n 9) 19–20.

⁵⁵ *Ibid* 5.

⁵⁶ Jones (n 2).

⁵⁷ Kate Bradley, *Teaching as a PhD Student* (History at the Higher Education Academy 2009) <<https://www.advance-he.ac.uk/knowledge-hub/historical-insights-teaching-phd-student>>.

⁵⁸ Mills and Alexander (n 9) 5–6.

⁵⁹ Madeleine Atkins and George Brown, *Effective Teaching in Higher Education* (Routledge 2002) 53.

If patience doesn't yield results, try asking a more basic question, restating the question in a different manner, or breaking it down to tackle it in pieces.⁶⁰ A useful approach that encourages active participation is to give students the opportunity to discuss their answers in smaller 'buzz-groups' before sharing their ideas with the class.⁶¹ If a reluctance to participate is rooted in shyness, creating a supportive environment, taking students' contributions to the discussion seriously, and praising them when they do speak up can build their confidence so that contributing feels less risky.⁶²

Among the focus group participants, whether tutors should call on specific students to contribute was a polarising topic. Some focus group participants felt the technique encouraged them to participate and motivated them to prepare more fully for future class meetings. One noted, 'I [had a tutor whose] style is kind of intimidating...I never missed any of her tutorials [and] I always did the reading.' Others commented: '[I]t is important to put people on the spot'; 'Go around the room and make sure everyone at least says something'; and '[Don't] give people the perception that they don't have to prepare as much because they won't get questioned'.

For others, being called out for being unprepared can be demoralising and may discourage future attendance and participation. As one focus group participant recounted: '[a tutor] made [a student] apologise to the rest of us [for being unprepared]. I don't know if we will be seeing him in that tutorial again.' Another noted, 'if you feel discouraged to come to the tutorial [that's] not creating a culture conducive to learning.' Others agreed that cold calling in tutorials, when taken too far, can cause them great anxiety. According to one focus group participant: 'A senior tutor asked me [the first question on the sheet] directly and I froze and... it was a lot of pressure.' Another shared, 'I feel apprehensive [and] I don't want to be that person that's called out.' Still, calling on someone who hasn't spoken before to ask if they would like to contribute can be done gently and respectfully. As one focus group participant noted, 'It's ok to put people on the spot, but then when you take it a step further and make someone feel discouraged or embarrassed, that's not how it should be.'

⁶⁰ Race (n 34) 39.

⁶¹ Race (n 9) 226.

⁶² Mills and Alexander (n 9) 6; Russell and Cahill-O'Callaghan (n 14) 70.

A very different challenge arises when one or two students respond to every question and dominate the discussion. It is best to deal with this issue head on by thanking the student for their contribution but noting that you'd like to hear from someone who hasn't spoken yet for the next question. If the behaviour persists and becomes problematic it is worth raising the issue gently with the dominant student outside of class. But remember that you will always encounter different personality types in the classroom and both shy and domineering students should be given the opportunity to develop their knowledge and communication skills in small-group contexts.⁶³ As Bradley notes, the goal is not to 'discourage the more confident [student] from speaking, but [to] highlight to the less confident [student] that you are also interested in what they have to contribute.'⁶⁴

Increasing opportunities for active learning

Given the pedagogical goals of small group teaching, it is important to design engaging sessions that maximise students' active participation.⁶⁵ Some techniques for achieving this include utilising a white board and other teaching aids, incorporating group work and other activities into your teaching plan, and bringing your enthusiasm for the topic into the classroom. The aim in each session is to promote discussion and dialogue through active participation and engagement.

Think about ways to usefully incorporate teaching aids into your small group teaching. Writing the outline of a problem question or diagramming a key concept on a whiteboard is a great way to frame a discussion and may be especially useful for visual learners.⁶⁶ You can write on the whiteboard before students arrive or as they provide input, or you can give whiteboard markers to students and ask them to share their work or take notes on the whiteboard as their peers contribute to the discussion. As one focus group participant noted, when a tutor writes on the board before students arrive, 'It makes [the tutorial] flow better and it gives students something to keep referring back to.' Others shared: 'hav[ing] the whiteboard prepared beforehand with a chart or diagram with how to use the law [is] really useful' and 'writing on the board helps because then [the tutor] is not just reading off the [tutorial] sheet.' Focus group

⁶³ Race (n 34) 40.

⁶⁴ Bradley (n 57).

⁶⁵ Biggs (n 11) 59–60; Ramsden (n 9) 97.

⁶⁶ Race (n 34) 39.

participants generally agreed that when tutors made use of the whiteboard and other teaching aids this made the material more engaging and easier to understand.

Another way to increase student engagement and keep a tutorial moving is to include group work and other activities in a session. Or, as one focus group participant advised, 'Plan group discussions and activities to mix things up.' If the tutorial contains a problem-based question, break it down by claim and ask students to compare their prepared answers in pairs before sharing them with the class. Doing so can increase shy students' confidence and encourage the development of inter-personal skills. While students work in groups, you can walk around the room and check whether they are understanding the material. Focus group participants highlighted that they found group work especially useful in tutorials. One shared, '[The tutor] would split us into groups to answer [questions] on the board and I found that really helpful instead of just having it on the laptop and kind of passively typing out the answer.' Another advised, 'Have group activities, because if people are shy...they are more likely to talk to their peers [and give the] answer in a smaller group rather than to the whole group.'

Outside the classroom

You've prepared and taught your small group teaching sessions – well done! But students may request additional assistance outside of the classroom. This section of the best practice guide focuses on how available to be to your students outside of class, how to handle student queries, and how to help students prepare for their summative assessments.

Availability and student queries

Ramsden, Muzaka and others have highlighted that being accessible within reason outside of the classroom is a component of effective teaching and is much appreciated by students.⁶⁷ Focus group participants commented that they find it helpful when tutors follow up after class via email, for example if a question was asked that the tutor could not immediately answer. Consider creating an email distribution list to send students relevant information, tutorial feedback and perhaps even an occasional news story that relates directly to a

⁶⁷ Ramsden (n 9); Valbona Muzaka, 'The Niche of Graduate Teaching Assistants (GTAs): Perceptions and Reflections' (2009) 14 *Teaching in Higher Education* 1, 5.

topic that has come up in class. Focus group participants commented positively about tutors who did this. Check with the module convenor before sharing any additional materials with students to ensure that they are appropriate for the module and the students' year of study and, if they are, that they can be made available to all students on the module.

Students may contact you by email with questions, to ask you to review a piece of writing, or to clarify something from a tutorial. One focus group participant shared that they usually receive 'a really quick response' to their queries by email when they contact a PhD tutor. The fact that students are pleased to receive a quick response does not mean that you should feel obliged to answer student emails outside of standard business hours. Neither should you feel obliged to allow a single student to monopolize your office hours, if you have them. One focus group participant inadvertently raised this issue when they commented: 'I can literally send emails at any time of the day because I feel that comfortable in asking for help and I only find that with [early career academics].' Manage students' expectations about your availability outside of the classroom by communicating with them clearly and consistently.

Setting appropriate boundaries is important when balancing 'the social familiarity necessary to build trust and mutual respect in small group teaching' with the authority and professionalism required in the role.⁶⁸ Check whether your university has a policy on how quickly students can expect teaching staff to reply to emails, such as within three business days. If your working hours are not the usual 9-5, considering including this in your email signature or out of office message so students are aware. If a student is monopolizing your time over email or in office hours, contact the team at your school that handles student support for advice. If you are using a virtual learning environment with an online discussion board, it is good practice to advise students to raise their queries there. This means the teaching team only has to answer a query once and all students will benefit from seeing it. Students appreciate support from tutors outside of the classroom but setting and maintaining appropriate boundaries will help you manage your workload and students' expectations.

Preparing students for success in summative assessments

On many LLB modules, students are expected to complete both formative and summative assessments. Formative assessments may be assigned at any point

⁶⁸ Mills and Alexander (n 9) 24.

in the module to help students identify weaknesses in their understanding,⁶⁹ practice implementing their knowledge, and check on the progress of their learning.⁷⁰ While formative assessments are marked, the mark is not included in the students' final module grade. Summative assessments are generally completed and assessed at the end of a module and may take the form of an exam or a piece of coursework like an essay. Summative assessments are considered to be formal measures of progress and to represent students' academic achievement.⁷¹

Focus group participants praised tutors who helped them prepare for assessments by pointing out how to structure responses to problem questions or how to use academic articles to make an argument stronger in response to an essay-style question. One participant said, 'a few of the tutors that I've had helped us structure what to do for essays and what to do for problem questions and that is quite useful.' Another said, 'My tutor was really helpful in saying, "this is a really good article and it's...something you can work into an essay to help you get those better marks."'

As course marks can impact everything from a student's job prospects to their sense of self-worth, it is common for students to become preoccupied with preparing for summative assessments and this can influence their approach to learning. Some focus group participants felt that exam preparation should be a key goal of tutorials. One said, 'I want to know, how can I use this [material] to answer problem questions and essay questions? Tutorials should be helping us understand how to do that.' Another shared, 'I like when the [tutorial] is structured [to provide information] that we would use in an actual exam. Like it's great that we discuss [topics], but if I can't use that knowledge to answer an essay question, then what's the point of the tutorial?'

Designing tutorials that are nothing more than exam review sessions would not be in students' academic best interest. Therefore, tutors should endeavour to manage student expectations in this regard while providing guidance when possible on how to approach and prepare for summative assessments. Having the students mark a set of sample answers to an exam question can be a helpful

⁶⁹ Race (n 34) 42.

⁷⁰ Mills and Alexander (n 9) 8.

⁷¹ *Ibid.*

exercise. Putting themselves in the shoes of an exam marker will help students become more familiar and comfortable with the assessment criteria.

Conclusion

The empirical research underpinning this guide provides a snapshot of how a recent cohort of LLB students experienced small group teaching at one UK law school. By surfacing the student voice, it is hoped that this guide will equip early career academics in law with a better sense of what students expect from tutorials and, importantly, how to help students adjust those expectations as appropriate to align with the pedagogical aims of small group teaching in order to achieve intended learning outcomes. Equally, the advice herein should help early career academics gain the confidence to manage a classroom and set appropriate boundaries for their own well-being.

The focus throughout the best practice guide has been on recommended approaches for overcoming common challenges encountered during three different stages of teaching. Notably, while online teaching was not something the researchers considered during the data collection stage of this research, much of the advice in this guide can be adapted and applied to an online teaching setting.⁷² Teaching online poses unique challenges related to designing engaging sessions, using teaching aids and facilitating in-class group work that are outside of the scope of this paper.

Whether they are teaching online or face-to-face, tutors should obtain and review relevant course materials and create a detailed but flexible plan for each session. In addition, they should build their confidence to teach with authority by implementing the advice in this guide, seeking out training and support resources, and developing a network of teaching mentors and peers. At the start of a new term, tutors should set clear expectations for their students and seek to create a conducive learning environment by encouraging preparation, equitably maximising participation and providing opportunities for active learning. Outside of class sessions, tutors should set realistic expectations regarding their availability but also seek to support students' reasonable requests. In terms of helping students prepare for summative assessments,

⁷² The focus groups for this research were conducted prior to the onset of the 2020 coronavirus pandemic that prompted many UK law schools to move teaching online.

tutors should think about how to incorporate exam practice into teaching sessions and help students become familiar with the marking criteria.

While the advice in the best practice guide has been aimed primarily at early career academics, it is likely to be relevant for academics at any stage in their teaching career. No matter how long one has been teaching, it can be useful to be reminded about the fundamental pedagogical aims of small group teaching and to consider how to achieve them. As Mills and Alexander counsel, ‘a commitment to critically evaluating our own teaching practices...is the best way to keep improving and developing.’⁷³ In addition, this guide and the empirical research that underpins it will be useful for those in university and law school management positions as they make decisions about the type of training and support to offer to new teaching staff. Finally, highlighting the pedagogical benefits of tutorials may encourage the adoption of small group teaching more widely across the sector.

It is worth acknowledging the tension that exists between the chosen methodology for this study and the rise of a student-as-consumer mindset in higher education. On one hand, the researchers believe there is much to be learned by asking students directly for their views and research suggests that students in higher education are good judges of what constitutes effective teaching.⁷⁴ On the other hand, a growing student-as-consumer mindset may lead students to make demands of universities and teachers that are not in their academic best interest. This presents a particular challenge for early career academics. Hopefully, by combining students’ reflections on their experiences in tutorials with advice gleaned from the academic literature on effective small group teaching, this guide provides useful, practical and accessible advice for early career academics.

⁷³ Mills and Alexander (n 4) 5.

⁷⁴ Ramsden (n 9) 87; Cohen (n 19) 304.

‘It makes me feel empowered and that we can make a difference’: Reverse mentoring between international students and staff in legal education

Rachael O’Connor*

Abstract

Inclusion of student voices in higher education (HE) policy is of increasing importance. However, inclusion of marginalised or under-represented voices is a continuing practical challenge. International students are one example of voices more often unheard, despite the last decade’s internationalisation drive. Reverse mentoring use within business facilitates conversations between senior and junior colleagues, promoting cultural development. To date, its use in HE is comparatively limited. This work seeks to fill that gap through a small-scale study at a Russell Group law school between international undergraduate students (mentors) and staff (mentees) during 2019/20. The reverse mentoring focused on equality, diversity and inclusion (EDI) issues. This piece focuses on the impact of reverse mentoring on student mentors and views of their School community. The study’s design was informed by reverse mentoring in the legal profession, staff and student focus groups and international student and reverse mentoring literature. Mentor and mentee reflections were captured via interviews and reflective logs. Findings suggest reverse mentoring is an effective tool in HE to facilitate positive staff/student relationships and to hear authentic student voices. It has potential for transformational mentor impact which can catalyse wider community development, particularly in hierarchical disciplines like law. This work argues that reverse mentoring deserves a prominent place in ‘post-pandemic’ University strategies, with some cautionary notes and ideas for future development.

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Keywords: reverse mentoring; international students; diversity and inclusion; staff and student relationships; student voices.

Introduction

Most Universities have strategic goals relating to 'equality, diversity and inclusion' (EDI), often specifically relating to international and other marginalised student 'groups'. This work contributes to better understanding of HE reverse mentoring as a practical intervention which may contribute towards achieving these 'EDI' goals.¹ A 2019/20 reverse mentoring scheme with eight international undergraduate law student mentors and eight staff mentees from a Russell Group law school forms the focus.² This piece explains the study, explores key benefits of reverse mentoring for student mentors from both an individual and law school community perspective and makes recommendations regarding development of reverse mentoring in HE and legal education, drawing on existing reverse mentoring and international student literature.

Reverse mentoring flips traditional mentoring roles and power dynamics, placing a typically more junior person as mentor and a more senior person as mentee. Reverse mentoring is:

'... a reciprocal and temporally stable relationship between a less experienced mentor providing specific expert knowledge and a more experienced mentee who wants to gain this knowledge ... characterised by mutual trust and courtesy, it aims at facilitating learning and development of both the mentor and the mentee.'³

This study saw student mentors (typically perceived as less experienced) sharing and exploring lived experiences as international students (their specific

¹ See https://wonkhe.com/blogs/why-its-time-to-retire-equality-diversity-and-inclusion/?utm_medium=email&utm_campaign=Wonkhe%20Daily%20%20Thursday%2021%20October&utm_content=Wonkhe%20Daily%20%20Thursday%2021%20October+CID_26ca6d49a44c36bf1f36b3822a78129b&utm_source=Email%20marketing%20software&utm_term=ditch%20equality%20diversity%20and%20inclusion%20in%20favour%20of%20equity%20and%20belonging (accessed 21 February 2022) for criticism of the acronym 'EDI' in HE which the author acknowledges and is reflecting on for future work.

² University of Leeds Faculty Research Ethics Committee granted ethical approval

³ Zauchner-Studnicka, 'A Model for Reverse-Mentoring in Education' (2017) *International Journal of Educational and Pedagogical Sciences* 11(3), 551.

expert knowledge) with staff mentees (perceived as more experienced) seeking to understand such experiences (gain expert knowledge to improve practice).

The focus here is on student mentor experiences in an attempt to shift the discourse surrounding interventions relying on student voices which may exploit students as research resource, without direct benefit for them. This project is a celebration of the mentors as experts in their lived experiences and their contribution to developing this field, as well as themselves and their school community. The lens through which this piece is written therefore highlights the benefits of reverse mentoring for mentors as a primary incentive to develop work in this area.

This is one of the first studies to analyse a HE staff and student reverse mentoring scheme. The few existing studies in the educational context demonstrate positive potential for reverse mentoring.⁴ However, no studies explore in detail what students think and feel about reverse mentoring. As the study unexpectedly crossed into the start of the COVID19 pandemic, this article is the first to consider reverse mentoring in the context of the ‘post-pandemic’ University and also some of the challenges of reverse mentoring, as well as the first study focused on international students. The project was inspired by reverse mentoring in the legal profession⁵ and is the first reported study in a law school context between students and teaching staff. The competitive and hierarchical nature of law educationally and professionally provides an interesting context for the study which unites two key gaps: studies exploring staff/student ‘EDI’ reverse mentoring schemes and studies exploring practical interventions to enhance international students’ experiences which

⁴ Gunduz and Aksit, ‘*Student-President Reverse Mentoring at Universities: Maltepe University Case*’ (2018) *Yükseköğretim Dergisi*, doi:10.2399/yod.18.019; Goossens, et al ‘*The student-staff mentoring project at the University of Hertfordshire*’ (2009) *Procs of World Conf on Educational Multimedia, Hypermedia and Telecommunications*; Petersen and Ramsay, ‘*Reducing the gap! Reciprocal mentoring between Black, Asian and minority ethnic (BAME) students and senior leaders at the University of Gloucestershire*’ (2021) *Perspectives: Policy and Practice in Higher Education* 25(1) 34-39; Raymond, et al, ‘*Students, Please Teach Us! Implementing Student-Employee Reverse Mentoring to Increase Career Readiness*’ (2021) *Marketing Education Review* DOI: 10.1080/10528008.2021.1907593.

⁵ For example: <https://www.linklaters.com/en/about-us/news-and-deals/news/2019/april/linklaters-launches-second-round-of-reverse-mentoring-following-successful-pilot> (accessed 29 August 2021); female lawyers mentoring male partners in law firms was recently listed as an example of ‘good practice’ for supporting inclusion in law firms by the Solicitors Regulatory Authority: <https://www.sra.org.uk/sra/research-report/workplace-culture-thematic-review/> (accessed 7 March 2022).

may also influence initiatives focused on other marginalised student groups or under-represented students more broadly.⁶

Given the lack of reported EDI reverse mentoring schemes in HE,⁷ this was largely a feasibility study. The key research questions explored in this piece are:

1. How does the role of mentor in a reverse mentoring scheme with staff mentees benefit students as individuals?
2. Does the reverse mentoring partnership impact students' perceptions of their law school community?

Other research questions relating to belonging, identity and staff experience will be explored in further work. The discussion closes with a forward thinking consideration of how reverse mentoring may be used in the 'post-pandemic' University,⁸ as well as highlighting key areas for development.

Through an exploration of reverse mentoring at individual and community levels, via the lens of student mentors' experiences, it is concluded that HE reverse mentoring can have multidimensional impact, particularly in hierarchical disciplines like law and for marginalised 'groups' like international students. Individually, it can create authentic one-to-one relationships in safe spaces where mentors can be heard and can lead, contributing to stronger self-worth and sense of influence. It encourages mentors to view themselves differently in the law school community through the catalytic impacts of humanisation, hierarchy dismantling and recognition of commonalities and connections. This can empower mentors to be change agents now and in future roles, a trickle effect which may in time contribute to cultural shifts across campus and in workplaces. A commitment to reverse mentoring puts EDI goals firmly on the agenda in the 'post-pandemic' University. However, it carries wellbeing risks and is not enough alone to overcome barriers in disciplines like law for marginalised students, including

⁶ See Mottershaw on the challenges of terminology in this area: <https://www.hepi.ac.uk/2021/12/17/why-we-need-to-stop-using-the-term-widening-participation/> (accessed 7 March 2022). The author has opted to use marginalised, minoritised and under-represented interchangeably in this piece.

⁷ See (n.4), Petersen and Ramsay.

⁸ This is explored in more detail in: O'Connor '*Supporting students to better support themselves through reverse mentoring: the power of positive staff/student relationships and authentic conversations in the law school*' in Guth and McCloy (Eds) *Supporting law students: Exploring the why, what and how* Routledge [forthcoming, 2022]

international students. The aim is for this frank exploration to encourage further interest and development in this area.

Literature review

Reverse mentoring

There is an array of mentoring research, within and beyond HE.⁹ However, empirical research on HE *reverse* mentoring is limited.¹⁰ Few studies have explored EDI reverse mentoring and its impact on marginalised students.¹¹ Existing studies have also been criticised for overly focussing on mentees and lacking qualitative data.¹² Reverse mentoring has been described as ‘weakly conceptualized’¹³ although arguably its flexibility is one of its strengths. Much existing HE work focuses on sharing of ‘tech’ expertise by student mentors with staff/senior leader mentees, harking back to the more traditional origins of reverse mentoring.¹⁴ Existing work also tends to focus on mentors’ professional development, rather than *personal* development.¹⁵

The role reversal within reverse mentoring can break open hierarchies,¹⁶ foster intergenerational connections¹⁷ and benefit mentor and mentee in career development¹⁸ and prospects¹⁹ as well as feeling motivated, involved and respected.²⁰ It may address negative stereotyping²¹ and contribute to continued professional development,²² important in HE as academics may become ‘out of touch’ with students for example, through managerial roles. It can help mentees overcome power-distance cultures which may stifle innovation and

⁹ For a summary, see Zauchner-Studnicka (n.3).

¹⁰ *Ibid*, 556.

¹¹ See Petersen and Ramsay (n.4).

¹² Clarke, at al ‘*The role of reverse mentoring in medical education: current insights*’ *Advances in Medical Education and Practice* (2019) 10, 694-695, 699.

¹³ Gunduz and Aksit (n.4), 2.

¹⁴ Raymond, et al (n.4), 2.

¹⁵ Clarke, et al (n.12), 698.

¹⁶ Zauchner-Studnicka (n.3); Clarke, et al (n.12), 698.

¹⁷ Murphy, ‘*Reverse Mentoring at Work: Fostering cross-generational learning and developing millennial leaders*’ (2012) *HR Management* 51(4).

¹⁸ Clarke, et al (n.12), 698.

¹⁹ Raymond, et al (n.4).

²⁰ Gunduz and Aksit (n.4), 8.

²¹ Zauchner-Studnicka (n.3), 557.

²² Clarke, et al (n.12), 697.

development.²³ However, to achieve these things, reverse mentoring requires careful planning and training.²⁴

In the hierarchical legal profession, dominance of white males persists, particularly in senior roles, despite efforts to increase diversity.²⁵ Reverse mentoring in the profession typically adopts an EDI focus to support those 'at the top' in better understanding perspectives of lawyers 'lower down' in the traditional workplace hierarchy. 'Old boys' networks' noted in other reverse mentoring work in science are similarly prevalent in law. Reverse mentoring may help those 'othered' to break these exclusive circles.²⁶

Existing work demonstrates that reverse mentoring facilitates positive professional development for mentors and mentees. What is less clear are its benefits as an EDI initiative, particularly for students, its downsides and risks and its community impact beyond the one-to-one relationship. Although this study is small-scale (n=16), it is the largest staff/student reverse mentoring EDI study to be reported in HE to date and seeks to contribute to better understanding of these issues.

International students

'International student experience', if such a thing exists,²⁷ is well explored in existing work. Such 'big culture labels' can 'other' students, failing to recognise lived experiences, risking loss of individual identity.²⁸ Existing work typically focuses on 'integration challenges'²⁹ for international students and identity crises when moving away to University due to the 'diaspora

²³ Gunduz and Aksit (n.4), 4.

²⁴ Petersen and Ramsay (n.4), 38.

²⁵ See Sommerlad, et al, '*Diversity in the legal profession in England and Wales: A qualitative study of barriers and individual choices*' (2010) Legal Services Board, London, 6. See also: <https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/> (accessed 21 February 2022).

²⁶ Zauchner-Studnicka (n.3), 554.

²⁷ Jones, '*Problematising and reimagining the notion of 'international student experience'*' (2017) *Studies in Higher Education* 42(5).

²⁸ Bond, '*International students: language, culture and the 'performance of identity''*' (2019) *Teaching in Higher Education* 24(5), 649-665; on lived experiences and identity formation, see Avraamidou, '*"I am a young immigrant woman doing physics and on top of that I am Muslim": Identities, intersections, and negotiations*' (2020) *Journal of Research in Science Teaching* 57, 319-320.

²⁹ Thomas, et al, '*Leveraging Common Ground: Improving International and Domestic Students' Interaction Through Mutual Engagement*' (2018) *Journal of International Students*, 8(3), 1387.

consciousness' associated with being neither one nor the other.³⁰ In the US, lack of student voice in scholarship may be inadvertently silencing international students.³¹ Ethnocentric attitudes assume institutions have little to learn from international students – they come to us to learn and must adapt accordingly; it is a one-way transaction.³² In the UK, international students have been described as “a virtually invisible group” flowing through the country.³³ However, there is a growing push towards increasing student voices and having conversations about international students *with* them, not just *about* them.³⁴

The expectation is often that international students prefer learning how they learned at ‘home’, sometimes in very hierarchical structures with little independent participation.³⁵ Although interactions with staff may be critical to international students’ sense of community and engagement at University,³⁶ experiences of hierarchical approaches at home can impact staff/student relationships in new countries.³⁷ Where staff get to know students personally, this can have profound impact on students’ identity, prospects and ability to ‘integrate’ or belong.³⁸ Mutual engagement, rather than adaptation, is therefore key.³⁹ However, many academic staff may not recognise challenges

³⁰ Gu and Schweisfurth, ‘*Transnational connections, competences and identities: experiences of Chinese international students after their return ‘home’’*’ (2015) *British Educational Research Journal* 41(6), 950.

³¹ Heng, ‘*Voices of Chinese international students in USA Colleges: ‘I want to tell them that ...’*’ (2017) *Studies in Higher Education* 42(5), 845.

³² *Ibid*, 834.

³³ Lillyman and Bennett, ‘*Providing a positive learning experience for international students studying at UK universities: A literature review*’ (2014) *Journal of Research in International Education*, 13(1), 64.

³⁴ Heng (n.31), 847.

³⁵ Andrade, ‘*International students in English-speaking universities: Adjustment factors*’ (2006) *Journal of Research in International Education*, 5(2), 137-138.

³⁶ Glass, et al, ‘*Faculty as bridges to co-curricular engagement and community for first-generation international students*’ (2017) *Studies in Higher Education* 42(5).

³⁷ Lillyman and Bennett (n.33), 69.

³⁸ Glass, et al, ‘*Uneven Experiences: The Impact of Student-Faculty Interactions on International Students’ Sense of Belonging*’ (2015) *Journal of International Students* 5(4), 353.

³⁹ Thomas, et al (n.28); See Marangell, et al, ‘*Developing a host culture for international students: What does it take?*’ (2018) *Journal of International Students*, 8(3), 1440–1458.

experienced by international students, leading to assumptions and stereotyping.⁴⁰ Twenty plus years on, such assumptions often persist.

With Universities and particularly law schools becoming increasingly internationalised, recruitment efforts must be matched with campus developments.⁴¹ Focus on numbers, rather than quality of experience, is problematic for individual welfare⁴² and institutions viewing and treating international students as 'cash cows do so at their peril'.⁴³ There is little sign of internationalisation slowing as Universities seek to recover financially from the pandemic and the International Education Strategy is further implemented.⁴⁴ This work therefore makes an important and timely contribution as it centres around 'demuting' international student voices⁴⁵ through reverse mentoring. However, many challenges routinely faced by international students have been felt across the wider student body since March 2020 including loneliness, social isolation, inability to see family and adapting to new teaching styles. Ryan and Carroll suggested that 'if we improve conditions for international students, we improve them for all ...'⁴⁶ creating a halo effect. Consequently, the reflections in this piece may also be of wider application to improving experiences for other marginalised students.

⁴⁰ Sarkodie-Mensah, 'International Students in the U.S.: Trends, Cultural Adjustments, and Solutions for a Better Experience' (1998) *Journal of Education for Library and Information Science* 39(3), 214-222.

⁴¹ Arthur, 'Supporting international students through strengthening their social resources' (2017) *Studies in Higher Education*, 42:5, 892.

⁴² Ibid.

⁴³ Andrade (n.35), 133; Mittelmeier and Lomer, 'The problem of positioning international students as cash cows' <https://www.hepi.ac.uk/2021/11/04/the-problem-of-positioning-international-students-as-cash-cows/#:~:text=International%20students%20are%20often%20seen,to%20universities%20and%20the%20country.&text=The%20report%20highlights%20they%20have,25.9%20billion%20to%20the%20UK>' (accessed 25 November 2021).

⁴⁴ See <https://www.gov.uk/government/publications/international-education-strategy-2021-update> (accessed 24 August 2021).

⁴⁵ Page and Chahboun, 'Emerging empowerment of international students: how international student literature has shifted to include the students' voices' (2019) *Higher Education* 78, 871.

⁴⁶ Ryan and Carroll (eds), 'Canaries in the coalmine': international students in Western universities' in 'Teaching International Students: Improving Learning for All' (2005) Routledge, 10.

Methods

Project design took a dual phase, sequential approach (figure 1). Methodology aimed to capture deep reflections, using international students as a case study. Qualitative insight provided feedback depth, generating knowledge grounded in human experience.⁴⁷ International students were chosen because their experiences: (i) are important alone; and (ii) as noted, may facilitate understanding of other marginalised students.⁴⁸ Noting the criticality of context,⁴⁹ law was chosen based on its hierarchical nature and the growth of reverse mentoring in the legal profession. As Campbell's work demonstrates, legal education provides 'a rich site of interest from which illuminative questions about our socio-cultural life, constraints and desires can be raised'.⁵⁰

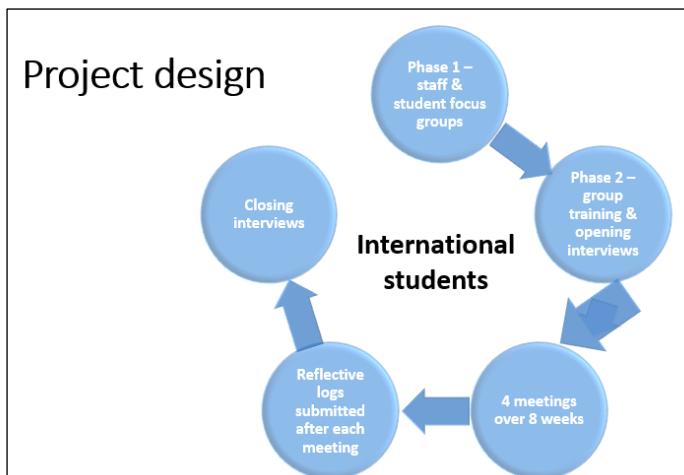


Figure 1: Project design

Phase 1

Phase 1 began with staff and student focus groups, discussing international student experience. Invitations were sent to staff and law international students

⁴⁷ Sandelowski, 'Using qualitative research' (2004) *Qualitative Health Research* 14(10), 1366–1386.

⁴⁸ See Ryan and Carroll (n.46); Webley, 'Stumbling Blocks in Empirical Legal Research: Case Study Research' (2016) *Law and Method*, 20.

⁴⁹ See Baxter and Jack, *Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers* (2008), *The Qualitative Report*, 13(4), 544-559.

⁵⁰ Campbell, 'Exploring Autoethnography as a Method and Methodology in Legal Education Research' (2016) 3 *Asian Journal of Legal Education*, 98.

in second year and above via e-mail, virtual learning environments and teaching announcements. Purposive sampling excluded first year students, ensuring mentors had existing HE staff relationship experience in the UK or at 'home' to reflect on.

13 students, 14 academic and seven student services staff joined focus groups facilitated by the author. There were no staff incentives beyond refreshments. Students were entered into a £50 voucher draw. Phase 1 data comprised nine focus group transcripts and two word clouds generated from an icebreaker exercise (see student word cloud figure 2). This data iteratively contributed to finalisation of meeting topics (figure 3)⁵¹ and Phase 2 interview questions. Focus groups aimed to create interest in Phase 2 and community rapport amongst attendees and the author, increasing research trustworthiness⁵² and project ownership.⁵³ Many attendees chose to take part in Phase 2. All provided written consent.

Mentors and mentees were recruited on a first come, first served basis following the same Phase 1 advertisements, plus direct e-mails to focus group attendees. There were more mentors than mentees which regrettably resulted in rejections.⁵⁴ Pairs were randomly selected then checked to ensure no existing significant relationship. Two pairs were switched as a result of cross-checking. It was felt dynamics could be negatively impacted by existing knowledge if, for example, a student was paired with their personal tutor. Mentees were academic staff of differing seniority levels and one student support staff member. Altogether, there were eight pairs (16 individuals). Mentors came from five countries (Malaysia, India, Nigeria, Canada and the UAE).

Phase 2

An external EDI organisation led training, involving separate mentor and mentee group discussions and collaborative work. Mentor training focused on

⁵¹ Topic 4 (failure and resilience) was informed by Bleasdale and Humphreys, 'Undergraduate Resilience Research Project' https://teachingexcellence.leeds.ac.uk/wp-content/uploads/sites/89/2018/01/LITEbleasdalehumphreys_fullreport_online.pdf (accessed 29 August 2021).

⁵² See Avraamidou (n.28), 324.

⁵³ Matthews and Ross, *Research Methods: A Practical Guide for the Social Sciences* (2010) Pearson, 240-241.

⁵⁴ See Petersen and Ramsay (n.4), 38 on recruitment challenges.

leading conversations via the ‘GROW’ model.⁵⁵ Mentee training focused on active listening. Training was the first time mentors and mentees came together to ‘break the ice’. During training, pairs entered into ‘mentoring agreements’ and meeting topics were revealed.

Mentors and mentees embarked on their meetings, advised to meet fortnightly over eight weeks. Each attended an hour-long one-to-one semi-structured interview in person with the author following training, prior to meeting one. Interviews were chosen as they provide insight into interviewees ‘worlds’,⁵⁶ humanising research⁵⁷ and are particularly useful for feasibility studies like this.⁵⁸

Following each meeting, mentors and mentees submitted reflective logs (see Appendix). This encouraged recognition of learning as it was experienced. Logs mimicked Gibbs’ reflective cycle so ‘actions’ could be worked on in the next meeting, enabling real time improvements.⁵⁹ A further hour-long interview closed the project, conducted online due to national lockdown. With a mix of in person and online meetings also due to lockdown, all pairs successfully completed four meetings.

Mixed qualitative methods enabled time and method triangulation of pre and post mentoring interviews with reflective logs, permitting strong understanding of experiences.⁶⁰ Phase 2 data comprising 32 interview transcripts and 64 logs was chronologically reviewed and thematically analysed.

The flexible nature of thematic analysis demands process clarity which this section explains,⁶¹ particularly important given the ‘alongsider’ nature of the

⁵⁵ Whitmore, *Coaching For Performance: The Principles and Practice of Coaching and Leadership* (2017) Nicholas Brearley.

⁵⁶ Fujii, ‘*Interviewing in Social Science Research: A Relational Approach*’, (2017) Routledge, 1.

⁵⁷ Fontana and Frey, ‘*The Interview: From Neutral Stance to Political Involvement*’ (2005), 152 in Denzin and Lincoln (Eds), *The Sage Handbook of Qualitative Research*, 3rd Edn, Sage Publication, London, 695-727.

⁵⁸ Matthews and Ross (n.53), 221-223.

⁵⁹ Gibbs, ‘*Learning by Doing: A guide to teaching and learning methods*’ (1988) Further Education Unit. Oxford Polytechnic: Oxford.

⁶⁰ Fontana and Frey (n.57).

⁶¹ Braun and Clarke, ‘*Using thematic analysis in psychology*’ (2006) *Qualitative Research in Psychology*, 3(2), 96.

author's positionality as a fellow lecturer⁶² and someone who strives to eradicate unhealthy hierarchies in HE.⁶³ As recommended by Braun and Clarke, all transcripts and logs were read to emerge the author in the data.⁶⁴ Raw Phase 2 data was colour coded, manually rather than using software,⁶⁵ based on connections across the dataset. Colour coded sections were moved from their original transcripts into individual documents named by connecting theme. Following a further review of these theme documents, themes were confirmed by the author and a draft thematic analysis written up, identifying sub-themes and scaffolding excerpts of raw data into analytic discussion.⁶⁶ Some sub-themes were merged after a draft review of this analysis by critical friends, as recommended by Nowell, et al.⁶⁷ The themes and data relating to student and community benefits are explored in this piece, with the remainder to be explored in future work. Quotes used identify mentors by number to show the discussion includes a range of voices (M1 to M8).⁶⁸ This piece includes quotes from student mentors only.

This level of data gathering and analysis has typically not been done in previous reverse mentoring studies, adding richness and credibility to the field. Although sample size (n=16) limits generalisability, the findings have strong potential for instigating 'bottom-up' and 'top-down' change, empowering students individually and within their communities.

Results

How does the role of mentor in a reverse mentoring scheme benefit students as individuals?

'it was really special. I learned that I had made not only a lasting impact on my mentee, but I realised how far I myself had come as well. This project was a chance for me to do some

⁶² See Lewthwaite and Nind, *Methods that teach: developing pedagogic research methods, developing pedagogy* (2018) *International Journal of Research and Method in Education*, 41(4), 401-403.

⁶³ On positionality, see Avraamidou (n.28), 323-324.

⁶⁴ Braun and Clarke (n.61), 87.

⁶⁵ *Ibid*, 89.

⁶⁶ Nowell et al, '*Thematic Analysis: Striving to Meet the Trustworthiness Criteria*' (2017) *International Journal of Qualitative Methods* 16(1), 10.

⁶⁷ *Ibid*.

⁶⁸ *Ibid*, 11.

good while also having to learn how to come out of my shell
...’ (M3)

Reverse mentoring can amplify individual student voices often unheard institutionally. Students relished finally being heard *and* listened to. The ability to lead and maintain their mentor role gave mentors greater confidence in their current and future capabilities and self-worth. This challenged deficit narratives through which mentors talked about being an international student at the outset and encouraged students to recognise the importance of their internal values and the power of their voice, including in visions of themselves in future workplaces.

Being meaningfully heard

Creation of a safe space to be heard was valuable to mentors. M4 felt their ‘voice and experiences [were] important and valued’, finally having ‘permission to speak openly’, echoed by M2. M7 reflected that meetings were a unique and potentially first time opportunity to talk about ‘taboo’ subjects which she previously did not know where or how to share. M5 felt the meetings ‘added meaning to those statements ... that we are there for you and ... willing to support you’ – they gave heart to the institution and the opportunity to be meaningfully heard through the project encouraged students to feel cared about, echoing Petersen and Ramsay’s findings⁶⁹ and Heron’s reflections on the power of less conventional methods of conversation in student research.⁷⁰

Willingness to be open and honest from the mentor is vital,⁷¹ as is the way mentees respond to mentor vulnerability. Teacher behaviour can impact student emotions.⁷² This is arguably no different where roles are reversed. M2 ‘felt good because ... my words had been taken seriously’ whilst being shared in an informal setting. The reactions of M6’s mentee showed her opinion was ‘worthy enough to persuade [my mentee] to make ... changes.’ Students feel empowered working with staff where their contribution is valued, not just

⁶⁹ Petersen and Ramsay (n.4), 36.

⁷⁰ Heron, ‘*Friendship as method: reflections on a new approach to understanding student experiences in higher education*’ (2020) *Journal of Further and Higher Education*, 44(3), 395-397.

⁷¹ Clarke, et al (n.12) 698.

⁷² Mazar, et al, ‘*The Dark Side of Emotion in the Classroom: Emotional Processes as Mediators of Teacher Communication Behaviors and Student Negative Emotions*’ (2014) *Communication Education* 63, 149.

superficially listened to.⁷³ Mentors reported attributes and actions including calmness, scribbling notes and bringing things up mentors had mentioned in prior meetings as demonstrating mentees' active listening and care. This challenges the narrative that staff are often unable to give time to listen to students authentically.⁷⁴ This is possible where positive conditions like non-hierarchical reverse mentoring meetings are facilitated and is of particular benefit for marginalised students who are often the least 'heard'.⁷⁵

Power dynamics and titles

The power dynamic reversal was a recurring topic during training which all mentors worried about and there were challenges once meetings began, particularly for one mentor. After the scheme, M4 regretted not being more assertive: 'my mentee is quite vocal ... the conversation is slightly imbalanced ...' Reverse mentoring can put students into one of the most casual and non-hierarchical interactions they have had with an 'authority figure'. M4's deference to this authority and preconception that her mentee 'knew best' was hard to overcome, despite M4 being the international student and the focus of the project being international students' experiences. M1 also noted initial hesitance in being honest and authentic - feeling 'scared that [my mentee] might judge my reactions'. However, mentee responses 'made me more relaxed and able to express [myself] ... remembering I have done this before at the focus group made it better.' This demonstrates the importance of mentees being willing to actively cede power in order for mentors to feel confident in leading – this was perhaps lacking a little from M4's mentee. It also emphasises the need for mentors to be able to practice or rehearse leadership before being thrown into reverse mentoring meetings, for example, within focus groups or training.

Some reflections by contrast suggest mentors were concerned *they* had taken over. M5 worried she had 'dominated the discussion whereas I would've liked to encourage my partner to share more ...' Similarly, M1 felt she did most of the talking and wished she had proactively encouraged a more equal conversation. Reflections were more positive from those who talked of an equal partnership approach, for example, using phrases such as brainstorming,

⁷³ Kaur, et al, 'Students' experiences of co-creating classroom instruction with faculty- a case study in eastern context' (2019) *Teaching in Higher Education* 24(4), 461.

⁷⁴ Mullen, 'Telling Tales in School: Storytelling for Self-Reflection and Pedagogical Improvement in Clinical Legal Education' (2011) 18 *Clinical Law Review* 283, 297.

⁷⁵ Heron (n.70), 393-394.

providing constructive criticism, free flow of ideas and collaborative thinking. These meetings were less mentor dictatorship and more mutual conversation, adding to the debate as to whether ‘reverse’ is the right term for this type of mentoring.⁷⁶

Overall, however, reflections regarding power dynamics were positive – it was a significant source of mentor self-confidence. M3 recognised her competence in leadership and that she was not a ‘complete train wreck’ as a mentor, undoing some of the initial nervousness mentioned above. M6 described the role reversal as ‘surprisingly very comfortable ... mutual and equal ...’ M5 echoed feelings of equality between herself and her mentor and M8 similarly found it ‘very refreshing’ to not feel a constant need to defer to perceived authority and to recognise what she could offer her mentee in terms of new learning, undoing the assumption that student/teacher relationships are one-way transactions.⁷⁷

The power dynamic reversal also permitted exploration of unusual topics, creating authenticity. M6 was

taken aback ... nobody’s asked me why ... that was a pivotal moment where I was like, okay [my mentee] is different, because [my mentee] chose and dared to ask a question that normally isn’t asked.

M3 was surprised by how much both mentor and mentee learnt about each other through discussing topics they may never have otherwise discussed. The authenticity of conversations contributed to the strong bonds built and a comfort in sharing personal issues. M5 felt as comfortable with her mentor as with friends by the end and this undertone of friendship was echoed by M6.⁷⁸ Pairs had worked hard to ‘break the ice’ by throwing themselves into their new roles and in doing so, perceived and traditional power dynamics became much less of a barrier to authentic conversations over the course of the meetings.

The way individuals interpreted their ‘title’ of mentor or mentee within the project affected the power balance. There was a sense of a right and wrong way to ‘mentor’ amongst the students. Prior to the first meeting, M3 ‘was a bit

⁷⁶ See below (n.106).

⁷⁷ See above (n.32).

⁷⁸ See Hierarchy and boundaries below.

worried that I would say or do something wrong.’ There was also some self-consciousness from M2: ‘what if I’ve said something that maybe [my mentee] doesn’t agree with or [my mentee] feels ... this is wrong ...’ This may have been influenced by many factors, including mentee seniority, as well as topics discussed. It could also be owing to a lack of mentor understanding as to the value of sharing their experiences. Existing work on reverse mentoring suggests the mentor has to be a ‘specific expert’.⁷⁹ However, students may not view themselves in this way and consequently, may not use their voices confidently where they could be impactful. This study suggests reverse mentoring should not just be about ‘specific technical or content expertise’ or improving specific knowledge⁸⁰ but about listening to and learning from experiences more generally, particularly lived experiences of marginalised individuals.

The project was new for all and inevitably, all came to it with preconceptions about their roles. During training, alternative labels of ‘adviser’ (mentor) and ‘listener’ (mentee) were offered by the training provider. However, these alternatives still did not appear to strike the right balance. ‘Listener’ suggested mentees should not talk much, reducing vital reciprocity. M7 thought renaming the scheme would be beneficial as it sometimes got ‘tricky [in terms of] who does the questioning/talking’. Greater emphasis should be given in training to the idea that there is no ‘right and wrong’ in order for mentor and mentee to be their authentic selves. The direction of discussions should be partnership led. This can help mentors stay in control of the power dynamic whilst also facilitating equal input and contribution.⁸¹

Self-worth and confidence

The opportunity to share experiences and explore them as a partnership appeared to challenge the ‘minoritised’ deficit mind-set mentors had, thinking they are not good enough or that nobody cares what they have to say. Mentors had mixed views at the start about the label ‘international student’. In opening interviews, mentors talked about racialised experiences, micro aggressions and feeling ‘othered’. As M4 put it: ‘being an international student is about having to fight stereotypes, overcoming your own fears of failing and the fear of building relationships ...’ Some of the stereotypes discussed in opening

⁷⁹ Zauchner-Studnicka (n.3).

⁸⁰ Clarke, et al (n.12), 694 and 696.

⁸¹ See Design and targeting below.

interviews included being rich, assumption of nationality (for example, Malaysian students assumed by others to be Chinese), being 'cliquey', 'try-hards' and shy or quiet and not wanting to speak in class or socialise outside of nationality 'bubbles'.

Mentors appeared to be overcoming a 'self-fulfilling prophecy' created by the 'international student' label as the project reminded them that they are individuals, with unique paths, although also part of a collective law school community. There was a shift from talking about themselves in deficit terminology to a stronger recognition of worth. M4 focused on the 'positive, productive impact' of being an international student and this rare opportunity to represent 'friends whose stories may never hear the light of day.' There was both a deepening individual connection with the 'label' and also a stronger connection with peers identifying within the same label.

Reverse mentoring may therefore reunite students with their sense of self and individuality.⁸² Some mentors, including M4, felt empowered because it was their international student 'status' which enabled them to be part of the project. This is not to say that reverse mentoring solved challenges associated with being an international student. However, it gave space for mentors to reflect on those challenges and value their strengths. As M1 put it,

being an international student ... does not change anything.
It's just who you are and everything is up to you to really make
a difference ... that's what the meetings have taught me.

The authentic discussions reverse mentoring permits, coupled with regular reflection, have potential to alter students' views of their experiences at University, recognising the strengths of such experience, contributing to positive self-development.

Through leadership, mentors saw things in themselves they had not previously appreciated or had underestimated. Several mentors described themselves as more capable than they had anticipated being. M1 reflected on the need to move away from 'mental discrimination of race' which had previously prevented her from getting involved in her school. She felt more determined to increase her engagement, 'never allowing any failure to be the stopping point ...' M2 attached greater value to her communication skills: 'I usually find it quite

⁸² See (n.28).

daunting to speak to ... seniors, but I found that in my element, I am able to effectively communicate.'

M1 felt deep engagement with someone older or 'scary' enabled her to overcome initial misconceptions about authority figures. M4 saw her 'mentee's receptiveness and openness' as the catalyst of her increased confidence to speak out. Similarly, M6 credited the mentor role as giving her 'guts ... to ... speak out ...' which she was previously hesitant to do. By focusing on students' 'resources', rather than 'deficiencies',⁸³ reverse mentoring can have a significant impact on mentor perceptions of their capabilities. As M5 noted, it was powerful to know that her voice could contribute to change: 'what I'm saying is not being ignored ... you're a child you don't know what you're talking about, it's actually being considered ...' This may not only contribute to a more positive view of self in the present but may also influence future values and identity.

Personal and professional skills and values

Both legal education and the legal profession have norms and 'unspoken rules'.⁸⁴ These may be particularly inaccessible to marginalised individuals given the identity work typically required by 'outsiders' to fit such norms.⁸⁵ The role of HE staff should not be to acclimatise students aspiring to become lawyers to those norms as if they are on a conveyor belt of academic moulds but to support them in recognising the value of their voices to create change and forge inclusive space for themselves and others in future workplaces. Reverse mentoring impacted students' perceptions about their future capabilities, particularly leadership skills and use of their voice, equipping them with a confidence to make change stretching beyond University.⁸⁶ M7 reflected on becoming 'a better listener' and how this will benefit her in a legal career. Other skills mentors noted having developed or improved included communication, organisation and time management. Reverse mentoring has potential to permit reflection on a range of psychosocial factors suggested in

⁸³ See Zauchner-Studnicka (n.3), 557.

⁸⁴ Bleasdale and Francis, 'Great expectations: millennial lawyers and the structures of contemporary legal practice' (2020) *Legal Studies* 40(3), 376.

⁸⁵ Francis and Sommerlad, 'Access to legal work experience and its role in the (re)production of legal professional identity' (2009) *International Journal of the Legal Profession*, 16(1), 63-86.

⁸⁶ Raymond, et al (n.4).

previous work to be key engagement influencers which may result in improved academic and professional performance.⁸⁷

Beyond these basic skills, engagement in a mutual dialogue and accompanying self-reflection may enable mentors to think about personal and professional values and how the two align. This could foreseeably impact future career decisions and workplace positionality. Some mentors felt they had acquired a ‘boldness to really voice up’ (M4) in the face of adversity. As M4 put it: ‘because I’m part of this project, I feel more free to express my point of view.’ M5 agreed with this increased confidence to share her thoughts and projected this into thinking about conversations with managers in future workplaces. M7 also felt that she would have a confidence from the project to raise issues in the workplace: ‘[my] feelings are valid and if [I] think that something’s wrong ... I shouldn’t keep it to myself ...’ Likewise, M6 saw how her new found ability to be more honest would help her maintain individuality at work – ‘it is important to not become a sheep in a herd ...’ Despite previous cultural barriers, M4 felt more comfortable to disagree and was ‘less burdened by the need to sugar-coat things, and more encouraged to think productively on what might be done’ developing an action mind-set, with M6 agreeing her understanding of the power of ‘expressing [her] thoughts’ could instigate change in her future actions. M1 felt discussions with her mentee ‘had an impact on who I am and how I react’ again suggesting learnings about self through being a mentor may influence future decisions and actions, developing identity.

Reverse mentoring seemed to help mentors understand what they are good at and what is important to them, stemming from having the space to share experiences and be heard. It also enhanced confidence, proving their capabilities to lead and influence. Consequently, reverse mentoring may broaden student horizons, developing both personal and professional identities at University and in future workplaces.

Does reverse mentoring impact mentor perceptions of the law school community?

I learned that the School actually does care and that policies are not merely policies ... seeing that side of what the School is doing [around EDI] inspires me, as an international student,

⁸⁷ Kahu, ‘*Framing student engagement in higher education*’ (2013) *Studies in Higher Education*, 38(5), 766 (see diagram).

to really do my best because I know the School is rooting for me ... (M4)

The humanisation of one staff member appeared to influence how mentors felt about other staff relationships, changing views about hierarchy. The more mentors learned about the University, the more they recognised connections with peers, demonstrating the potential for reverse mentoring to not just impact individual mentors and mentees but also for impact to trickle into wider community structures. Through acknowledging their lived experiences via this one-to-one partnership, as well as their future workplace 'self' discussed above, students may see the impact they can have within their student community, including similarities they have with others in it. As mentors become empowered as influencers in their community, they may consequently feel a stronger part of it. However, reverse mentoring does not have all the answers when it comes to peer-to-peer community, particularly in hyper-competitive disciplines like law.

Humanisation

Having honest discussions on issues that staff and students may not usually have and creating opportunity for mentees to share themselves, appeared to strongly humanise staff to mentors. M5 reflected how the novel insight of reverse mentoring contributed to seeing staff as 'human beings'. It helped M6 remove 'labels' and stereotypes attached to staff through authentic conversations that would not otherwise have happened. M3 was previously held back by preconceptions that students cannot ask staff personal questions about things like their childhood experiences whereas reverse mentoring 'opened up a chance to talk about these things', enhancing the depth of connection built. Similarly, the opportunity for M8 to share their life more personally with someone within their school was enjoyable. Ability to discuss personal issues appeared particularly impactful. M2 reflected on the importance of being 'able to talk to someone about [life and my family] ... especially someone that you ... look up to.' A highlight for M2 of the final meeting held online was meeting her mentee's pet. These honest conversations and happenstances of pets wandering across camera lens' can contribute to destabilisation of unhealthy hierarchies in HE: hierarchies which exist purely due to power, labels or positions and unnecessary exploitation or performance of the same and create potentially harmful barriers to authentic relationships between staff and students.

The final topic (failure and resilience) appeared to most strongly humanise staff. The reciprocation and vulnerability shown through mentees sharing failures and revealing perceived weaknesses resulted in M2 finding it easier to be open about her own struggles, academically and otherwise. Failure was being normalised through authentic conversations. M4 reflected that through reverse mentoring, industrial action and the School's COVID19 response, she 'got to see how human [staff] really are.'

A trickle effect to this individual humanisation comes across in the reflections whereby building a closer relationship with one person increased desire to build connections with other staff. A recurring theme throughout opening interviews was being a small fish in a big pond: in other words, being one member of a huge cohort. This impacted confidence to make connections, placing barriers between students and staff and creating negative connotations with 'community'. Due to cohort size, mentors felt staff 'have no time ...' (M1) and '[t]here is no possible way that [staff] could get to know ... every single person ...' (M5). M2 described this absence of personal connection as 'unavoidable', resulting in the need to have a 'good excuse' to speak to staff and fuelling perceptions of inaccessibility, further ingraining unhealthy hierarchies. However, individual connections facilitated through reverse mentoring challenged these perceptions. Reverse mentoring can encourage questioning by students and staff: does it actually have to be like this? This opportunity to question the status quo may influence relationships with others, helping students realise that building bonds with staff can be 'key to one's sense of belonging and community ...' (M4).

Staff humanisation appeared to help mentors start moving on from past educational experiences, despite assumptions students prefer 'home style' learning environments.⁸⁸ M5 developed a new confidence to speak with staff, despite being 'previously highly hesitant to do [so] as it [is] something I never did in school or was encouraged to ...' Similarly, M3's relationship with her mentee 'made me feel a little bit less intimidated by [other staff]'. M1 discovered how easy it was to create a meaningful relationship with an authority figure and this spurred her on to want to engage in more relationships like this with others. This confidence can serve as a springboard to build other authentic relationships. Reverse mentoring may thus extend mentors' social

⁸⁸ See (n.35).

capital, permitting access to the 'resources' of others including knowledge and support of other staff.⁸⁹

Hierarchy and boundaries

All pairs shared themselves personally, for most more so than they had ever done with another student or staff member. Whilst role boundaries are important and should be explored in training, findings from this study suggest these humanised connections did not blur or damage professional boundaries. It seems students' respect and understanding increased not only for their mentee but also for their law school community. As M6 reflected:

knowing that we have developed this unusual friendship without compromising ... professionalism, it's going to be much easier to discuss difficult personal stories.

The development of these new relationships and re-negotiation of boundaries with staff members was facilitated through mutual and reciprocal learning. Student mentors learnt as much about the staff community as themselves and their peer community. M7 reflected on better understanding 'the struggle ... [for staff]'. Similarly, M8 'learned that staff have the same issues [as us] ...' M2 echoed this and how it changed her opinions on staff and more generally, the way she understands and approaches others.

As well as staff, the process helped M2 'understand how I feel about the university a lot more.' M4 was pleased to discover the work her school is doing to improve marginalised students' experiences. M1 discovered a lot about support available which could have helped her in the past and reflected on a need to be more proactive in her school community going forward. M4's powerful opening reflection reproduced at the start of this section also emphasises how the learning process through authentic conversations relating to EDI issues contributed to mentors obtaining a more informed and positive view of their school. Whilst this contributed to breaking down unhealthy hierarchies between mentor and mentee and potentially wider staff/student relationships, there was no evidence that it crossed boundaries or lessened respect. As noted, the findings and reflections suggest the opposite.

⁸⁹ Clarke, et al (n.12), 698.

Commonalities and connections

The connections staff and students found appeared important to the trusting relationships built and ability to discuss challenging topics. Common interests included music, volunteering, social justice, countries visited or lived in and personality traits, for example, identifying as introverts. M6 described this relatability as one of ‘the most enjoyable aspects’ which surprised her, given ‘age and cultural gaps’. As students and staff get to know one another more deeply, it may become possible to replace assumptions and negative stereotyping connected to differences with recognition and appreciation of similarities.⁹⁰ However, M3 noted frustration when her mentor compared their upbringing to hers after she discussed childhood challenges of identifying as ethnically minoritised, without acknowledging differences and inadvertently undermining M3’s experiences. Whilst this did not damage the relationship in the long term, it is important to recognise that active listening need not always involve personal comparison. Students and staff can still build connections across their differences by understanding and valuing their respective experiences – sometimes, listening may be enough.

As well as recognising commonalities with their mentor, students reflected on preconceptions about peers, particularly ‘home students’, and began to consider similarities, suggesting they began to feel less ‘other’ and more attuned to their community. M1 recognised ‘[my mentee] showed me ... being an international student doesn't really change anything ... everyone is going through the same [student journey].’ At the start, mentors had views about what it meant to be a ‘home student’ or an international student from a country different to their own. However, following the meetings, M8 ‘had a better [and unexpected] understanding of the community ... [and] of ... other international students ... British students and professors ...’ Similarly, M5 discovered that many of her preconceptions and fears around interacting with home students were ‘nonsense’. Through this recognition of peer connections, mentors were arguably beginning to develop intercultural competence⁹¹ or the potential to demonstrate such competence. Whilst this is typically a key aim of initiatives

⁹⁰ Murphy (n.17).

⁹¹ See Deardorff, ‘*The Identification and Assessment of Intercultural Competence as a Student Outcome of Internationalization at Institutions of Higher Education in the United States*’ (2006) *Journal of Studies in International Education* 10, 241-266.

like EDI reverse mentoring for mentees, this study suggests it is possible for mentors too.

However, that is not to suggest staff/student reverse mentoring can actually create peer-to-peer relationships in and of itself. M6 summarises this:

I do feel that similarity, that friendship, that sense of belongingness with my mentee ... I had a role in contributing towards change. So on a professional level ... I do feel much more connected to [the] law school. But socially I don't think that has really impacted.

M7 reflected on the fact that she was a project volunteer i.e. she had put herself forward so this did not result in her feeling 'automatically accepted ...' by peers within her school community. Likewise, M8 valued feeling cared about and having built such a positive relationship with her mentee but felt 'it would take a lot more for me to feel like I'm actually part of the community'. However, the experience did help M8 realise a personal responsibility to engage more with her school community, including with peers, moving away from blaming others or external influences for some of the 'integration'⁹² or belonging challenges faced as an international student and taking some personal responsibility to facilitate change. M5 also felt 'subconsciously because of this experience, I was able to interact with more people [in law] ...'. Feelings were therefore mixed as to the impact on peer and social community although overall, the sense was that improving staff relationships did not necessarily translate to improved peer-to-peer relationships although it did prompt deeper consideration of those relationships.

Whilst the law school context appears to have significantly influenced how mentors viewed their peer community and their position within it, reverse mentoring seemed to have little impact on perceptions about the competitiveness of law. Prestige attached to the study and practice of law may result in notions of individual superiority. In Phase 1 focus groups, discussions explored the 'elitism' of school roles, for example, student law society positions and consequent negative effects on community. The school environment was described by M6 as 'pure competition'. The pressures of seeking entry into the extremely competitive legal profession may contribute to this. M2 reflected on how intertwined the law degree and a future legal career

⁹² See (n.29).

are as inhibiting community strength and fuelling competition. As M5 put it: ‘there’s almost a race ... people are trying to get to the finish line with the best possible degree, with the most internships...’ – this can inhibit ability to build authentic relationships by viewing peers as competitors rather than colleagues.

Reverse mentoring between staff and students is therefore not a panacea for all community challenges faced by marginalised students. Whilst it can change understanding and views about others in the community and increase desire to develop broader relationships, it cannot alone break down the hierarchy and competitiveness of environments like law schools. The tale of reverse mentoring’s impact on school level community is therefore two-fold with its impact on staff/student relationships seemingly more significant, influencing behaviours towards other staff relationships. By contrast, for peer relationships, the process appeared to facilitate stronger understanding of peers, beginning to chip away at barriers between ‘home’ and ‘international’ in particular but could not break down barriers between students, whether due to nationality, career aspirations or other perceived differences although it was able to empower mentors through recognition of a community dimension to their voice, as explored below.

Empowerment and influence

Mentors felt empowered by what they learned about themselves through reverse mentoring. They thought about how their experiences could help peers and future students, particularly those who also identify as marginalised and/or under-represented, playing a pioneering role in their community. M7 recognised ‘my voice matters’ and the power she has to help others by using that voice. There was also a sense of special status earned through project participation. For example, it made M6 feel ‘really good seeing that I was able to contribute to ... something completely different from what a law student would ... participate in.’

Reverse mentoring is therefore not just about educating mentees to instigate change in the community because they are typically the ones with ‘power’ when the status quo is restored. It is also about inculcating power within mentors so that they can instigate community change through their own behaviours and actions and continue developing the transformational benefits acquired from mentoring after the scheme. As M2 put it, ‘I will ... continue to reflect on my experiences ... with the view of trying to improve the experiences

of students.’ The fact mentees wanted to hear about mentors’ lived experiences and mentors saw that they were learning from them made M8 ‘feel empowered ... we can make a difference so that future students do not deal with the same issues that [we] are currently facing.’ This desire to help others within the community may facilitate future cultural shifts across schools and campuses as mentors seek to use their learning experiences to create change for others.

Despite the one-to-one relationship, what mentors learned about themselves and other staff, their peers and the University from their mentee impacted their perspective of the law school community through humanisation and recognition of previously unknown connections, breaking down unhealthy hierarchies and empowering students as potential change agents. Whilst the one-to-one nature of reverse mentoring questions its scalability and wider impact, this study suggests a ‘trickle effect’ is possible when mentors and mentees internalise and have opportunity to reflect on their experiences (in this study, via regular reflective logs and interviews). The desire to take the experience further through relationships with others arguably intensified through reflection, potentially benefitting the wider community through subsequent actions or changes in approach. This may be less likely in schemes where there is no accountability or reflection after meetings.

Discussion

When Ryan and Carroll described international students as ‘canaries in the coalmine’ in 2005, they talked of being at a HE ‘coalface’ due to increasing internationalisation and diversity. Today, we are before a different ‘coalface’ – the ‘post-pandemic’ University. However, many issues arguably remain similar. We know a ‘one size fits all’ approach does not work in HE or within student groups or ‘silos’. What our diverse student body needs, wants and benefits from spans a huge spectrum. As one example of a positive student-led intervention, findings from this study suggest that to learn and grow institutionally, we should prioritise opportunities to amplify marginalised student voices and ask their opinions, putting our ethical and moral obligations to *all* students into action, *with* our students.⁹³

As we attempt to build and rebuild connections with students during our return to campuses, we have an opportunity to create structures and cultures that work better for marginalised students. Reverse mentoring provides a useful

⁹³ Bond (n.28), 650 (discussing international students specifically).

framework, underpinned by student voices as a practical tool that may breathe meaning into strategies regarding inclusivity, representation, partnership and decolonisation, to name a few. Understanding of lived experiences can be critical to instigating change in long-held traditional structures like HE⁹⁴ and may be much more impactful than impersonal approaches such as unconscious bias training⁹⁵ or gathering student views through more traditional and impersonal methods such as surveys.⁹⁶ EDI initiatives must not fall down the pecking order or be put on hold awaiting a ‘return to normal’ – it is valuable and viable for these initiatives to run, even in an online capacity, as the latter part of this study demonstrates. Whilst overall strongly advocating for increased use of reverse mentoring in law and HE, the remaining parts of this discussion consider some of the challenges and need for further work in this area.

Scalability and wellbeing

Reverse mentoring is ripe for staff/student co-creation. Future work could usefully explore reverse mentoring as a tool for staff and students to work collaboratively in designing institutional initiatives such as this, potentially with other pairs, creating a further group dynamic which was found to be anecdotally beneficial in this study during informal café catch-ups with mentors throughout the project. This could contribute to community building, addressing some of the peer community issues noted above and the embedding of reverse mentoring into existing structures, facilitating scalability.

However, reverse mentoring carries wellbeing risks, as does scaling it up. Training and support is crucial to ensuring staff and student wellbeing are considered and balanced. Existing work suggests reverse mentoring is a ‘win-win experience’⁹⁷ but with respect, despite the many benefits explored in this piece, that assumption requires closer scrutiny when we consider wellbeing and workload implications. A critical question therefore is how to embed reverse

⁹⁴ Sobrany, et al, *Optimising the activities and the products of academic and student collaborative networks to achieve equality, diversity and inclusion goals in higher education* (2021) *Journal of Educational Innovation, Partnership and Change* 7(1).

⁹⁵ Equality Challenge Unit, ‘Unconscious bias and higher education’ (2013) <https://cpb-euw2.wp.mucdn.com/sites.marjon.ac.uk/dist/4/1635/files/2018/11/unconscious-bias-and-higher-education.pdf> (accessed 29 August 2021).

⁹⁶ See Heron (n.70).

⁹⁷ Gunduz, 7 and Gnoosens, et al (n.4) and Browne, ‘Exploring Reverse Mentoring; “Win-Win” Relationships in The Multi-Generational Workplace’ (2021) *International Journal of Evidence Based Coaching and Mentoring* S15, 246-259.

mentoring principles into existing initiatives to reap its benefits sustainably and how to incentivise staff and students. Student mentors were not paid in this study however, having reflected on this, the author strongly supports financially rewarding students for their contribution. Future work by the author will focus on issues of scalability, incentivisation and wellbeing by exploring reverse mentoring in the context of academic personal tutoring.⁹⁸

Hierarchy and diversity in legal education and the profession

Some previous reverse mentoring studies did not find any negative issues relating to power dynamic reversals.⁹⁹ In this study, as noted, the role reversal was heavily reflected on. This may be partly owing to the discipline context and hierarchical nature of law. Establishing the power dynamic reversal may also be more challenging in EDI focussed studies as mentees already have significant experience of the topics explored through working with students. This study suggests there needs to be specialist training for schemes with minoritised students, more so than in 'traditional' schemes focused around e.g. 'tech' skills. Petersen and Ramsay's study with students from ethnic minority backgrounds suggests mentees could coach mentors into the mentor role.¹⁰⁰ However, with respect, this could blur roles, potentially undermining the power dynamic reversal by maintaining the staff mentee in a position of knowledge or superior authority. Findings from this project suggest training may be better delivered by a non-mentee staff member or external party to truly empower mentors to lead. Time spent in training where mentors were separated from mentees and could openly discuss 'fears' about the project were particularly valuable to mentors when discussed in opening interviews.

Kennedy suggested 'the teacher/student relationship is the model for relations between junior associates and senior partners' in law firms.¹⁰¹ What students learn through their relationships with staff and how hierarchies are enforced (or not) in HE can impact the building of other relationships in situations of perceived unequal bargaining power. To support students in developing positive workplace relationships in the future, Universities should seek to

⁹⁸ See: <https://teachingexcellence.leeds.ac.uk/exploring-academic-personal-tutoring-in-partnership-with-under-represented-students/> (accessed 21 February 2022).

⁹⁹ Gunduz and Gnoosens, et al (n.4).

¹⁰⁰ Petersen and Ramsay (n.4), 38.

¹⁰¹ Kennedy, '*Legal Education and the Reproduction of Hierarchy*' (1982) *Journal of Legal Education*, 591.

eradicate ‘unhealthy’ hierarchies between students and staff, as defined above. Reverse mentoring may be an effective tool in aiding this structural shift.

The growing popularity of reverse mentoring in the legal profession makes this study with law students of wider interest. Reverse mentoring schemes in the profession show significant promise of change. However, they are typically unreported and unmeasured.¹⁰² They also do not include law student voices or those of aspiring lawyers. Given the generational and diversity related challenges often faced by trainees and junior lawyers,¹⁰³ perhaps EDI initiatives within the profession should look to engage those studying or seeking to enter the profession. The author aims to continue developing this in future work intersecting reverse mentoring, professional identity and belonging in legal studies and the profession.

Design and targeting

Each mentor, although part of the project due to their international student identity, also identified within other typical HE ‘groupings’ including acronyms ‘BAME’,¹⁰⁴ and ‘LGBTQI+’. This impacted their mentoring approach, motivations and experiences shared. The ‘international’ facet of their identity was just one of many, each with differing degrees of importance at different times in their student journey. In future projects, the targeting of reverse mentoring should be carefully considered and an intersectional approach favoured, providing space for mentor and mentee to bring themselves holistically, rather than being pigeon-holed by one aspect of their identity. The aim should not be to single out particular characteristics as problematic and something to be solved or to result in mentors feeling there are things that are ‘on’ and ‘off’ the table for discussion, going back to the issues noted above regarding a ‘right and wrong’ way to mentor. Intersectionality is critical in HE to understand student and staff experiences authentically and must be recognised for EDI work to yield meaningful outcomes, further supported by this project’s findings.¹⁰⁵

Given the reciprocal learning experience, ‘reverse’ and ‘mentoring’ may not be the most appropriate labels and as Browne notes, the focus on a simple

¹⁰² See Petersen and Ramsay (n.4), 35.

¹⁰³ See Bleasdale and Francis (n.84).

¹⁰⁴ Not endorsed by the author.

¹⁰⁵ On intersectionality and identity, see Avraamidou (n.28).

reversal of traditional mentoring may be self-limiting given its deficit lens approach, suggesting that one party has something to learn or improve on.¹⁰⁶ 'Reversal' also potentially reinforces the mentee's 'expert' position, highlighting the unusual nature of their being a mentee, undermining the empowerment benefits for mentors. Other studies prefer 'reciprocal mentoring'.¹⁰⁷ However, the term 'mentoring' itself may conversely overlook the mentee's expertise and the fact that mentors learn and develop through the process, as explored in this piece – there is a 'boomerang effect'.¹⁰⁸ Future work might consider the impact of the naming of EDI schemes such as this to avoid this subtle undermining of power dynamics which may inadvertently reinforce unhealthy hierarchies and impact project recruitment, as well as increasing wellbeing risks where there is no clear expectation or understanding of reciprocity on both sides. The embedding of authentic relationships and safe spaces for personalised staff/student conversations into existing institutional initiatives and support structures may remove the need for separate EDI schemes such as this and thus the issue of new titles and names. Further work is needed to explore the feasibility of this, as noted above.

Limitations

The key limitation of this study is its sample size (n=16, eight mentors and eight mentees). Whilst this small sample makes generalisations challenging, thick narratives collected via focus groups, dual interviews and repeated reflective logs, permit deep exploration of experiences, as well as triangulation, increasing credibility of findings.¹⁰⁹ Further sample limitations include the fact that all mentors identified as female. Whilst this echoes gender disparities in legal education,¹¹⁰ it raises an issue regarding gendered access to support and diversity initiatives. Further work on the reasons for this and steps to address it would be beneficial, particularly given wellbeing challenges associated with studying and practicing law.¹¹¹

¹⁰⁶ Browne (n.97), 255.

¹⁰⁷ See Petersen and Ramsay (n.4).

¹⁰⁸ See Augustiniene and Čiučiklienė, 'Reverse Mentoring as Facilitating Factor for the Development of a Beginning Teacher's Self-Authorship Process' (2013), ISSN 1822 – 7260 Social Science 3(81), 80.

¹⁰⁹ See e.g. Nowell, et al (n.66), 3.

¹¹⁰ See <https://www.lawsociety.org.uk/en/career-advice/becoming-a-solicitor/entry-trends> (accessed 27 August 2021).

¹¹¹ See <https://www.ibanet.org/article/09c3da0e-723f-4e21-9a7e-aa0dff1fb627> (accessed 27 August 2021).

Participation was not only limited by gender. All mentors were international students with strong English language skills. This may not be reflective of many international students studying in the UK and elsewhere. Additionally, many staff mentees already engaged heavily in student facing work. A continuing challenge is how to engage students who find such projects harder to access and how to involve staff in EDI work such as this who are typically more engaged with discipline research. This is important because EDI should be the work and priority of *all* to result in meaningful cultural change.

Concluding thoughts

Reverse mentoring has significant transformational potential for international students, in terms of individual identity development and challenging perceptions of law school community and their place within it. However, it is imperfect and comes with challenges, particularly associated with wellbeing and workload. This piece does not engage with staff mentee experiences. The learning opportunities for staff in reverse mentoring are also critical and will be explored in further work. It is hoped that this piece gives food for thought to those working and learning in HE, those who have considered reverse mentoring or tried it in the past and those who have never looked into it to explore the concept further and in particular, to consider how learnings from it may be embedded into existing, wider practices to improve experiences for under-represented students in particular. As M1 put it: *'my voice in the university is my most important tool I have to make the school environment better for me.'* Together, we must continue to create safe spaces and platforms for these voices to be heard and empower students and ourselves to make a difference, in legal education and beyond.

Appendix: Reflective Log Questions

School of Law reverse mentoring project 2019/20

Participant reflective log

Name:

Role (mentor or mentee):

Date and location of meeting:

Meeting number:

- What was the focus of your meeting? What did you and your mentor/mentee discuss?
- What planning or preparation did you do for the meeting? Was it helpful?
- How did you feel prior to the meeting? How do you feel after meeting?
- How did the meeting go? What were the best/most enjoyable aspects of the meeting?
- Where there any aspects of the meeting you found difficult/challenging? If yes, how did you do deal with this?
- Have you learned anything from the meeting? Do you know anything new about yourself/your reverse mentoring partner/the School etc?
- What, if anything, can you take from the meeting and use in your student/working life going forward?
- If you could change anything about the meeting, what would it be and why?
- How are you going to use the above reflection in preparing for/holding your next meeting?
- Any other thoughts/comments

A systematic review of commercial awareness in the context of the employability of law students in England and Wales

Siobhan McConnell*

Abstract

Commercial awareness is identified by employers as an important and desirable graduate skill. The recruitment literature employed by many law firms in England and Wales indicates commercial awareness is required by law students to gain access to the legal profession. However, commercial awareness is a skill that many law students struggle to conceptualise and to demonstrate during the graduate recruitment process. This article presents the results of the first systematic review of the available literature on commercial awareness. The systematic review was driven by the growing importance of commercial awareness to law students, employers and universities. Although this article focuses on the position of law students based in England and Wales, it is anticipated that its findings will resonate with legal educators across Europe and beyond. This article considers the following key questions: What is commercial awareness? How important is it and why? How do students develop commercial awareness and can it be taught during their legal education? How can students demonstrate commercial awareness during the graduate recruitment process? This article highlights the key themes the review results presented, providing a suggested definition of commercial awareness and considering its growing importance to employers, students and law schools and the issues this creates. This article makes recommendations for legal educators as to how to support the development of commercial awareness in law school curricula and makes suggestions for further research.

Keywords: commercial awareness; employability; law schools; legal education; graduate skills.

* Northumbria University.

Introduction

Competition for graduate employment in the legal sector in England and Wales grows each year.¹ A number of stakeholders, including the government, the higher education sector, the legal profession and students themselves expect law students to develop a range of skills whilst at university.² To access employment as a legal professional, students must demonstrate a variety of skills³ at an early stage of their career journey when engaging with complex graduate recruitment processes⁴ that become more challenging each year.⁵ Employers expect universities to deliver candidates who can transform into

¹ The number of graduating law students has increased by 22.8% since 2009 (16,499 graduating in 2019 compared to 13,499 graduating in 2009) whilst the number of training contracts has increased by 9.2% (6344 available in 2018/19 and 5809 in 2008/09). Trends in the solicitors' profession, Annual Statistics Report 2019, The Law Society, October 2020 <www.lawsociety.org.uk/topics/research/annual-statistics-report-2019> accessed February 2021. The number starting pupillage increased from 437 in 2014/15 to 568 in 2018/19. <www.barstandardsboard.org.uk/news-publications/research-and-statistics/statistics-about-the-bar/pupillage.html> accessed March 2021. More students will be competing for training contracts and pupillages than the law degree figures suggest as both professions are open to non-law graduates on completion of postgraduate conversion courses. Many law graduates start work as paralegals or other legal associate professionals following graduation but the number doing so each year is unclear. Research suggests the number of legal associate professionals is increasing by 1% each year. It is predicted that the number of legal associate professionals will increase by 2% per year and that 2800 will be needed per year – see Matthew Williams and others, 'Research to inform workforce planning and career development in legal services, Employment trends, workforce projections and solicitor firm perspectives Final Report' (Institute for Employment Studies 2019) paras 7.1 and 7.3. <www.employment-studies.co.uk/resource/research-inform-workforce-planning-and-career-development-legal-services> accessed March 2021.

² QAA 'Subject Benchmark Statement for Law' (2019) para 2.4 <www./docs/qaa/subject-benchmark-statements/subject-benchmark-statement-law.pdf?sfvrsn=b939c881_16> accessed February 2021. David Edmonds, 'Training the Lawyers of the Future – a Regulator's view' (2011) 45 *Law Tchr* 4, 10. David Rigg, 'Embedding employability in assessment: searching for the balance between academic learning and skills development in law? A case study' (2013) 47 *Law Tchr* 404.

³ For example, see Macfarlanes' requirements for trainee solicitors, <<https://macfarlanes.com/media/3555/macfarlanes-graduate-brochure-2020.pdf>> accessed February 2021 and <www.eversheds-sutherland.com/global/en/where/europe/uk/overview/careers/graduates/what-we-look-for.page?>> accessed February 2021 for Eversheds Sutherland.

⁴ See, for example, the recruitment process at Pinsent Masons <<https://www.pinsentmasons.com/careers/graduate/training-contracts/england.com/careers/graduate/training-contracts/england>> accessed February 2021.

⁵ Institute of Student Employers 'The ISE 2017 Annual Survey, Trends, benchmarks and insights' (2017) 57-64 (ISE).

'ready-made' legal professionals.⁶ The increasing importance of employability across the higher education sector is well documented.⁷ Though universities may take different approaches, none can ignore the impact the employability agenda is having at an institutional and departmental level.⁸ Further evidence of this is demonstrated by the importance of employability to the Teaching Excellence Framework and university league table rankings, which drive student interest and demand for courses, placing further pressure on universities.⁹

Law firms set the agenda for the skills, competencies and attributes required from those they seek to recruit.¹⁰ Whilst some of these requirements are obvious to employer, student and educator, for example, teamwork and communication skills, other skills can be more difficult to understand, develop and demonstrate. Some students may lack certain skills or feel less able to develop and demonstrate skills than others, due to issues with personal, social or institutional capital, inhibiting access to the profession.¹¹ Commercial

⁶ Egle Dagilyte and Peter Coe, 'Professionalism in higher education: important not only for lawyers' (2014) 40 *Law Tchr* 33, 34. Andrew Godwin, 'Teaching Transactional Law – A Case Study from Australia with Reference to the US Experience' (2015) 16 *Transactions: Tenn J Bus L* 343, 345-347.

⁷ Michael Tomlinson, 'Graduate Employability: a Review of Conceptual and Empirical Themes' (2012) 25 *Higher Education Policy* 407. Lorraine Dacre Pool & Peter Sewell, 'The key to employability: developing a practical model of graduate employability' (2007) 49 *Education + Training*. Michael Yorke & Peter Knight, 'Embedding employability into the curriculum and Employability in higher education: what it is – what it is not' *Learning & Employability Series One* (The Higher Education Academy 2006).

⁸ David Rae, 'Connecting enterprise and graduate employability, Challenges to the higher education culture and curriculum' (2007) 49 *Education + Training* 605, 610. Tomlinson (n 7) 411.

⁹ One of the six main metrics used to rate universities for the Teaching Excellence Framework is employment or further study six months after graduation. See also The Guardian Best Universities League Table, The Complete University Guide and The Times Good University Guide.

¹⁰ Andrew Francis, 'Legal Education, Social Mobility, and Employability: Possible Selves, Curriculum Intervention, and the Role of Legal Work Experience' (2015) 42 *JL & SOC'Y* 173, 182-185.

¹¹ *ibid* 183-184, 196. Louise Ashley and Laura Empson, 'Differentiation and discrimination: Understanding social class and social exclusion in leading law firms' (2013) 66 *human relations* 219, 221, 231. Penny Childs and Nigel Firth and Hugo de Rijke 'The gap between law student career aspirations and employment opportunities' (2014) 48 *Law Tchr* 51, 62-64. Heather Rolfe and Tracy Anderson 'A firm choice: Law firms' preferences in the recruitment of trainee solicitors' (2003) 10 *International Journal of the Legal Profession* 315, 330.

awareness is identified by graduate employers as an important graduate skill.¹² However, many students lack commercial awareness,¹³ fail to appreciate its importance¹⁴ and/or struggle to understand and demonstrate it. Wilkinson and Aspinall stated that commercial awareness is ‘an amorphous term with no clear definition in the research or practitioner-based literature,’¹⁵ that employers and students interpret the term differently and that employers believe universities can assist students with its development.¹⁶ There is dissatisfaction across the graduate employer spectrum with the commercial awareness of applicants.¹⁷ Like other graduate employers, law firms prize commercial awareness.¹⁸ The recruitment literature employed by law firms indicates just how important commercial awareness is, particularly to commercial and corporate firms.¹⁹ Its importance appears to relate to a number of aspects of being a lawyer, namely winning, understanding, advising and ultimately retaining clients, all of which must be done within the parameters of running a successful business. Lawyers are also required to understand the external factors (social, economic or otherwise) that impact on clients and how this influences legal advice. Whilst in the past commercial awareness was a skill that was required to work in-house²⁰ or to acquire promotion and/or partnership, it is increasingly now

¹² Institute of Student Employers, ‘Student development survey 2020 Supporting the learning and development of entry-level hires’ 17.

¹³ *ibid* 18, 20. Institute of Student Employers, ‘Student development survey 2021, Managing development in a crisis’ (ISE 2021) 23. Geoff Mason, ‘Graduate utilisation in British Industry: The Initial Impact of Mass Higher Education’ (1996) National Institute Economic Review 93, 97 and 99.

¹⁴ Kerry Jarred, ‘Making an impression’ (2005) 155 NLJ 1541.

¹⁵ David Wilkinson and Samantha Aspinall, ‘An exploration of the term ‘Commercial awareness’: What it means to employers and students’ (National Council for Graduate Entrepreneurship 2007) 5.

¹⁶ *ibid* 10. See also Bob Gilworth and Nalayini Thambar, ‘Commercial Awareness – The employer and student perspectives’ (University of Leeds 2006).

¹⁷ ISE 2020 (n 12) 18. CBI/Pearson, ‘Helping the UK Thrive, CBI/Pearson Education and Skills Survey’ (CBI 2017) 93 - 40% of respondent employers dissatisfied. CBI/Pearson, ‘Changing the pace, CBI/Pearson Education and Skills Survey’ (CBI 2013) 57 - 48% of respondent employers dissatisfied. Caroline Tuckwell, ‘Law Firm Legal Research – what trainees need to know’ (2010) 10 LIM 108.

¹⁸ <<https://careers.linklaters.com/en/early-careers/commercial-awareness>> accessed September 2021. See focus on commerciality in firm information (n 3 and 4). James Marson and Adam Wilson and Mark Van Hoorebeek, ‘The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective’ (2005) 7 *Int’l J Clinical Legal Educ* 29, 30, 39. Jarred (n 14). Monidipa Fouzder, ‘How to...Get a training contract’ (2014) LS Gaz 18.

¹⁹ Firm information (n 3, 4 and 18). Tim Bellis, ‘Simply the second best’ (2013) 163 NLJ 19. Catherine Baksi, ‘Training: Adding Value’ (2009) 12 LS Gaz.

²⁰ Kamlesh Bahl, ‘The solicitor in commerce and industry today’ (1989) 86 LS Gaz.

tabled as an expectation at the start of the journey to a legal career.²¹ Many law students apply for training contracts during their second year at university and are required to demonstrate commercial awareness in applications, at interviews and during vacation schemes. Even first year students will be expected to understand the concept when interacting with firms at careers fairs, taster days and on first year work experience programmes.²² There has been no systematic review of the existing literature on commercial awareness in either a legal education or wider higher education setting, leaving a gap in understanding of this key graduate skill. This systematic review was driven by the growing importance of commercial awareness to law students, employers and universities and seeks to answer the following research questions:

1. What is commercial awareness?
2. How important is it as a graduate skill and why?
3. How do students develop commercial awareness and can it be taught during their legal education?
4. How can students demonstrate commercial awareness during the graduate recruitment process?

The aims of this research were threefold. Firstly, it aimed to provide a comprehensive understanding of commercial awareness in the context of the research questions. Secondly, this research sought to synthesise the review results to provide a detailed analysis of the available literature, identifying gaps and suggesting areas for further research. Finally, this research aimed to make recommendations that legal educators, and perhaps educators in other disciplines, may wish to consider when preparing students for graduate employment. Whilst the focus of this research was on law students and legal education in England and Wales, as the methodology will demonstrate, the review was not confined to those areas, geographic or otherwise, as it actively sought to engage with a multi-disciplinary approach by including research from other disciplines and jurisdictions to further inform understanding of the research area. Whilst this article ultimately concentrates on the position of law students in England and Wales, the discussion and findings will be of benefit to legal educators across Europe and beyond. It is anticipated that, irrespective

²¹ Firm information (n 3, 4 and 18). See also Hogan Lovells, <<https://graduates.hoganlovells.com/opportunities/first-year-programmes>> accessed February 2021.

²² Laurence Etherington, 'Public professions and private practices: access to the solicitors' profession in the twenty-first century' (2016) 19 *Legal Ethics* 5, 12 noting the graduate recruitment process is becoming a more important aspect of the first year law student experience.

of jurisdiction, many law schools and law students encounter the issues that this article highlights given that commercial awareness is a skill relevant to all graduates because it is required by many graduate employers. It is hoped that others may seek to carry out comparative research in their own jurisdiction to contrast and/or complement the findings here. It should also be noted that many law firms with bases in England and Wales are operating in a multinational setting, recruiting students from across Europe and the world, subjecting potential recruits to the same requirements to those recruited in England and Wales.²³

This article begins with a brief commentary on commercial awareness and its importance to graduate employers. It then describes the methodology for the systematic review and documents the results. This article then highlights the key themes the results presented, before making recommendations and suggestions for further research.

Background

Employers require commercially aware graduates, but employer surveys demonstrate dissatisfaction with graduate competence in commercial awareness. A recent Institute of Student Employers (ISE) survey found that 53 per cent of employers thought students lacked commercial awareness.²⁴ The ISE has also noted a ‘skills gap’ in relation to commercial awareness.²⁵ This dissatisfaction is not a recent phenomenon. In 2008 commercial awareness was ranked the 13th most important skill to employers but 33rd in terms of employer satisfaction, giving the largest gap of all in the skills’ importance to satisfaction rankings.²⁶ The future importance of commercial awareness is clear. A recent ISE survey considered the impact of COVID-19 and the skills that will become

²³ For example, Eversheds Sutherland, Clifford Chance, Linklaters and Norton Rose Fulbright.

²⁴ ISE 2020 (n 12) 18. See also CBI 2017 and CBI 2013 (n 17).

²⁵ ISE 2017 (n 5) 23 - 79% of employers were training hires on commercial awareness; 15% of graduate intakes had commercial awareness – the second largest skills gap. See also ISE 2020 (n 12) 20. Globally, the position may be more nuanced, see QS/ISE, ‘The Global Skills Gap in the 21st Century’ (QS/ISE 2018) 8-16 where commercial awareness was the least important skill for employers and achieved the highest satisfaction to importance score. However, there was variation across region, firm size and seniority of respondent. The survey noted the results could suggest commercial awareness is being developed at university or is not prioritised by employers (contrary to other surveys) and employers expect development in the workplace.

²⁶ Will Archer and Jess Davison, ‘Graduate Employability: What do employers think and want?’ (The Council for Industry and Higher Education 2008) 10 - a skills gap of -20.

more important to businesses over the next five years.²⁷ Commercial awareness ranked 7th out of 26 skills with 44 per cent of employer respondents identifying its future importance, ahead of problem-solving, teamwork and inter-personal skills,²⁸ skills that are generally a focus of universities and law schools. These surveys will have included responses from legal professionals but do not provide detailed views from the legal sector.²⁹ However, law firm graduate recruitment literature demonstrates the importance of commercial awareness at the gateway to the profession.³⁰

Over time, commercial awareness has become a more explicit feature of the skills required of legal professionals, but it was only in 2013 that the term was reviewed in detail in a legal education setting in England and Wales by the Legal Education and Training Review (LETR).³¹ The LETR's consideration of commercial awareness seemingly reflected changes in the focus of the legal profession and other graduate professions as evidenced by the employer surveys noted earlier. The LETR concluded that commercial awareness was a 'composite concept'³² including a broad range of knowledge, skills and attributes.³³ 68.9 per cent of practitioners viewed knowledge of the business context of law as important/very important in their work ranking it above some areas of 'core' legal knowledge.³⁴ The LETR identified a knowledge and skills gap in relation to commercial awareness.³⁵ However, the report acknowledged that support for a specific educational focus on commercial awareness was inconsistent within the profession, with opposition from respondents from the

²⁷ ISE, 'Student recruitment survey 2020 Challenge and resilience in the year of Covid-19' (2020) 47.

²⁸ *ibid*

²⁹ In ISE 2017 (n 5) 70 the largest proportion of respondents (16%) was from the legal sector. In ISE 2020 (n 12) 3 16% of respondents were from the legal sector.

³⁰ Firm information (n 3, 4 and 21). Bellis (n 19).

³¹ Legal Education and Training Review, 'Setting Standards - The Future of Legal Services Education and Training Regulation in England and Wales' (2013). Commercial awareness was not mentioned in previous reports such as The Ormrod Report (Report of the Committee on Legal Education (Cmnd 4595, 1971)), The Benson Report (*Report of the Royal Commission on Legal Services*, (Cmnd 7648, 1979)) and The Marre Report (The Committee on the Future of the Legal Profession (The Marre Committee), *A Time for Change* (1988).)

³² LETR (n 31) para 2.75.

³³ *ibid*

³⁴ *ibid* para 2.74.

³⁵ *ibid* para 2.173. Note as early as 2001 practitioner literature called for business awareness to be part of legal education, see Nigel Savage, 'Breaking the mould' (2001) LS Gaz.

Bar, public sector and those working more with individual clients.³⁶ As commercial awareness was not seen as a priority by all, the report concluded it should not be a formal requirement of the academic stage, recommending it be a more explicit aspect³⁷ of the Legal Practice Course (LPC),³⁸ particularly for individuals seeking work in commercial/corporate law.

The LETR approach raises three issues that this research considered. Firstly, whether leaving commercial awareness until the vocational stage of training is too late. The recruitment demands of a significant part of the legal profession in England and Wales require applicants to demonstrate commercial awareness during their second year at university when applying for vacation schemes and/or training contracts.³⁹ Secondly, the viewpoint that commercial awareness is key only for those seeking work in commercial/corporate law – surely any law firm of any size or discipline would seek to employ commercially aware employees. Thirdly, many law graduates will not work in the legal sector and will seek employment elsewhere.⁴⁰ As the employer surveys demonstrate, many professions demand commercial awareness – omitting it at the academic stage has implications for the broader employability prospects of law students.

Internationally, other jurisdictions have identified the importance of commercial awareness and the implications for legal education and training. A focus on commercial awareness during postgraduate study was recommended in Hong Kong⁴¹ and New Zealand.⁴² In New South Wales, the FLIP report identified that business skills will be critical for graduates in the legal practice

³⁶ LETR (n 31) para 2.74.

³⁷ *ibid* para 4.69 and recommendation 12 289.

³⁸ The LPC is a one year postgraduate course taken after an undergraduate law degree or postgraduate one year Graduate Diploma in Law.

³⁹ The QAA Benchmark (n 2) does not include commercial awareness or any specific aspects of the definition, so there is still no clear push for law schools to focus on this skill.

⁴⁰ Williams and others (n 1) para 2.4 finding that between 2011 and 2016 around 35% of law graduates went into the legal profession either as trainees or paralegals each year.

⁴¹ Standing Committee on Legal Education and Training, ‘Comprehensive Review of Legal Education and Training in Hong Kong, Final Report of the Consultants’ (2018) recommendation 5.6 <www.scler.gov.hk/eng/pdf/final2018.pdf> accessed February 2021.

⁴² Andrew Tipping ‘Review of the Professional Legal Studies Course, Report to the New Zealand Council of Legal Education’ (2013) recommendation 6.1. Although ‘commercial awareness’ is not mentioned, the review suggested widening traditional skills to include focus on business concepts and running a practice in a business-like manner <<https://nzcle.org.nz/Docs/Review%20of%20the%20PLSC%20Report%20.pdf>> accessed February 2021.

of the future.⁴³ The American Bar Association recommended law schools enable lawyers to study entrepreneurship and the business of running a legal practice.⁴⁴ In Canada, practitioners called for future lawyers to have business and legal practice management skills.⁴⁵ Globally, ongoing ‘disruption’ to the legal profession caused by the impact of legal technology is affecting the number of lawyers required to do legal work and how that work is done.⁴⁶ Skills like commercial awareness will become ever more critical so that lawyers can add value both to their employers and their clients.⁴⁷

Methodology

Why a systematic review?

A systematic literature review was selected for a variety of reasons. Firstly, as the discussion below illustrates, it provided a clear and methodical framework for exploring the research area – a framework that could be used in the future by other researchers to update the results or to carry out research in their own jurisdictions.⁴⁸ A systematic review was beneficial in finding what was ‘out there’ on commercial awareness in both the empirical and conceptual literature in a logical and manageable way.⁴⁹ It presented an opportunity to see both the consistencies and discrepancies between the articles, allowing for development of an understanding of where research focus may be better utilised. Whilst conceptual literature can set the scene for views from the field, it is useful to

⁴³ The Law Society of New South Wales, ‘flip The Future of Law and Innovation in the Profession’ (2017) 77-78 <<https://lawsociety.cld.bz/online-flip-report/112>> accessed February 2021.

⁴⁴ American Bar Association, ‘Report on the Future of Legal Services in the United States, Commission on the Future of Legal Services’ (2016) recommendation 7.2. <www.srln.org/system/files/attachments/2016%20ABA%20Future%20of%20Legal%20Services%20-Report-Web.pdf> accessed February 2021.

⁴⁵ Canadian Bar Association, ‘Futures: Transforming the Delivery of Legal Services in Canada, CBA Legal Futures Initiative’ (2014) para 7.5. <https://www.cba.org/CBAMediaLibrary/cba_na/PDFs/CBA%20Legal%20Futures%20PDFS/Futures-Final-eng.pdf> accessed February 2021.

⁴⁶ Williams and others (n 1) para 5. Richard Susskind, *Tomorrow’s Lawyers An Introduction to Your Future* (Oxford University Press 2003).

⁴⁷ Williams and others (n 1) paras 6.3.1, 7.2, p 7, 11.

⁴⁸ Olaf Zawacki-Richter and others (eds), *Systematic Reviews in Educational Research Methodology, Perspectives and Application* (Springer VS 2020)

<<https://link.springer.com/book/10.1007%2F978-3-658-27602-7>> vi accessed March 2021. Although as detailed below, the searches were not restricted by jurisdiction.

⁴⁹ Mark Newman and David Gough, ‘Systematic Reviews in Educational Research Methodology, Perspectives and Application’ 16 in Zawacki-Richter and others (n 48).

explore the empirical literature to highlight the research that has been done and also the work that still needs to be done to explore the field in more depth. Further, a systematic review arguably helped to minimise the risk of researcher bias in article selection inherent in traditional literature reviews.⁵⁰ Admittedly, there are recognised challenges in undertaking a mixed-methods systematic review, particularly in relation to qualitative work in terms of research rigour and the subsequent appraisal and synthesis of results.⁵¹ In order to counter these challenges, each empirical article was appraised using the same set of quality criteria before a selection decision was made.⁵² In addition, the results of the studies were analysed and compared to identify emerging themes and to provide more context to themes arising from the conceptual articles.⁵³ The latter were also appraised using set quality criteria providing further consistency, ensuring that a robust and rigorous review was carried out.⁵⁴

Search strategy

The scope of the research questions helped formulate the search strategy for the review. The key words ‘law’, ‘education’, ‘clinical legal education’, ‘legal education’, ‘university’, ‘employability’ and ‘student’ were used in combination with ‘commercial awareness’ using the Boolean operator ‘AND’. The same search terms were used for ‘business awareness’ and ‘industry awareness’ as initial reading indicated these terms could be used interchangeably, although to a more limited extent. The initial searches used the legal databases HeinOnline, WestLaw, Lawtel and LexisNexis. As the searches progressed, a significant number of duplicates was produced, suggesting that the search strategy was both thorough and effective. The library database of the author’s institution was then searched to widen the scope of the

⁵⁰ Zawacki-Richter and others (n 48) vi. See also Tribe Mkwebu, ‘A Systematic Review of Literature on Clinical Legal Education: A Tool for Researchers in Responding to an Explosion of Clinical Scholarship’ (2015) 22 *Int’l Journal Clinical Educ* 238, 240.

⁵¹ Martin Hammersley, ‘Reflections on the Methodological Approach of Systematic Reviews’ 31 in Zawacki-Richter and others (n 48). See also Mary Dixon-Woods and Ray Fitzpatrick, ‘Qualitative research in systematic reviews Has established a place for itself’ (2001) 323 *BMJ* 765 acknowledging the growing acceptance of qualitative work in systematic reviews and outlining the difficulties.

⁵² Hammersley (n 51) 30. If required, please contact the author for the quality criteria used to appraise the empirical articles.

⁵³ Mary Dixon-Woods and others, ‘Synthesising qualitative and quantitative evidence: a review of possible methods’ (2005) 10 *Journal of Health Services Research & Policy* 45.

⁵⁴ The conceptual quality criteria differed to those used for the empirical articles – please contact the author for the criteria if required.

search and this produced articles from Web of Science, Directory of Open Access Journals, RePEc, Political Science Database, Politics Collection, Literature Online Core (LION Core) legacy and Psych Articles.⁵⁵ This second search produced a substantial number of duplicates but also additional relevant articles.

Selection, Recording & Appraisal

The inclusion criteria were broad and English language, peer-reviewed articles from any date, geographical area and field of study that considered commercial awareness in the context of the research questions were included. Many articles were excluded by title or by abstract and a detailed record of the numbers of articles included/excluded was recorded in Excel. Where it was unclear from the title or abstract whether an article was relevant, the full article was extracted and reviewed. The searches identified 20,301 potentially relevant results. From the results 20,132 were excluded as duplicates or for not meeting the inclusion criteria. 169 full-text articles were assessed for eligibility. 51 articles were then excluded because they were from practitioner journals and had not been subject to peer-review.⁵⁶ Some of this practitioner literature has been used to complement or contrast findings from the extracted articles because it provides views from the legal profession and those who practise in it. 45 articles were included in the final review.⁵⁷ As noted, each article was subjected to a detailed appraisal to consider its quality, relevance and reliability.

Results

Graph 1 demonstrates the number of articles by type of study – there were more empirical than conceptual articles indicating that there is an identified empirical research interest in relation to commercial awareness and that from an empirical perspective it has been explored using a variety of research methods in different fields. 27 articles were law-based and 18 were non-law based.

⁵⁵ The review was carried out between April-June 2020 and updated using database notifications.

⁵⁶ Although the databases suggested these articles as peer-reviewed it was apparent that the articles had not been subject to academic peer-review (by experts in the field) and were from practitioner journals.

⁵⁷ A full list of references is provided at the end of this article.

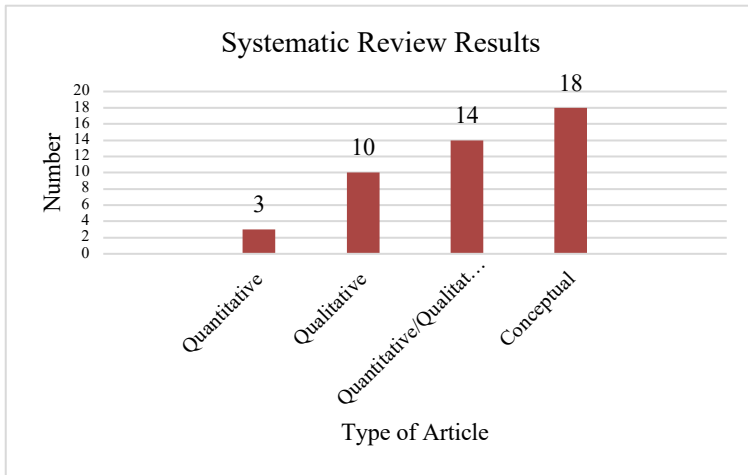


Figure 1: Graph 1 - Systematic Review Results - Number and Type of Article

Graph 2 demonstrates a fairly even split between the number of law-based empirical and conceptual articles. The low number of empirical articles suggests there is a need for further research into commercial awareness. Further empirical work would help in understanding whether the perceptions set out in the conceptual articles are correct or whether the views would be contradicted by empirical data.

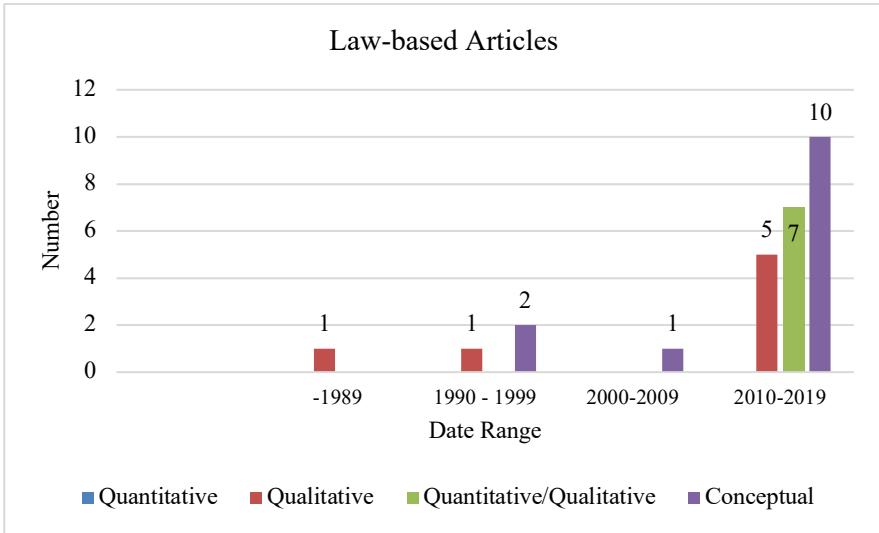


Figure 2: Graph 2 - Timeline of Number and Type of Articles - Law

Graph 2 indicates that, in a legal context, commercial awareness is a topic that has become of more interest over time, particularly over the last ten years. The growing interest in commercial awareness mirrors that observed in the employer surveys, legal education reports and practitioner literature. The practitioner literature also indicates that the need for commercial awareness has been recognised by the profession for nearly 40 years,⁵⁸ and the results suggest that academia has perhaps been slow in identifying its importance to the profession and the implications this has for legal education. It is also interesting to note the impact of the LETR. Of the 22 articles dating between 2010-19, 15 were published after the LETR was published in 2013, suggesting that the LETR may have led to a much greater focus on commercial awareness within academia.

⁵⁸ Christopher R Brown and Tim McGirk, ‘The Leading Euromarket Law Firm’ (1982) 1 Int’l Fin L Rev 4. Blackhurst and Stokes, ‘Clients Rank London’s Law Firms (1985) 4 Int’l Fin L Rev 15. Clive H Zietman, ‘The legal services revolution’ (1995) 61 Arbitration 274. Louisa Povey, ‘What does it take to be the best of the best?’ (2000) Int’l Fin L Rev 9. Marialuisa Taddia, ‘How to Change specialisms’ (2013) LS Gaz 24. Fouzder (n 18). Tuckwell (n 17). Robert Verkaik, ‘Hot property – demand for pensions lawyers far outstrips supply’ (1996) LS Gaz 93.

The non-law-based studies (Graph 3) present a similar picture, although here there has been more empirical than conceptual work.

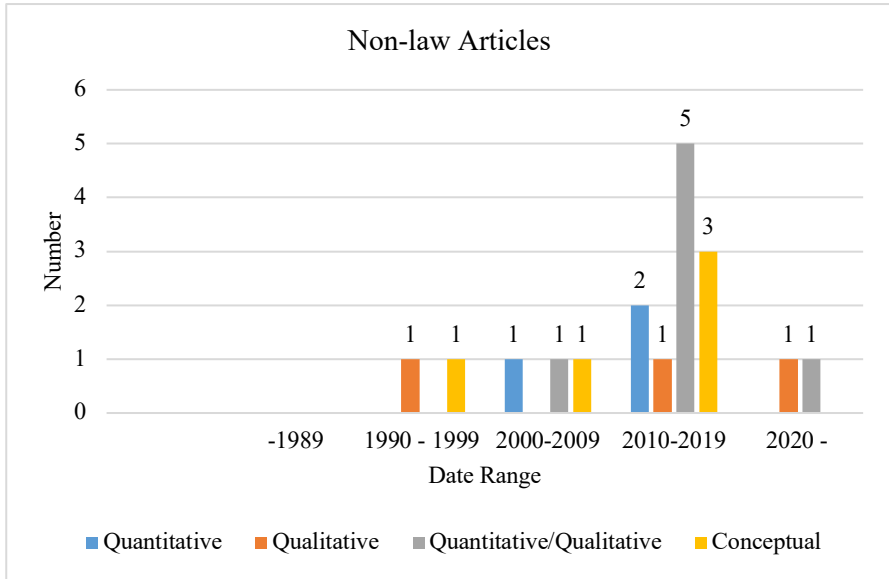


Figure 3: Graph 3 - Timeline of Number and Type of Articles - Non-law

Appendix II presents the main findings of the empirical articles and Diagram 1 provides the findings from the conceptual articles.

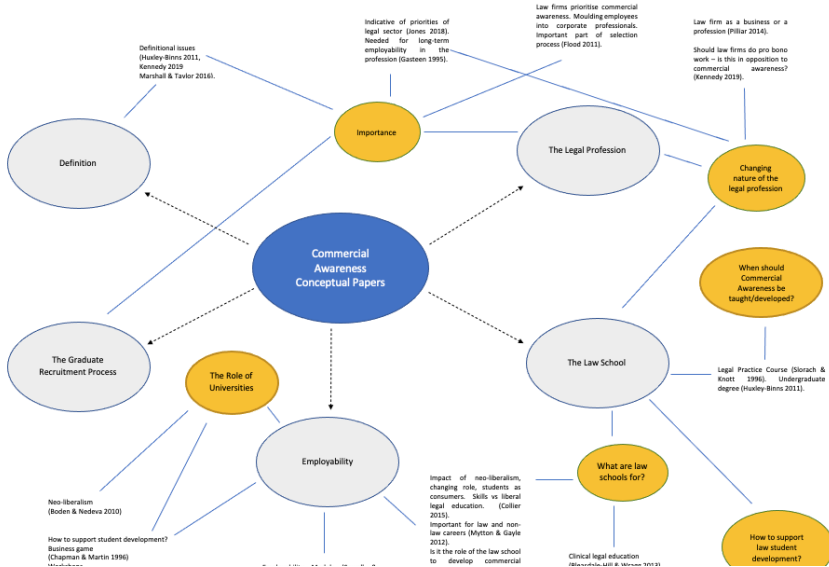


Diagram 1: Synthesis of Findings into 5 Key Themes

The findings are synthesised into five key themes: definition, employability (implications for the university and the individual), the legal profession, the graduate recruitment process and the role of the law school.

Findings

Theme 1 – definition

Most articles did not seek to define commercial awareness, simply using the term without clarifying what it meant. Diagram 2 summarises the definitions that were provided.

	Law	Non-law
Empirical	<p>Outcome-focused, business aptitude.</p> <p>Law as a business. Understanding law in a business, not academic context.</p> <p>Client views differ from purely academic views.⁵⁹</p> <p>Law firm as a business, operating in a commercial environment.</p> <p>Understanding of clients’ needs and issues.⁶²</p> <p>Changing legal market, changing areas of law.⁶³</p>	<p>Understanding local, national & global economic conditions and influence on business sector.</p> <p>Subset of environmental awareness.⁶⁰</p> <p>Understanding economics of business, client needs and how they work, client objectives, culture and language. Bigger picture in which businesses operate. Staying updated on events. Viewing situations from a commercial perspective.</p> <p>Understanding what makes a business successful. Interest in business and business environment.⁶¹</p>

⁵⁹ Caroline Strevens and Christine Welch and Roger Welch, ‘On-Line Legal Services and the Changing Legal Market: Preparing Law Undergraduates for the Future’ (2011) 45 *Law Tchr* 328, 340 - see appendix II.

⁶⁰ Etherington (n 22) 6 - Etherington suggested a definition but did not seek to define it using his research.

⁶¹ Juliet Turner and Alison Bone and Jeanette Ashton, ‘Reasons why law students should have access to learning law through a skills-based approach’ (2018) 52 *Law Tchr* 1, 13 – a student’s view. See appendix II.

⁶² Denise Jackson and Elaine Chapman, ‘Non-technical skill gaps in Australian business graduates’ (2012) 37 *Education + Training* 95, 103 - see appendix II.

⁶³ Joanna Poon, ‘Commercial awareness in real estate course’ (2014) 32 *Property Management* 48, 51 – see appendix II.

Conceptual	Business context of legal services sector , profit and loss, client relations, strategy and mission. ⁶⁴ Law firm as a business. ⁶⁵ Forming view on events that impact on client or sector. ⁶⁶	
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Diagram 2 – summary of definitions

A commonality amongst the definitions used in the law-based articles was an understanding of the law firm as a business, a viewpoint also reflected in the practitioner literature.⁶⁷ Only Strevens et al’s study provided views on what commercial awareness meant to law firms.⁶⁸ This enabled the authors to define commercial awareness as:

understanding that law firms function in much the same way as...businesses in general and that there is a wider picture than the black letter law applied to a given set of facts...The meaning of commercial awareness might change in the face of the changing legal services markets. Virtual law firms and LPO organisations might have their own perspectives on what commercial awareness involves, and this might look rather different from the cultural capital sought by either the high street or the city.⁶⁹

This approach allows for some fluidity in the definition, recognising the differing needs of different types of firms. It also has implications and, undoubtedly, challenges for legal education in terms of how law schools seek to teach and develop commercial awareness. None of the law-based studies considered law school academics’ views of the definition of commercial

⁶⁴ Rebecca Huxley-Binns, ‘What is the Q for?’ (2011) 45 Law Tchr 294, 304.

⁶⁵ Vinny Kennedy, ‘Pro Bono Legal Work: The disconnect between saying you’ll do it and doing it’ (2019) 26 Int’l J Clinical Legal Educ 25, 35.

⁶⁶ Helen Marshall and Kelly Taylor, ‘Up the Value Chain: Transition from Law Librarian to Research Analyst’ (2016) 16 LIM 207, 209.

⁶⁷ Fouzder (n 18).

⁶⁸ Strevens (n 59).

⁶⁹ *ibid* 341 – ‘LPO’ - legal process outsourcing firms.

awareness and only one article provided a student viewpoint,⁷⁰ leaving a gap in the literature.

Poon et al identified real estate academics⁷¹ and students⁷² had differing views of commercial awareness when provided with different definitions. Poon⁷³ developed a taxonomy (containing strategic, process and financial components)⁷⁴ - again, both academics⁷⁵ and students⁷⁶ had differing views of the importance of the components. Such a taxonomy may not apply practically across disciplines. For example, the strategic component contained a knowledge of legislation⁷⁷ whereas in legal education this would be deemed core subject knowledge, rather than commercial awareness.⁷⁸ Poon also considered the skills and attributes required for developing commercial awareness such as communication and problem-solving.⁷⁹ Both academics and students ranked all the skills and attributes highly for developing commercial awareness but again there were differing views.⁸⁰ Commercial awareness appeared as a 'banner' competency, encapsulating a range of skills and attributes, reflecting to some extent the position taken in the LETR.⁸¹ However overall, the articles took a simplistic approach, seeing commercial awareness as a standalone skill. These studies suggest commercial awareness can mean different things to those teaching and learning in a discipline and that better signposting for students may be needed. This should be explored further in a law school setting.⁸²

⁷⁰ Turner and others (n 63).

⁷¹ Poon (n 61) 58.

⁷² Joanna Poon and Michael Brownlow 'Students' views on the incorporation of commercial awareness in real estate education' (2014) 32 *Property Management* 326, 333-334 and 346-349 – see appendix II.

⁷³ Poon (n 61).

⁷⁴ *ibid* 53.

⁷⁵ *ibid* 58-62.

⁷⁶ Poon and Brownlow (n 72) 334-335 and 339-342.

⁷⁷ Poon (n 61) 54.

⁷⁸ QAA (n 2) 5.

⁷⁹ Poon (n 61) 55.

⁸⁰ *ibid* 61-62. Poon and Brownlow (n 72) 335-338 and 342-346.

⁸¹ LETR (n 31) para 2.75.

⁸² A small-scale survey of students at Northumbria University carried out in autumn 2019 indicated that students wanted further guidance on commercial awareness.

Theme 2 – commercial awareness and employability; implications for the university and the individual

The literature demonstrated that there has been an increasing focus on the importance of commercial awareness in the broader context of employability.⁸³ Sewell and Dacre Pool updated their Career EDGE employability model to include commercial awareness, a skill ‘employers have consistently named as important in graduate recruits.’⁸⁴ However, there may be differing views on the importance of commercial awareness according to sector.

Different stakeholders – different views

Some empirical work outside law has focused on stakeholder views on the importance of commercial awareness and graduate competence in it in different sectors.⁸⁵ The results suggest that the importance of commercial awareness and employer expectations as to graduate competence could be linked to both degree type and employer/sector – some disciplines prioritise it more than others. This suggests that there is no one-size-fits-all approach. Some articles⁸⁶ indicated students thought they had not developed competence in commercial awareness as much as in other skills; there are no similar studies involving law students, leaving a gap in the literature.

The role of the university

Boden & Nedeva noted the impact of neo-liberalism on universities and how an identified lack of commercial awareness in science and engineering

⁸³ Ronald McQuaid and Colin Lindsay, ‘The Concept of Employability’ (2005) 42 *Urban Studies* 197.

⁸⁴ Peter Sewell and Lorraine Dacre Pool, ‘Moving from conceptual ambiguity to operational clarity Employability, enterprise and entrepreneurship in higher education’ (2010) 52 *Education + Training* 89, 92.

⁸⁵ Jackson & Chapman (n 60). Joanna Poon and Mike Hoxley and Willow Fuchs, ‘Real estate education: an investigation of multiple stakeholders’ (2011) 29 *Property Management* 468. Venetia Saunders and Katherine Zuzel, ‘Evaluating Employability Skills: Employer and Student Perceptions’ (2010) 15 *bioscience education* 1. Mohamed Branine, ‘Graduate recruitment and selection in the UK A study of the recent changes in methods and expectations’ (2008) 13 *Career Development International* 497. See appendix II for details of all studies.

⁸⁶ Poon, Hoxley and Fuchs (n 85) 478. Saunders and Zuzel (n 85) 9-10.

graduates⁸⁷ led to government intervention to identify required employer skills. Elite universities like Oxford resisted neoliberal reforms and entrenched employability agendas, instead relying on reputational capital, as well as the cultural capital of its students (the majority being from a middle-class, privately educated background), to ensure graduates gained employment.⁸⁸ In contrast, post-92 universities focused on employability and skills to create ‘job-ready’ graduates.⁸⁹ This ‘Third Mission’ (to serve a wider stakeholder community, namely business) required universities to satisfy employer demands when developing programmes.⁹⁰ Ultimately, frontloading skills training on to universities saves employers time and money. Universities are charged with equipping graduates with specific skill sets that become more elaborate over time. This growing tendency for employers to curate what universities teach is acknowledged in the conceptual articles.⁹¹ The question arises as to what extent universities actually enable students to develop commercial awareness and the results produced limited evidence.

Studies by Sarkar et al and Sleaf and Reed found little emphasis on the development and assessment of commercial awareness in science and sport science degrees respectively.⁹² Poon, Hoxley and Fuchs found graduates developed commercial awareness but not to the extent employers required and it was less developed than other skills.⁹³ Sarkar et al noted the lack of emphasis on commercial awareness contrasted with its importance to employers, concluding this disadvantaged students who would graduate with a limited understanding of its importance, impacting on their employability.⁹⁴ These

⁸⁷ Rebecca Boden and Maria Nedeva, ‘Employing discourse: universities and graduate “employability”’ (2010) 25 *Journal of Education Policy* 37, 44 citing the Roberts Report (2002).

⁸⁸ Although Oxford University now has a clear employability agenda – see <[www.careers.ox.ac.uk/develop-your-employability-skills#/> accessed April 2021](http://www.careers.ox.ac.uk/develop-your-employability-skills#/) – business awareness identified as a key graduate skill.

⁸⁹ Boden and Nedeva (n 87) 48-49. ‘Post-92’ university is a term used for universities in the United Kingdom that were formerly polytechnics.

⁹⁰ *ibid* 41. See also Jackson and Chapman (n 60) 108, arguing commercial awareness must be considered further by universities.

⁹¹ Boden and Nedev (n 87).

⁹² Mahbub Sarkar and others, ‘Academics’ perspectives of the teaching and development of generic employability skills in science curricula’ (2020) 39 *Higher Education Research & Development* 346, 356. Mike Sleaf and Helen Reed, ‘Views of sport science graduates regarding work skills developed at university’ (2006) 11 *Teaching in Higher Education* 47, 53-55. See appendix II.

⁹³ Poon, Hoxley and Fuchs (n 85) 478.

⁹⁴ Sarkar and others (n 92) 356.

studies suggest that the issue noted above (different stakeholders - different views), may feed down to degree programmes. However, the broader picture, demonstrated by the employer surveys, provides more consistent evidence of the importance of commercial awareness to employers, suggesting universities should pay more attention to commercial awareness. If it is accepted that higher education should assume responsibility for developing commercial awareness (given student and employer expectations, abrogating responsibility now seems unacceptable) more practical questions emerge such as how effectively can higher education develop commercial awareness and do academics feel able to provide appropriate support.

The results presented limited evidence of the methods used to develop commercial awareness in non-law degrees. Poon and Brownlow provided the only empirical evidence.⁹⁵ Academics advocated 'real world' experience - curriculum simulations of real-life practice using real estate software, guest lectures, mentoring and placement opportunities.⁹⁶ Students favoured work experience.⁹⁷

The role of the individual

Extra-curricular activities are posited as an excellent way of developing a variety of skills, enhancing employability.⁹⁸ Clark et al found commercial awareness was developed in extra-curricular activities and degree studies to a similar extent,⁹⁹ but paid employment developed commercial awareness significantly.¹⁰⁰ Gebreiter used Foucault's theory of technologies of self to argue that accountancy students deliberately sought to transform themselves into the recruits accountancy firms required.¹⁰¹ Graduate recruitment practices

⁹⁵ Poon (n 61). Poon and Brownlow (n 72).

⁹⁶ Poon (n 61) 62-63.

⁹⁷ Poon and Brownlow (n 72) 338-339, 348.

⁹⁸ Luisa H Pinto and Diogo C Ramalheira, 'Perceived employability of business graduates: The effect of academic performance and extracurricular activities' (2017) 99 *Journal of Vocational Behaviour* 165, 169 & 173-4. Nicolas Roulin and Adrian Bangerter, 'Students' use of extra-curricular activities for positional advantages in competitive job markets' (2013) 26 *Journal of Education and Work* 21.

⁹⁹ Gordon Clark and others, "'It's everything else you do...': Alumni views on extracurricular activities and employability' (2015) 16 *Active Learning in Higher Education* 133, 138. See appendix II.

¹⁰⁰ *ibid* 139.

¹⁰¹ Florian Gebreiter, 'Making up ideal recruits Graduate recruitment, professional socialization and subjectivity at Big Four accountancy firms' (2020) 33 *Accounting, Auditing and Accountability Journal* 233, 234. See appendix II.

worked to construct and select ideal candidates, acting as an anticipatory socialisation mechanism compelling students to look, sound and behave like accountancy professionals months, if not years, before joining the profession. Several interviewees thought they lacked commercial awareness and tried to improve by following developments in accounting.¹⁰² These studies suggest students understand the importance of developing commercial awareness and may take on a dynamic role in doing so. However, some may need further support, particularly in articulating its development during the graduate recruitment process.¹⁰³

Theme 3 – commercial awareness and the legal profession

Importance

The importance of commercial awareness to the profession is recognised across the literature. However, the articles focused on the views of solicitors¹⁰⁴ and none considered its importance to the Bar,¹⁰⁵ indicating more research is needed on the impact of commercial awareness on that part of the profession.

The LETR positioned commercial awareness in the context of commercial law firms.¹⁰⁶ The results provided some empirical evidence that it is relevant to all types of firm although this evidence is limited, leaving a gap in the research.¹⁰⁷ Strevens et al found commercial awareness a ‘universal employability trait’ sought by both business and private client firms.¹⁰⁸ The practitioner literature reflected this view.¹⁰⁹ Alexander & Boothby found that employers required

¹⁰² *ibid* 244-5.

¹⁰³ See Carl Evans and Mark Richardson, ‘Enhancing graduate prospects by recording and reflecting on part-time work: A challenge to students and universities’ (2017) 3 *Industry and Higher Education* 283.

¹⁰⁴ See Table 1.

¹⁰⁵ See Atalanta Goulandris, ‘Reshaping professionalism: branding, marketing and the new entrepreneurial barrister’ (2015) 272 – recognised the developing commercial awareness and marketing orientation of the Bar but did not examine the concept in detail. See also Catherine Baksi, ‘“Arrogant” barristers’ (2005) LS Gaz 4 for law firm views of the commercial awareness of barristers.

¹⁰⁶ LETR (n 31) para 4.69.

¹⁰⁷ Alan Paterson and others, ‘Competition and the Market for Legal Services’ (1988) 15 *JL & Soc’y* 361. See appendix II.

¹⁰⁸ Strevens (n 59) 341.

¹⁰⁹ Erik Salomensen, ‘Taking Articles with a Provincial Firm’ (1989) 21 *B L J* 88, recommending training at a progressive, commercially aware provincial firm.

‘commercial’ graduates who can work effectively with an awareness of costs¹¹⁰ although it was unclear what types of law firms participated in this study. Pilliar saw a connection between the ethical commitment of lawyers to improving access to justice and their business awareness to enable them to do so, by innovating to deliver more affordable legal services.¹¹¹ Seeing commercial awareness in the context of improving access to justice is a position that seems far removed from the motivations of large commercial law firms providing legal services to some of the wealthiest in society, suggesting that commercial awareness may be critical for lawyers working in non-commercial disciplines involving the vulnerable – a direct contrast to some views expressed in the LETR.¹¹²

Client power

Sommerlad’s study on the commercialisation of law firms assists in understanding why commercial awareness is important to law firms.¹¹³ Sommerlad noted the push to produce entrepreneurial practitioners who possess excellent academics and prioritise commerciality and customer service.¹¹⁴ One employer stated commercial awareness was part of the ‘full package’ required.¹¹⁵ The push for commerciality must be driven by business needs and therefore client demands.¹¹⁶ Sommerlad noted the increasing displacement of a professional identity for an entrepreneurial identity¹¹⁷ and

¹¹⁰ Jill Alexander and Carol Boothby, ‘Stakeholder Perceptions of Clinical Legal Education within an Employability Context’ (2018) 25 *Int’l J Clinical Legal Educ* 53, 67. See appendix II.

¹¹¹ Andrew Pilliar, ‘Law and the Business of Justice: Access to Justice and the Profession/Business Divide’ (2014) 11 *JL & Equal* 5, 32. See also American Bar Association Report 2016 (n 44) recommendation 7.2.

¹¹² LETR (n 31) para 2.74.

¹¹³ Hilary Sommerlad, ‘The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change’ (2011) 18 *Int’l J Legal Prof* 73 - there were no comments from law students on commercial awareness. See appendix II.

¹¹⁴ *ibid* 86-87. See also John Flood, ‘The re-landscaping of the legal profession: Large law firms and professional re-regulation’ (2011) 59 *Current Sociology* 507 and the role of law firms in the production of employee professional identity, requiring particular mind-sets and skill-sets like commercial awareness in recruits.

¹¹⁵ Sommerlad (n 113) 79.

¹¹⁶ For a discussion of the changing nature of the client, as observed in 1997, see Gerard Hanlon, ‘A Profession in Transition? – Lawyers, The Market and Significant Others’ (1997) 60 *Mod L Rev* 798, 801-804.

¹¹⁷ Sommerlad (n 113) 87. See also Daniel Muzio and Stephen Ackroyd, ‘On the Consequences of Defensive Professionalism: Recent Changes in the Legal Labour Process’ (2005) 32 *JL & Soc’y* 615.

the change in the lawyer-client relationship.¹¹⁸ One participant lawyer concluded that lawyers had been on a pedestal but were now in a service industry that required more understanding about what clients think and do; commerciality was key.¹¹⁹

There was little empirical research on client views of the need for lawyers to be commercially aware – although there is evidence of this from the practitioner literature. Surveys carried out in the 1980s¹²⁰ noted the importance of commercial awareness to banking and other corporate clients. In the early 1990s, Stratton noted that one of the biggest problems clients had with law firms was their lawyers lacked commercial awareness.¹²¹ In-house lawyers looked for business-orientated lawyers with commercially aware advice.¹²² The only client-based study the review produced found that alongside reliability, efficiency and expertise, clients required commercially aware lawyers – otherwise they would go elsewhere.¹²³ Clients demand commercial awareness, so employers demand it from their current and future employees.¹²⁴

The changing legal profession

A common theme across the literature is the changing nature of the legal profession, as it transitions from a ‘traditional’ profession to a more business-focused model.¹²⁵ In the late 1980s Paterson et al anticipated that the commercial awareness of a firm was likely to impact on its response to competition in the conveyancing market.¹²⁶ ‘Strategist’ respondents included those who perceived themselves as running a business, taking a competitive

¹¹⁸ Sommerlad (n 113) 86. See also Hanlon (n 116) 813-815.

¹¹⁹ Sommerlad (n 113) 86. See also Hanlon (n 116) 810.

¹²⁰ Brown and McGirk, Blackhurst and Stokes (n 58).

¹²¹ Jeremy Stratton, ‘Quality Street’ (1992) 142 NLJ 1444 commenting on a survey of 100 clients conducted by Competitive Marketing.

¹²² Diana Bentley, ‘Managing relationships with external lawyers’ (2001) 11 Euro Law 35. Povey (n 58).

¹²³ Hanlon and Jackson, ‘Last Orders at the Bar? Competition, Choice and Justice for All – The Impact of Solicitor-Advocacy’ (1999) 19 Oxford Journal of Legal Studies 555, 563. See appendix II.

¹²⁴ For a discussion of the changes in client power and the impact on large law firms and the concept of commercialised professionalism see Gerard Hanlon, *Lawyers, the state and the market: professionalism revisited* (Macmillan 1999).

¹²⁵ See Nigel Savage and Gary Watt, ‘A House of Intellect for the Profession’ in Peter Birks (ed), *What are law schools for?* (Oxford University Press 1996) 46 recognising the identity crisis in the profession due to the opposing demands of commercialism and professionalism.

¹²⁶ Paterson (n 107).

view of professionalism. One stated he enjoyed running a business as well as being a lawyer; another was ‘a businessman trying to make a living.’¹²⁷ In contrast, Paterson et al described an ‘ostrich’ respondent as more focused on client loyalty than profit, stating he wanted to be a professional, not a shopkeeper.¹²⁸ Ostrich firms were non-responsive, employed a traditional approach to work, did not advertise and were unwilling to compete for business. Strategist firms were the most commercially aware and, although in a minority, the authors contended their approach indicated how the profession and the concept of professionalism was changing.¹²⁹ This early insight into how law firms positioned themselves also supports the argument that as firms are primarily businesses, commercial awareness should be important to all firms, not just commercial/corporate firms. The perception of the law firm as a business is echoed in Etherington’s study.¹³⁰ One participant noted they were ‘Businessmen running a legal practice, not the other way round’ - the ‘old approach’ to the legal profession had disappeared for their firm.¹³¹ Etherington voiced concern that a focus on commerciality might signify a decline in ‘ethical consciousness and identity among future professionals,’¹³² reminiscent of concerns in the LETR and elsewhere.¹³³ Early practitioner literature provides further insight. Zietman observed the impact of the boom and bust economy of the 1980s and 90s and its impact on the lawyer-client relationship, noting many firms ‘foster the illusion that law was not a business but rather “a profession” immune to changes in the economic climate.’¹³⁴ This transition in the profession has implications for law schools in terms of how they seek to prepare students for employment.

¹²⁷ *ibid* 369.

¹²⁸ *ibid* 368, 60% of respondents could be categorised into 3 groups – ostriches (18%), tacticians (32% - responding to competition but in a limited way) and strategists (10%).

¹²⁹ *ibid* 369.

¹³⁰ Etherington (n 22).

¹³¹ *ibid* 20.

¹³² *ibid* 29.

¹³³ LETR (n 31) para 2.71. See also John Spencer, ‘My Legal Life: A different calling’ (2013) LS Gaz discussing ‘the demise of professional standards and the rise in commercial awareness. The first far outweighs the second’. Paterson (n 107) 368. See also Emma Jane Jones, ‘Affective or defective? Exploring the LETR’s characterisation of affect and its translation into practice’ (2018) 52 Law Tchr 478, 487 observing the importance of business awareness in CILEX’s response to the LETR, noting the ‘somewhat telling indication of priorities within the legal sector.’

¹³⁴ Zietman (n 58). See also Pilliar (n 111) 21 arguing a false dichotomy could exist - lawyers need to make money so law can be both a profession and a business.

Theme 4 – commercial awareness and the graduate recruitment process

Etherington's study explored the importance of commercial awareness, professionalism and ethics to law firms and how firms evaluate those competencies when recruiting.¹³⁵ All except one employer confirmed, without prompting, that they assessed commercial awareness. The study noted that a variety of detailed information was provided by employers on why and how commercial awareness was assessed (although it is unclear what that detail was) and recognised it could be hard to assess. One employer stated that 50 per cent of the interview was about commercial awareness; another noted it was prioritised at interview. Many student respondents stated commercial awareness was a required skill. In contrast, professionalism and ethics were not mentioned by employers or students as required qualities. 89 per cent of students thought commercial awareness had been assessed during recruitment (no detail was provided on how); just under 40 per cent thought ethical awareness had been assessed. Although there are accepted limitations with the student responses, this study indicated a clear difference in the importance of commercial awareness compared to professionalism and ethics for students and employers, indicating that at the recruitment stage, commercial awareness appeared to take precedence.¹³⁶ The LETR placed a focus on both¹³⁷ but, unlike commercial awareness, professionalism and ethics were not confined to the vocational stage of education.¹³⁸ Sommerlad also found commercial awareness critical; employers tested it in application forms, telephone interviews and at assessment centres.¹³⁹ Sommerlad concluded these firms focused on creating legal entrepreneurs; legal knowledge was secondary to commercial sense.¹⁴⁰ These findings suggest law schools should further consider where they align their teaching so as to give students the greatest chance of succeeding in the graduate recruitment process.

¹³⁵ Etherington (n 22) – see appendix II.

¹³⁶ *ibid* 28.

¹³⁷ LETR (n 31) para 2.101.

¹³⁸ *ibid* recommendation 6 – recommending a broad approach to the teaching of professionalism and ethics although there was no recommendation professional conduct be a foundation subject; the academic stage could be used to develop awareness, para 4.104.

¹³⁹ Sommerlad (n 113) 87. Although see Andrew Francis & Hilary Sommerlad 'Access to legal work experience and its role in the (re)production of legal professional identity' (2009) 16 *International Journal of the Legal Profession* 63, 78 where a student stated in a 2008 recruitment brochure for Slaughter & May that there were no expectations of commercial awareness at interview – the student was an Oxford graduate.

¹⁴⁰ Sommerlad (n 113) 96.

Francis's study provides an understanding of the difficulties students encounter in the recruitment process in relation to commercial awareness.¹⁴¹ Francis argued that social class and educational background impacted on graduate perceptions of their employability and ability to meet firms' expectations. Although commercial awareness was presented as a neutral expectation all candidates could satisfy, candidates were in fact not 'equally positioned in terms of their ability' to do so.¹⁴² Francis's results showed that employers were open to hearing the 'story' about how different activities, such as part-time work in a shop, could demonstrate commercial awareness but this was not what they were expecting.¹⁴³ Francis argued that many students from non-traditional backgrounds, namely first generation, post-92 students, would probably not know they *can* tell the story or *how* to do so.¹⁴⁴

Theme 5 – the role of the law school

The above discussion outlines the importance of commercial awareness to employers and therefore to students but what is the impact on law schools? Collier explored neo-liberalism in law schools, noting the revised role of universities as stakeholders in a wider global knowledge economy.¹⁴⁵ The introduction of commercial awareness into curricula and the 'embedding of corporate cultures within law schools' were aspects of this process.¹⁴⁶ Collier recognised the reality that many law students will not find work in the legal profession, acknowledging the increasing tension between the growth of higher education and the lack of legal sector jobs.¹⁴⁷ These issues lead to questions about the role and purpose of law schools, in particular as to whether it is the responsibility of law schools to develop skills like commercial awareness.

¹⁴¹ Francis (n 10). See appendix II.

¹⁴² *ibid* 182.

¹⁴³ *ibid* 184.

¹⁴⁴ *ibid* 185. See also Fouzder (n 18) where a partner noted that waitressing or working at Waitrose could be used to show business acumen.

¹⁴⁵ Richard Collier "'Love Law, Love Life": Neoliberalism, Wellbeing and Gender in the Legal Profession – The Case of Law School' (2014) 17 *Legal Ethics* 202. See also Nicholas Saunders, 'From Cramming to Skills – The Development of Solicitors' Education and Training since Ormrod' (1996) 30 *Law Tchr* 168, 184-186 noting law schools were under pressure to identify graduate outcomes and emerging issues like improving trainees' commercial awareness; law schools 'increasingly are not their own masters'.

¹⁴⁶ Collier (n 145) 213. For further discussion of the impact of neoliberalism on legal education see Margaret Thornton, 'The Demise of Diversity in Legal Education: Globalisation and the New Knowledge Economy' (2001) 8 *Int'l J Legal Prof* 37.

¹⁴⁷ Collier (n 145) 224.

Arguments in favour of such an approach would undoubtedly focus on the broader higher education challenges of increasing student numbers (creating competition for employment), the introduction of fees (and the subsequent consumerisation of higher education) and the TEF. Some argue for a renewed focus by universities on knowledge and intellectual identity in supporting students to achieve their career goals.¹⁴⁸ Others call for an emphasis on supporting students in a process of self-transformation¹⁴⁹ or the creation of learning ecologies where knowledge and competencies are interconnected.¹⁵⁰ Law schools have significant choice in the approaches they may seek to adopt. However, regardless of which approach is taken, it is clear that the marketisation of higher education and the ongoing importance of the employability agenda means that law schools must focus on how they prepare students for the graduate recruitment process and that focus should include a consideration of commercial awareness.

Skills vs liberal legal education

The debate around skills vs liberal legal education has been explored in many articles outside this review¹⁵¹ but it has found some recognition in the results.¹⁵² Strevens et al found both positions complementary; graduates with academic knowledge and employability skills like commercial awareness would be the most attractive to employers.¹⁵³ Mytton and Gale noted that students are expected to gain business awareness.¹⁵⁴ However, whilst City firms push for such skills they may recruit from a narrow range of universities, less focused on employability.¹⁵⁵ Like Boden & Nedeva, Mytton and Gale recognised the employability push at post-92 universities in contrast to the more traditional

¹⁴⁸ Sue Clegg, 'Cultural capital and agency: connecting critique and curriculum in higher education' (2010) 32 *British Journal of Sociology of Education* 93.

¹⁴⁹ Michael Hall, 'Towards a parrhesiastic engagement with graduate employability' (2020) 12 *Power and Education* 110.

¹⁵⁰ Deborah J Cantrell, 'Are Clinics a Magic Bullet' (2014) *Alta L Rev* 831, 838-844.

¹⁵¹ Jessica Guth and Chris Ashford, 'The Legal Education and Training Review: regulating socio-legal and liberal legal education?' (2014) 48 *Law Tchr* 5. Rigg (n 2).

¹⁵² Strevens (n 59) 342. Turner (n 63).

¹⁵³ Strevens (n 59) 342. See also John Bell, 'Key Skills in the Law Curriculum and Self-Assessment' (2000) 34 *Law Tchr* 175, 178, 191.

¹⁵⁴ Elizabeth Mytton and Chris Gale, 'Prevailing issues in legal education within management and business environments' (2012) 54 *Int J.L.M* 311, 312.

¹⁵⁵ *ibid* 313. See also Ashley and Empson (n 11). Although more City firms are seeking to diversify their intakes – see <www.aspiringsolicitors.co.uk/about-as/our-supporters/> accessed April 2021 for firms supporting Aspiring Solicitors, an organisation that promotes student recruitment from non-Russell Group universities.

universities' concentration on academic skills. The authors also recognised the importance of business awareness if law graduates did not want or could not obtain a career in the legal profession,¹⁵⁶ underlining its importance as a transferable skill relevant to many graduate professions. If one accepts that a key role of the law school is to prepare students for the recruitment process, it is necessary to consider how law schools currently use the curriculum to develop commercial awareness.

The curriculum: clinical legal education, pro bono work and beyond

Diagram 1 identifies the conceptual articles that considered the development of commercial awareness in law school curricula¹⁵⁷ but few articles provided detail on how this development takes place – it is often simply assumed but not measured.

The development of commercial awareness in the context of pro bono and clinical legal education featured in some empirical articles. Cantatore found that students thought pro-bono work enhanced their industry awareness but the overall percentage improvement was not broken down by skill making it difficult to assess by how much.¹⁵⁸ The qualitative results indicated some students felt they developed industry awareness although it is unclear how many thought this, what they did and the type of clinic these students experienced. Blandy examined the impact of pro bono work on student employability, finding that although commercial awareness was a skill sought by commercial law firms, it was one of only two skills not mentioned in student responses.¹⁵⁹ Blandy found this understandable because students in the commercial law clinic did not participate,¹⁶⁰ reiterating the perception that commercial awareness is only required by commercial law firms and only acquired by those who have experienced commercial work. However, this

¹⁵⁶ Mytton and Gale (n 154) 313 around 40% of law graduates would go into practice.

¹⁵⁷ Lydia Bleasdale-Hill and Paul Wragg, 'Models of Clinic and Their Values to Universities, Students and the Community in the Post-2012 Fees Era' (2013) 19 *Int'l J Clinical Legal Educ* 257. C J Newbery-Jones, 'Screencasting ethics and values: teaching contemporary legal issues and collective legal values through live screencasting' (2016) 50 *Law Tchr* 242.

¹⁵⁸ Francina Cantatore, 'The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students' (2018) 25 *Int'l J Clinical Legal Educ* 147.

¹⁵⁹ Sarah Blandy, 'Enhancing Employability through Student Engagement in Pro Bono Projects' (2019) 26 *Int'l J Clinical Legal Educ* 7. See appendix II.

¹⁶⁰ *ibid* 32

position contrasts with employer and student views.¹⁶¹ Thanaraj's students thought they had developed business and commercial acumen working in a virtual law clinic.¹⁶² In contrast, Alexander and Boothby found some participants thought clinic had not really developed their business awareness and more focus was needed on client aims and understanding how businesses work.¹⁶³ Their study concluded that clinic provided 'limited exposure to aspects of commerciality',¹⁶⁴ and called for clinic to provide students with more experience of the commercial realities of legal practice. The employer participants in Strevens et al's study thought commercial awareness had to be learned in the 'real world' and could not be taught in university.¹⁶⁵ The authors disagreed, arguing that simulated clinical legal work could play a role by developing a practical and academic understanding of the law,¹⁶⁶ for example, considering the financial implications of a civil claim.¹⁶⁷ However, there were no student views on whether and how simulated activities developed commercial awareness.

Overall, these studies are helpful in providing evidence of student views of the impact of clinic and pro bono activities on developing commercial awareness. However, there are some limitations to the conclusions that can be drawn given that some studies had a relatively small number of respondents and some included limited qualitative evidence of how commercial awareness is actually developed. More research is needed on whether, how and to what extent clinic and more generally the curriculum is used to develop commercial awareness.

When?

Over time, the expectation as to when a lawyer must develop and demonstrate commercial awareness has been pushed back. Early practitioner literature suggested commercial awareness was needed to work as an established lawyer or for promotion.¹⁶⁸ Later, its development was positioned on the Professional

¹⁶¹ Etherington (n 22).

¹⁶² Ann Thanaraj, 'The Proficient Lawyer: Identifying Students' Perspectives on Learning Gained from Working in a Virtual Law Clinic' (2017) 14 US-China L Rev 137 – see appendix II.

¹⁶³ Alexander and Boothby (n 110) 67.

¹⁶⁴ *ibid* 70.

¹⁶⁵ Strevens (n 59) 340.

¹⁶⁶ *ibid* 340, 344.

¹⁶⁷ *ibid* 346.

¹⁶⁸ Bahl (n 20), Povey (n 58), Stratton (n 121) and early client surveys (n 58).

Skills Course¹⁶⁹ and the LPC,¹⁷⁰ reflecting the LETR recommendation. These potential development points do not recognise current law firm requirements. Etherington recognised that students are expected to display commercial aptitude at a very early stage of their career journey (in second year), noting that this expectation is moving backwards to first year and even prior to joining university.¹⁷¹ Huxley-Binns argued that because many students would begin paralegal work without undertaking an LPC, commercial awareness should be an important feature of the qualifying law degree. It would be inappropriate to study it for the first-time on the LPC as some students never take it.¹⁷² She concluded that commercial awareness belonged in undergraduate study to satisfy student requirements and expectations.¹⁷³ This position was acknowledged, but not recommended by the LETR.¹⁷⁴ If there is agreement that commercial awareness should be taught in an undergraduate law degree, one key issue for law schools is the willingness¹⁷⁵ and ability of academics to teach it in an already crowded curriculum.¹⁷⁶ As the list of required skills grows, so does the expectation that academics will be willing and able to teach those skills.¹⁷⁷

The Solicitors Qualifying Examination (SQE)

The introduction of the new SQE route to qualification as a solicitor in England and Wales is designed to widen access to the solicitors' profession and to provide flexibility in gaining qualification as a solicitor. An individual will be able to qualify as a solicitor after gaining a degree (or its equivalent), sitting

¹⁶⁹ Nigel Duncan, 'Gatekeepers Training Hurdles: The Training and Accreditation of Lawyers in England and Wales' (2004) 20 Ga St U L Rev 911. Nigel Savage, 'The System in England and Wales' (2002) 43 S Tex L Rev 597. This course is taken after a training contract has started.

¹⁷⁰ Scott Slorach and Philip Knott, 'The Development of Skills Teaching and Assessment on the English Legal Practice Course – A Nottingham Law School Perspective' (1996) 14 J Prof Legal Educ 189.

¹⁷¹ Etherington (n 22) 11-12.

¹⁷² This is likely to be more of an issue going forward given the LPC will end and be replaced by the Solicitors' Qualifying Examinations.

¹⁷³ Huxley-Binns (n 64) 304.

¹⁷⁴ LETR (n 31) para 4.69.

¹⁷⁵ See also Bell (n 153) 182.

¹⁷⁶ Dagilyte and Coe (n 6) 48 recognising the LETR's recommendations and calling for better quality pedagogy training for academics to deliver employment-ready graduates.

¹⁷⁷ For a pre-LETR view from the profession and the issue of 'Ivory Tower' researchers and academics with little understanding of the legal profession, see Grania Langdon-Down, 'Educating and Training Review: On the Right Track?' (2012) LS Gaz 14.

two centralised examinations¹⁷⁸ and undertaking 2 years of qualifying work experience.¹⁷⁹ There will be no requirement to do the LPC¹⁸⁰ and no ‘training contract barrier’ in terms of numbers of solicitors, potentially enabling paralegals to qualify as solicitors.¹⁸¹ It remains to be seen how law schools will respond to the SQE in detail – some may develop undergraduate programmes that include SQE preparation, or at least provide students with the option to include this, whilst others may leave the task to postgraduate courses.¹⁸² None of the papers considered the impact of the SQE on the issue of commercial awareness. Arguably, the SQE itself adds no clarity to the issue. Despite the discussion of commercial awareness in the LETR and its ongoing importance to the profession, the SQE assessment specifications do not mention commercial awareness.¹⁸³ The assessments seek to test the Solicitors Regulation Authority Statement of Solicitor Competence. This arguably includes some aspects of commercial awareness, namely, application of the law to the facts to produce the solution best suited to client needs and circumstances, understanding client needs, objectives and priorities and understanding the commercial, organisational and financial context in which solicitors work and their role in it.¹⁸⁴ However, it is left to the SQE student and educator to make that commercial awareness connection. In addition, the issue of when to teach commercial awareness, observed in the earlier discussion of

¹⁷⁸ SQE1 consists of multiple-choice questions and focuses on functioning legal knowledge. It will be taken after a law degree or other appropriate legal education. SQE2 examines practical legal skills and knowledge. It can only be taken after SQE1 has been passed.

¹⁷⁹ Character and suitability requirements must also be met –

<<https://www.sra.org.uk/become-solicitor/sqe/sqe-visuals>> accessed August 2021.

¹⁸⁰ Although the LPC will still continue to operate in its current form for some time for individuals seeking to qualify under the qualifying law degree route.

¹⁸¹ Although outside the remit of this paper, other barriers may exist, for example the financial costs of SQE1 and 2 preparation courses – £5,500 for each course at The University of Law – see <<https://www.law.ac.uk/study/postgraduate/sqe/courses/>> As at September 2021, the total cost to sit both examinations is £3,980 (SQE1 costing £1,558 and SQE2 costing £2,422). There are also unresolved issues about whether employers will want to re-employ paralegals as solicitors after qualification and uncertainty about salary expectations.

¹⁸² A range of providers are already advertising SQE preparation and revision courses, for example, The University of Law, QLTSchool and BPP.

¹⁸³ For SQE1 assessment specification see <<https://sqa.sra.org.uk/exam-arrangements/assessment-information/sqe1-assessment-specification>> accessed August 2021. For SQE2 assessment specification see <<https://sqa.sra.org.uk/exam-arrangements/assessment-information/sqe2-assessment-specification>> accessed August 2021.

¹⁸⁴ See <<https://www.sra.org.uk/solicitors/resources/cpd/competence-statement/>> at A4b, B3a and D3a.

the LETR and the LPC,¹⁸⁵ is not resolved. Most taking SQE1¹⁸⁶ will do so following a degree or SQE preparation/revision course. It is likely that the key points of recruitment to the profession will remain the same, with many law firms expecting students to demonstrate commercial awareness during their second year of undergraduate study¹⁸⁷ or on graduation when seeking work as a legal professional. Whilst law schools will potentially have more freedom in terms of what they teach¹⁸⁸ and certainly opportunity to take different approaches,¹⁸⁹ the push for teaching commercial awareness still clearly comes from the solicitors' profession and not its regulatory body. Law schools are likely to use the advent of the SQE as an opportunity to refresh and reframe their programmes in order to provide the best possible launchpad for their students when seeking graduate employment.¹⁹⁰

Conclusions

What is commercial awareness?

The results provided no clear and agreed definition of commercial awareness; this research produced a limited range of definitions with some commonalities.¹⁹¹ Complex definitions and taxonomies may serve more to confuse than to aid understanding, particularly for students unfamiliar with the graduate recruitment process, and for academics tasked with developing commercial awareness. Fluidity in the definition causes similar problems; as commercial awareness changes over time, students and academics must keep pace with these changes. In law, a streamlined yet flexible definition, is needed. A suggested definition of commercial awareness is understanding: (1) law firms, their clients and the sectors in which they operate; (2) how external influences (political, social, economic and technological) impact on law firms, clients and their respective sectors and the advice law firms provide; (3) that

¹⁸⁵ Huxley-Binns (n 64).

¹⁸⁶ n 178.

¹⁸⁷ The largest law firms take on the most trainees, see The Law Society Report (n 1) 45-6, and typically recruit in the second year of undergraduate study.

¹⁸⁸ Although students will no longer need a qualifying law degree to become a solicitor it is required for those seeking to become a barrister.

¹⁸⁹ Alex Nicholson, 'The value of a law degree' (2020) 54 Law Tchr 194.

¹⁹⁰ Many larger law firms provide financial assistance to students selected in their second year, such as payment of LPC fees and/or maintenance grants. For a discussion of potential ways of adding 'value' to a degree see Alex Nicholson, 'The value of a law degree – part 2: a perspective from UK providers' (2021) 55 Law Tchr 241.

¹⁹¹ See Diagram 2.

the legal rights and remedies of clients may not always best suit their objectives; and (4) that a law firm is a business - lawyers need to make money to stay in business.¹⁹²

The picture is further complicated because the literature suggests that different stakeholders (students, employers and academics) have different perspectives. Law firm views on the definition of commercial awareness have been considered in a fairly limited way but certainly in more depth than those of law students and academics. Further research is needed to ascertain their views, especially whether these stakeholders include the 'law firm as a business' within the definition.

How important is commercial awareness as a graduate skill and why?

The results confirmed that commercial awareness is an important skill for graduate employers. Whilst there may be variations in its importance according to sector, overall the results supported the employer survey evidence that it is required in many graduate professions. The increase in the number of articles the review produced that consider commercial awareness suggests a growing academic acknowledgement of its importance over the last 10 years. However, commercial awareness is not a 'new' skill and graduate deficiencies in commercial awareness have been a concern for many years.¹⁹³

For law firms, the growing importance of commercial awareness, especially over the last 20 years, is clear and the results allow for some conclusions to be drawn. The phrase 'commercial awareness' became more commonplace in the 1980s at a time of some critical changes to the legal profession in terms of regulation, competition and marketing. Its importance grew as firms adapted to these changes throughout the 1980s and 1990s. The 'old' professionalism was not enough – firms had to and continue to have to adapt to succeed and survive. The requirement for commercial awareness has been inspired and driven by client demand, particularly in commercial law firms – if a firm and its lawyers are not commercially aware, clients will go elsewhere. Although initially commercial awareness appeared to be linked to promotion to partnership,

¹⁹² This definition could be adapted for other graduate professions replacing 'law firms' with 'employer organisations' and 'lawyers' with 'employers' and adapting (3) as necessary.

¹⁹³ Employer surveys (n 5, 12, 17) and Mason (n 13) 97, 99.

moving firms,¹⁹⁴ specialisms and/or in-house roles,¹⁹⁵ over time its importance has filtered down the profession; commercial awareness, or at least an understanding of it, is now expected from trainees and students.¹⁹⁶ In summary, commercial awareness has played a key role in the ongoing transition of the legal profession from a traditional profession to one where the law firm as a business takes centre stage. Naturally, this transition has implications for those the profession seeks to recruit in terms of what it requires from candidates and how those candidates then seek to position themselves to become 'ideal' candidates. There is evidence that some view commercial awareness as required only of those seeking employment in commercial and corporate law firms, a position acknowledged in the LETR, but the results suggest commercial awareness is needed in other types of firm and will benefit non-commercial clients. Research involving law firms is needed to consider these points. More research is also needed on how law students view the importance of commercial awareness as a graduate skill, how competent they feel in that skill and whether they think the type of firm they apply to impacts on its importance. The importance of commercial awareness to the Bar and whether it has impacted on that profession in the same way as it has on law firms over the last 40 years should also be explored.

How do students develop commercial awareness and can it be taught during their legal education?

The results indicated that there is a clear role for universities in developing students' commercial awareness and suggested methods of development. However, the results lacked detail and evidence on how this development takes place and what academic support is needed. Honeycombing commercial awareness throughout the curriculum in different ways is a sensible approach. However, students need explicit signposting so that they can make a definite link between the activity and their development of commercial awareness.¹⁹⁷

¹⁹⁴ Yvonne Smyth, 'Heading for Recovery' (2010) 160 NLJ 505.

¹⁹⁵ Bahl (n 20). Mary Mullally, 'Moving away from the Legal Mindset' (2006) 2 In-House Persp 5 – lawyers who 'just lawyer' don't last long – business aptitude is needed. Povey (n 58).

¹⁹⁶ The author recently advised a student preparing for an interview as a legal secretary. The job specification required the secretary to have commercial awareness.

¹⁹⁷ Poon (n 61) 62 most academics explicitly mentioned 'commercial awareness' when teaching and explained its meaning. Poon and Brownlow (n 72) 349 suggested rewriting learning outcomes. See also Bell (n 153) 191 noting academics need to be more explicit about the skills development to allow students to better articulate skills when applying for

Further, a detailed consideration is needed of the inter-play between curricular, extra-curricular and co-curricular activities in developing commercial awareness and the varying roles of the university, the law school and the individual student in achieving competence. The impact of technologies of self and the roles law students take in developing their commercial awareness should also be explored. This would provide educators with an authentic understanding of how those tasked with accessing the legal profession go about becoming the candidates prescribed by law firms and how much support they feel they have and indeed want from academics. Further, this would provide law schools with an understanding of how they can help prepare students for the graduate recruitment process, particularly those who may not have the cultural, social or personal capital necessary to access employment.¹⁹⁸ Equally, many students who possess such capital may need explicit signposting as to the how they too can develop and demonstrate commercial awareness. It should not be assumed that those students are automatically commercially aware. Further research is also needed on the impact of gender on a student's ability to develop and demonstrate commercial awareness.¹⁹⁹

The results indicated that academics in some disciplines recognise the importance of commercial awareness but their views may differ from students' views. Further research is required on the views of law school academics, particularly on the importance of commercial awareness and whether they feel it is their responsibility to teach it. As there is ambiguity over what commercial awareness means, many academics, particularly those from a non-practice background, may struggle to conceptualise commercial awareness and its importance, and/or to teach it. More research is needed on how law students feel they develop commercial awareness when participating in clinical legal education²⁰⁰ and pro bono work as these experiences become ever more popular ways for students to evidence their employability skills. There may be limitations on how far clinic can provide the 'law as a business' experience. As

jobs. See Trina Jorre de St Jorre and Beverley Oliver, 'Want students to engage? Contextualise graduate learning outcomes and assess for employability' (2018) 37 Higher Education Research & Development 44, 55 for a more general discussion of the need for explicit signposting of employability skills.

¹⁹⁸ Phillip Brown and Anthony Hesketh and Sara Williams, 'Employability in a Knowledge-driven Economy' (2003) 16 *Journal of Education and Work* 107.

¹⁹⁹ Jonathan P Black and Malgorzata Turner, 'Why are fewer women than men from top UK universities still not securing Graduate Level Jobs?' (2016) 42 *Oxford Review of Education*, 42. See appendix II.

²⁰⁰ Marson and others (n 18) 30 noting the ongoing need for research into clinical legal education to see if it develops skills and insight into practice.

with law school academics, clinic supervisor views on commercial awareness should be explored. Supervisors from different practice/academic backgrounds, with differing interests and experience, may place a different emphasis on commercial awareness. If academics and supervisors do not appreciate the importance of commercial awareness, they may be less likely to provide explicit focus on it when teaching. This may impact on student ability to understand and demonstrate commercial awareness during the graduate recruitment process.

The results showed that the importance of commercial awareness has been pushed back in the career journey over time. However, academia has perhaps been slow to acknowledge its importance with commercial awareness becoming more of a focus only in the last few years, particularly after the publication of the LETR. For students, it is much too late to learn about commercial awareness after graduation, particularly when many firms recruit during the second year of a law degree and where many students do not take the LPC or enter the legal profession. The impact of the SQE on the profession is yet to be fully understood more broadly, but it seems unlikely that it will alter the desire within the legal profession for commercially aware graduates.

How can students demonstrate commercial awareness during the graduate recruitment process?

Many studies provided evidence that commercial awareness was assessed during the graduate recruitment process. However, none were explicit on what employers actually did and how students demonstrated commercial awareness. More empirical research is needed on law students' experience of how commercial awareness is assessed and what issues students encounter when trying to demonstrate it during their recruitment journey. This will help academics to understand more about how to prepare students.

Commercial awareness is and will continue to be a key graduate skill for law students in England and Wales. It is anticipated that legal educators in other jurisdictions will find the issues raised by this article pertinent. Commercial awareness will be relevant to law students irrespective of career choice and required to ensure ongoing development and success in careers that will evolve over time in an increasingly globalised workplace. For law schools, a failure to build commercial awareness into the curriculum, provide guidance on how it is developed and support on how to articulate it to employers, may be a failure

of its students, particularly given the latest research on employer requirements following COVID-19.²⁰¹ The author is carrying out empirical research involving students and academics at the author's institution focusing on some of the research gaps outlined in this article. It is hoped that the findings will provide more guidance for law schools on how best to support students. It is also hoped that the findings will provide employers with more insight into the challenges many students face, particularly those in post-92 institutions in England and Wales. All law schools, not just those within post-92 institutions, need to ensure that students understand commercial awareness and its importance so that at that crucial point in their career journey – the application form, the interview, the assessment centre - they know *what* their commercial awareness story is and *how* to tell it.

²⁰¹ ISE 2020 (n 27).

Appendix I: Systematic Review Results

Empirical

1. Jill Alexander and Carol Boothby, 'Stakeholder Perceptions of Clinical Legal Education within an Employability Context' (2018) 25 *Int'l J Clinical Legal Educ* 53.
2. Sarah Blandy, 'Enhancing Employability through Student Engagement in Pro Bono Projects' (2019) 26 *Int'l J Clinical Legal Educ* 7.
3. Duncan Bentley and Joan Squelch, 'Employer Perspectives on Essential Knowledge, Skills and Attributes for Law Graduates to Work in a Global Context' (2014) *Legal Educ Rev* 95.
4. Jonathan P Black and Malgorzata Turner, 'Why are fewer women than men from top UK universities still not securing Graduate Level Jobs?' (2016) 42 *Oxford Review of Education* 42.
5. Mohamed Branine, 'Graduate recruitment and selection in the UK A study of the recent changes in methods and expectations' (2008) 13 *Career Development International* 497.
6. Francina Cantatore, 'The Impact of Pro Bono Law Clinics on Employability and Work Readiness in Law Students' (2018) 25 *Int'l J Clinical Legal Educ* 147.
7. Gordon Clark and others, "'It's everything else you do...": Alumni views on extracurricular activities and employability' (2015) 16 *Active Learning in Higher Education* 133.
8. Laurence Etherington, 'Public professions and private practices: access to the solicitors' profession in the twenty-first century' (2016) 19 *Legal Ethics* 5.
9. Andrew Francis, 'Legal Education, Social Mobility, and Employability: Possible Selves, Curriculum Intervention, and the Role of Legal Work Experience' (2015) 42 *JL & SOC'Y* 173.
10. Florian Gebreiter, 'Making up ideal recruits Graduate recruitment, professional socialization and subjectivity at Big Four accountancy firms' (2020) 33 *Accounting, Auditing and Accountability Journal* 233.
11. Jacqui Gush, 'Assessing the role of higher education in meeting the needs of the retail sector' (1996) 38 *Education + Training* 5.

12. Hanlon and Jackson, 'Last Orders at the Bar? Competition, Choice and Justice for All – The Impact of Solicitor-Advocacy' (1999) 19 *Oxford Journal of Legal Studies* 95.
13. Denise Jackson and Elaine Chapman, 'Non-technical skill gaps in Australian business graduates' (2012) 37 *Education + Training* 541.
14. Steve Mishkin, 'How Can Law Librarians Most Effectively Provide Legal Research Training?' (2017) 17 *L.I.M.* 34.
15. Alan Paterson and others, 'Competition and the Market for Legal Services' (1988) 15 *JL & Soc'y* 361.
16. Joanna Poon, 'Real estate graduates' employability skills. The perspective of human resource managers of surveying firms' (2012) 30 *Property Management* 416.
17. Joanna Poon, 'Commercial awareness in real estate course' (2014) 32 *Property Management* 48.
18. Joanna Poon and Michael Brownlow 'Students' views on the incorporation of commercial awareness in real estate education' (2014) 32 *Property Management* 326.
19. Joanna Poon and Mike Hoxley and Willow Fuchs, 'Real estate education: an investigation of multiple stakeholders' (2011) 29 *Property Management* 468.
20. Mahbub Sarkar and others, 'Academics' perspectives of the teaching and development of generic employability skills in science curricula' (2020) 39 *Higher Education Research & Development* 346.
21. Venetia Saunders and Katherine Zuzel, 'Evaluating Employability Skills: Employer and Student Perceptions' (2010) 15 *bioscience education* 1.
22. Sarah Saunders, 'The application of practical legal research in the solicitor's office' (2004) 4 *L.I.M.* 44.
23. Mike Sleaf and Helen Reed, 'Views of sport science graduates regarding work skills developed at university' (2006) 11 *Teaching in Higher Education* 47.
24. Hilary Sommerlad, 'The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change' (2011) 18 *Int'l J Legal Prof* 73.
25. Caroline Strevens and Christine Welch and Roger Welch, 'On-Line Legal Services and the Changing Legal Market: Preparing Law Undergraduates for the Future' (2011) 45 *Law Tchr* 328.

26. Ann Thanaraj, 'The Proficient Lawyer: Identifying Students' Perspectives on Learning Gained from Working in a Virtual Law Clinic' (2017) 14 *US-China L Rev* 137.
27. Juliet Turner and Alison Bone and Jeanette Ashton, 'Reasons why law students should have access to learning law through a skills-based approach' (2018) 52 *Law Tchr* 1.

Conceptual

1. John Bell, 'Key Skills in the Law Curriculum and Self-Assessment' (2000) 34 *Law Tchr* 175.
2. Lydia Bleasdale-Hill and Paul Wragg, 'Models of Clinic and Their Values to Universities, Students and the Community in the Post-2012 Fees Era' (2013) 19 *Int'l J Clinical Legal Educ* 257.
3. Rebecca Boden and Maria Nedeva, 'Employing discourse: universities and graduate "employability"' (2010) 25 *Journal of Education Policy* 37.
4. Graham Chapman and John Martin, 'Developing Business Awareness and Team Skills: The Use of a Computerised Business Game' (1996) *Journal of Engineering Education* 103.
5. Richard Collier "'Love Law, Love Life": Neoliberalism, Wellbeing and Gender in the Legal Profession – The Case of Law School' (2014) 17 *Legal Ethics* 202.
6. John Flood, 'The re-landscaping of the legal profession: Large law firms and professional re-regulation' (2011) 59 *Current Sociology* 507.
7. Rebecca Huxley-Binns, 'What is the Q for?' (2011) 45 *Law Tchr* 294.
8. Emma Jane Jones, 'Affective or defective? Exploring the LETR's characterisation of affect and its translation into practice' (2018) 52 *Law Tchr* 478.
9. Gayle Gasteen, 'National Competency Standards: Are They the Answer for Legal Education and Training' (1995) 13 *J Prof Legal Educ* 1.
10. Vinny Kennedy, 'Pro Bono Legal Work: The disconnect between saying you'll do it and doing it' (2019) 26 *Int'l J Clinical Legal Educ* 25.
11. Helen Marshall and Kelly Taylor, 'Up the Value Chain: Transition from Law Librarian to Research Analyst' (2016) 16 *LIM* 207.

Appendix II: Findings from Empirical Research

Authors	Year	Paper Considers...	Sample	Method	Main Outcomes	Themes
Alexander & Boothby	2018	Impact of clinical legal education on employability.	9 north east law firms, 6 students, 8 alumni and 10 staff.	Focus groups.	Employers want commercial graduates. Participants felt clinic did not develop their commercial awareness.	Importance. Role of clinical legal education.
Bentley & Squelch	2014	Impact of internalisation on what Australian legal employers want and what law graduates need from legal education.	70 participants from private practice, professional associations, government legal human resources, companies and academia.	Focus groups.	Business awareness needed to communicate in an international setting.	Changing legal profession.
Blandy	2019	Impact of pro bono work on student employability.	23 students and 29 graduates (22% and 21% response rate respectively) - civil and miscarriages of justice clinics.	Survey.	Commercial awareness not mentioned in responses although online advice shows it is required.	Role of pro bono work.
Black & Turner	2016	Why female Oxford undergraduates are less likely to obtain graduate roles than male counterparts.	853 – 28% response rate.	Survey.	Women lack confidence in commercial awareness during graduate recruitment process. Commercial awareness could be practised and learnt – unclear how.	Gender.

Authors	Year	Paper Considers...	Sample	Method	Main Outcomes	Themes
Branine	2008	Ranking graduate skills and identifying deficiencies in skills.	326 employers from a range of sectors. 50% response rate.	Questionnaire.	24% of respondents failed to fill graduate vacancies - most identified lack of business awareness as a reason. Commercial awareness ranked as least important skill.	Stakeholder views.
Cantatore	2018	Impact of clinic on student employability.	33 students in four pro bono clinics (including commercial law) Control group of 34 students with no clinical experience. Response rate unclear.	Survey.	Graduate skills enhanced by 13% in clinic group – unclear how much industry awareness increased.	Role of pro bono work.
Clark, Marsden, Whyatt, Thompson & Walker	2015	Impact of extra-curricular activities on employability.	620 Lancaster University graduates. 4.4% response rate.	Questionnaire and interviews.	44.4% saw commercial awareness required for first job. 22.6% perceived development from extra-curricular activities; 22.7% from degree. Paid employment only extra-curricular activity that developed commercial awareness a lot.	Role of the university and the individual.

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Etherington	2016	Trainee solicitor recruitment process. Importance of commercial awareness, professionalism and ethics to law firms.	6 law firms - international, regional firms and small specialist regional. 28 student responses (5 universities). Low response rate, mainly experience with medium-large firms – some with other types of firm but unclear.	Interviews. Surveys.	All except 1 assessed commercial awareness. Focus on commercial awareness contrasted with focus on professionalism and ethics.	Changing legal profession. Graduate recruitment process.
Francis	2015	Employability, social mobility and curriculum design in law schools.	50 law firms surveyed, 16 interviewed. Students at 2 universities. Variable response rates (between 21% and 67.5%).	Questionnaire, focus groups, interviews.	Candidates aren't equally positioned in demonstrating commercial awareness.	Graduate recruitment process.
Gebreiter	2020	Impact of graduate recruitment practices of Big 4 accountancy firms on students.	37 students and 2 careers advisers at 1 university.	Interviews.	Constructive role of graduate recruitment practices. Importance of commercial awareness during recruitment.	Role of individual.
Gush	1996	Role of higher education in meeting needs of retail sector.	6 retailers.	Interviews.	Commercial awareness more important, than technical skills.	Stakeholder views.
Hanlon & Jackson	1999	Views of law firm clients.	25 individuals representing clients based in Scotland.	Interviews.	Clients prize commercial awareness.	Client power.

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Jackson & Chapman	2012	Views of academics and employers on skills and workplace behaviours of Australian business graduates.	211 individuals from 143 employers. 156 academics from 34 universities.	Survey.	31.2% of employers rated graduate commercial awareness as weak in contrast to 23.3% of academics. Commercial awareness needed further consideration by universities - curricula realigning more with employer needs.	Graduate competence. Stakeholder views. Role of universities.
Mishkin	2017	How law librarians can provide adequate legal training to library users.	62 law firms.	Questionnaire and interviews.	Universities provide basic research skills but not complementary commercial awareness needed to work in law firms.	Role of law schools.
Paterson, Farmer, Stephen & Love	1988	Impact of competition and advertising on the conveyancing market.	675 conveyancing firms in England and Wales. 84.8% response rate.	Survey.	Commercial awareness linked to firms market conscious of pricing and using advertising.	Changing legal profession.

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Poon	2014	Views of real estate academics on commercial awareness.	28 completed questionnaires, could limit general applicability of results. 9 interviews.	Questionnaire and interviews.	<p>Most important definition = ability to understand economics of a business; least important = understanding wider environment in which businesses operate.</p> <p>Taxonomy – strategic, most important.</p> <p>Ranked all skills highly for development of commercial awareness - problem solving and updating knowledge most important.</p> <p>Embed real world experience into curriculum – presentations, seminars, placements, internships.</p>	<p>Definition.</p> <p>Stakeholder views.</p> <p>Role of universities.</p>

Authors	Year	Paper Considers...	Sample	Method	Main Outcomes	Themes
Poon & Brownlow	2014	Repeated above study with students.	250 completed questionnaires. 17 email discussions. Discrepancy in sample sizes.	Questionnaire and email discussions.	Most important definition same as for the academics; least important = understanding and identifying clients through culture and language. Taxonomy – financial most important. Ranked all skills highly - critical thinking and updating knowledge most important. Students saw development through lectures, mentoring, simulated activities and work experience.	As above.
Poon, Hoxley & Fuchs	2011	Development of graduate skills on real estate courses.	Graduates and employers – mixed response rate of 18% and 6.5% respectively. 5 academics. 4 HR managers.	Questionnaire & interviews.	Statistically significant difference between employer importance and graduate competence. Academics and employers unsurprised by gap.	Stakeholder views.
Poon	2012	Views of HR managers on development of graduate skills.	8 HR managers.	Interviews.	Commercial awareness a top 3 selection criteria. No difference between graduates and undergraduates.	Stakeholder views.

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Sarkar, Overton, Thompson & Rayner	2020	Teaching and development of employability skills in Australian and UK universities.	Unclear on number of academics responding - respondents responsible for 189 units of study. 17 interviews.	Survey and interviews.	Commercial awareness developed in 20% of units and assessed in 8%; much lower than other skills. Lack of emphasis on commercial awareness disadvantages students.	Role of universities
Saunders	2004	Effectiveness of legal research education.	6 Cardiff law firms responsible for 35 trainee and newly qualified solicitors, 65% response rate.	Questionnaire & interviews.	Lack of commercial awareness in a research context.	Role of law schools.
Saunders & Zuzel	2010	Views of bioscience students and graduates. Views of employers on importance of graduate skills.	17 students – 77% response rate, 16 graduates – 31% response rate. 29 employers – 49% response rate.	Questionnaire.	Students and graduates felt deficient in commercial awareness. Employers saw commercial awareness as the least important graduate skill. Commercial awareness more likely to be developed in workplace than university.	Graduate competence. Stakeholder views. Role of universities
Sleap & Read	2007	Views of sport science students on workplace skills developed at university.	57 – 41.3% response rate.	Questionnaire.	70% thought commercial awareness needed in employment but 23% thought developed a lot at university; 53% a little; 24% not at all.	Role of universities.

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Sommerlad	2011	Law firm recruitment practices.	LPC students (Russell Group and Post-92 institution – response rate unclear), partners and HR personnel in law firms.	Questionnaire, focus groups (students) and interviews (firms).	Commercial ability required more and more. Entrepreneurial identity displacing professional identity. Commercial awareness key part of application process.	Client power. Graduate recruitment process.
Strevens, Welch & Welch	2011	How graduate employability developed through a law degree.	9 high street and regional law firms - south coast of England.	Interviews.	Commercial awareness desirable.	Definition.
Thanaraj	2017	Skills developed in a virtual law clinic.	10 students.	Interviews.	Commercial awareness developed.	Role of clinical legal education.
Turner, Bone & Ashton	2018	How optional courses enhance student employability.	64 pre-course survey. 20 post-course survey. Low response rate noted as limitation. 6 focus group participants.	Surveys. Focus group.	Pre – expected to develop commercial awareness. Post – not mentioned. Identified in focus groups.	Role of law schools.