

The Role of Academics in Legal Education and Training: a chance to consider the future of legal education and training in the light of the LETR Report

Notes from Discussion Sessions

Notes from Session 1

Ethics and values

It was agreed that the general point should be made that teaching ethics will not prevent all professional misconduct. There was no support for teaching professional ethics, which it was noted was being done well by the Bar already. There was also quite a strong feeling that many law teachers are already teaching/ discussing values. Equally, it was suggested that adopting a socio-legal approach would help to embed questions of values throughout the curriculum. It was noted that academic economists are currently looking at whether philosophy, history and some other similar subjects should feature in the curriculum as part of their soul-searching about the financial crash; maybe Law should do the same?

Participants discussed how they taught ethics and values in undergraduate degrees (in particular) and whether students were aware they had been covered. There were a number of examples, including an institution with a core module in year 1 called Values and Law, introduction to professional codes as part of the machinery of the legal system in Legal Methods, how it has been and is now taught on the BPTC. Jurisprudence – which might be described as “legal theory” – was or was not mandatory in different institutions. It was suggested that it was important for students on the professional courses to engage with jurisprudential ideas in conjunction with the professional code, so the jurisprudential approach shouldn't be confined to the undergraduate degree. It was also suggested that it is important to take a stage - appropriate approach to teaching values/ethics, and to remember that not all undergraduate law students become lawyers.

Questions of definition were discussed, as was the important question of the extent to which individual teachers could or could not teach their individual subjects without some questions about values being raised. Another way of putting the issue might be trying to identify what the gaps would be if “values” issues were taken out of the curriculum. Suggestions were made that rather than waiting for the regulators to agree, the subject associations and academics in general should present their conclusions about how ethics and values could and should be covered. This would involve taking the initiative not simply in design but allowing educators to go beyond the base standard that might be a concern of the regulators. This led to debate about delivery for individual students from different groups and the challenge of prompting discussion, as well as the expression of different views about difficult subjects such as abortion without students feeling that attempts were being made to change their minds.

It was suggested that if ethics is to be pervasive, the framework for achieving this should be clearly articulated, but there are many different ways of delivering content and there should be flexibility to take account of this.

The seven foundations

There was discussion of existing approaches and constraints, not merely from regulators (e.g. universities which require 20 credit modules) and whether some subjects were intrinsically easier than others (and might therefore more naturally fit in year 1 or year 3) or whether the latter was a question of delivery. It was noted that the existence of the 7 Foundations was led by the professions, and that the idea of thinking like a lawyer needed to be examined. It was also noted that there are a number of 'urban myths' circulating about the Joint Statement and its requirements, and that it is not as prescriptive as some people say.

There was considerable debate about the extent to which there should be additional content prescription, and the extent to which, for example, some topics are so inherently “core” that they will be taught anyway, or the extent to which some subjects might omit topics of relevance to the disadvantaged (e.g. whether land law modules extend to cover housing law) or needed for LPCs (e.g. leaseholds). This led to a discussion, which was continued in the next session, about the relative merits of prescribing subjects, or prescribing skills. There was also discussion about whether changes in the legal professions open up possibilities for the legal curriculum.

Notes from Session 2:

It was noted that legal method, skills and system are all interrelated in different ways in different institutions. There was some support for teaching skills at different levels within the undergraduate degree. There was a discussion about the skills that are already inherent in legal study, and whether the ability to deal with information and deploy it might be enhanced to, for example, equip students with the critical ability to evaluate information available on the internet.

As far as more practice based or “employability” skills were concerned, there were questions about whether university was the right place to cover them. This was also true of 'commercial awareness'. There was agreement that the skills taught in a law degree should equip students to move on to any career, especially given the current rate of change in the employment market. There was also consideration of the balancing act between too much content which led to superficiality and not moving “too far” in the opposite direction.

Skills inherent in the law degree included argument, reasoning, understanding in depth and critical evaluation as well as digesting large amounts of information and time management. Jurisprudence/ethics topics foster skills in dealing with circumstances in which there are no right or wrong answers. There was consensus that skills were included but there might be different methods of delivery (e.g. as at the University of Law). On the other hand, there was less confidence that skills specified in programme module specifications and learning outcomes were genuinely assessed and, indeed, how far attention was paid to these documents. Self-awareness was mentioned in this context, including self-awareness by academics about the quality of their teaching and assessment. The affective dimensions of learning and teaching were also mentioned. It was suggested that in fact there are no skills which are specific to a law degree, because all the skills acquired during a law degree are transferable elsewhere. A narrow approach to outcomes was not advisable as students should be encouraged to learn to challenge assumptions and their teachers. Some “skills” (e.g. commercial awareness) it was suggested, should not be mandatory to all students, though they might be appropriate in suitable electives.

As to assessment, it was suggested that some topics or outcomes were adopted solely because they were susceptible of measurement, and that the key attribute of gradueness was an ability to apply basic principles in new circumstances and to new problems. If education focussed too much on skills we would be in danger of producing plumbers, not Pericles.

The question of the extent to which students could or should be involved in designing curricula was discussed, including the extent to which the NSS, and fear of “bad scores” inhibited creativity, as well as the need to teach subjects which are what students need, rather than what they like.

Discussion closed with a debate about the GDL. It was unclear how much flexibility there will be about how/ which skills there will be in the degree/ GDL / LPC etc. It is the case that some employers prefer GDL graduates or at least do not necessarily prefer LLB graduates. If it was possible to identify what about GDL graduates is attractive, could it be distilled and incorporated into the law degree? Suggestions included: age, currency of legal knowledge, topic of prior degree subject, commitment to the legal professions – or possibly just allowing law firms to recruit from a wider pool of high quality graduates. Discussion then ensued about the length of the LLB (compared with other jurisdictions’ 4 or 5 year degrees) and 2 year degrees and 3 year exempting degrees. It was noted that the LETR’s approach to what might be required of a QLD was constrained by what would fit into a GDL.

Notes contributed by Anthony Bradney, Jane Ching and Fiona Cownie, who co-chaired the parallel sessions at the conference.