

# directions

in legal education

## From education, education, education to skills, skills, skills!

In this editorial we focus on an issue that has implications not just for legal education, but the whole of English higher education.



On 18 July the new Department for Innovation, Universities and Skills (DIUS) published *World Class Skills* (Cm 7181), its response to the Leitch Review (reported in *Directions*, Spring 2007, p.3). At its core Leitch set ambitious targets for adult education and training as a key lever to boost UK productivity levels and bring the UK into the 'premier league' of skilled workforces. These targets intend that by 2020 95% of UK adults will have achieved "basic skills", more than 90% will have achieved at least level 2 and over 40% will have achieved at least level 4 – i.e. equivalent to completing the first year of an undergraduate degree.

The Leitch Review has been widely recognised as an important contribution to the interface between education and employment policy, but its analysis and prognosis has also met with a fair degree of scepticism from both academics and employers. Disconcertingly for the critics, aside from some quibbling over dates and targets, *World Class Skills* shows that the government has almost entirely accepted the Leitch Review's assessment of the role of education in the economy, and its solutions.

While higher education is not the primary focus of either Leitch or the DIUS proposals, (indeed, there are only a dozen substantive references to

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'universities' in this 79 page document) it would be unwise to assume that it will have no consequences for degree level and vocational higher education.

Among the key relevant proposals are:

- setting a revised target for HE participation to the extent that 36% of adults will be educated to level four and above by 2014 (currently the figure is about 29%)
- developing a new HEFCE funding model that is "co-financed with employers, achieves sustained growth in employer-based student places and introduces the principle of employer demand-led funding"
- the announcement of five thousand additional university places for 2008-09 to be jointly-funded by HEFCE and industry, with a strong focus on collaborative and work-based learning, with a further 5,000 additional entrants in each year up to 2010-11 expected
- establishing a new Commission for Employment and Skills and re-licensing Sector Skills Councils (SSCs), giving them an enhanced role in co-ordinating demand-led vocational education. SSCs and higher education institutions will be encouraged to extend their collaborative work
- a key role is also identified for DIUS itself, working with the Higher Education Regulation Review Group and the Gateways to Professions Collaborative Forum, in brokering partnerships between the professional bodies, SSCs and higher education institutions.

[continued on page 2](#)

So, what are the implications for universities, and their law schools in particular? Views, inevitably, will be mixed. Some will see this as further evidence that the barbarians are not just at the gates, but have been invited in, offered tea and biscuits and encouraged to make themselves at home. Others may regard it, more positively, as a significant opportunity to reinforce the relevance of HE to the knowledge economy, whilst possibly generating new funding streams for the universities.

Whatever one's view, it is clear that this post-Leitch vision signals another shift in focus and a re-ordering of the power relations that shape the world of higher education. The focus for both further and higher education is plainly directed towards what is rather euphemistically called "demand-led" education. This phrase is used at various points to equate to both learner- and employer-'led' provision, though on balance World Class Skills primarily emphasises the role of employers. As it observes:

**"all HE institutions need to grow their capacity to engage on a large scale with employers, in ways adapted to their different profiles and missions. Those activities should share equal status with research and academic activities. 'Business facing' should be a description with which any higher education institution feels comfortable"**

- World Class Skills, para 3.56

While there is some recognition here that employer engagement is not a one-size-fits-all matter, the message to higher education is clear - don't assume that a bit of knowledge transfer and a few references to generic and transferable skills will be enough: you need to take employers seriously as a key stakeholder.

Some of the policy implications of this need to be recognised. First, World Class Skills potentially puts a lot of faith in the rationality of markets, and the ability of a demand-led approach to deliver. Whether these proposals will in fact provide the skills outcomes the economy apparently needs is a moot point. The success of the Leitch policy will

depend substantially on both employers' willingness to pay and higher education's willingness to deliver, and their collective ability to identify where and how changes to and increases in higher level learning will make a difference.

Fortuitously, from the government's point of view, this proposal coincides with demographic changes that will see a substantial decline in the 18-20 population by 2020.

### Universities therefore are well aware of the need to develop new markets.

It is, however, also worth observing here that the crude market case for a change of focus is not as obvious as it appears. The delivery of higher level skills and more work-based learning clearly remains one avenue of expansion, and one worth an estimated £5 billion at that. But projections seem to suggest that the biggest dip in the birth rate will affect those social groups who are already under-represented in higher education. This is obviously double edged for the universities: it may mean that the recruitment downturn will be smaller in respect of their traditional markets than the bare statistics suggest, but equally that some widening participation is likely to become less effective as the numbers of 18-20 olds coming through continues to decline.

### Institutions are likely to face some important decisions about where they position themselves in relation to the workplace market, and the employment skills agenda may well serve to increase the fractionalisation of the university sector.

In this context a group of organisations that we have not yet heard a great deal about in higher education will also become increasingly important. These are the Sector Skills Councils (SSCs), including Skills for Justice, the SSC for the "justice sector" (also introduced in the last issue of Directions). Essentially employer-led organisations, they act as brokers between employers and training providers, and have been empowered to create and control the National Occupational Standards which contain the knowledge and skills outcomes prescribed, at various levels of achievement, for a growing range of occupations. These standards are increasingly seen to be at the core of the national qualifications and credit framework. The SSCs cannot directly impinge on the autonomy of universities to develop and validate their own awards, which sit outside that framework, but they can 'endorse' (ie recognise)

higher education programmes which satisfy their professional and occupational standards. They also have money and market information, and can claim to speak on behalf of the world of work. They are therefore powerful players.

However, the employer bodies will play into the hands of the critics if they seek to impose an unimaginative, atomistic, neo-NVQ approach to higher level skills. Equally, whilst we should not ignore the extent to which the employment agenda could represent a fundamental structural challenge to the disciplines and the construction of higher education as a distinct and distinctive branch of learning, it would be unwise of the universities not to engage (critically) with this agenda. No one will benefit if any such programmes offer little that really constitutes 'higher' learning. This is not an inevitable outcome, of course. In the law context, for example, the best clinical legal education courses, and simulations like the JISC/UKCLE SIMPLE project, demonstrate some of the ways in which the world of work can be properly conceived of and presented as a complex, problem-rich, multi-disciplinary learning environment. In these sorts of settings students can learn occupationally useful skills, put academic knowledge and skills to use, and engage critically with questions concerning how law works in the "real world".

Given what is at stake, it is important that the law schools, the professions, academic associations and individuals are prepared to engage critically but constructively with the key stakeholders in shaping this possible future. We cannot afford to ignore the writing that is clearly on the wall.

Julian Webb, UKCLE Director

#### Further reading:

Leitch Review of Skills  
[www.hmtreasury.gov.uk/independent\\_reviews/leitch\\_review/review\\_leitch\\_index.cfm](http://www.hmtreasury.gov.uk/independent_reviews/leitch_review/review_leitch_index.cfm)

Skills for Justice is the dedicated Sector Skills Council and Standards Setting Body for the Justice sector. For more details, see:  
[www.skillsforjustice.com](http://www.skillsforjustice.com)

For more details on the SIMPLE project, which involves the development of an open source transactional learning environment for learning in law and other professions, see:  
[www.ukcle.ac.uk/research/projects/tle.html](http://www.ukcle.ac.uk/research/projects/tle.html)

## School background does not influence results of law admissions test

The latest results released by the LNAT Consortium Ltd, which administers the Law National Admissions Test on behalf of the ten participating university law schools, show that variables such as school background, gender and class have less influence on performance in the LNAT compared with GCSEs and A levels. The test consists of two parts, a multiple-choice section and a short essay, which is not marked but is read by admissions tutors. The current results are derived from analysing performance in the multiple-choice questions.

These results show that school background, householder occupation and gender have much less of an impact on performance in the LNAT than might have been expected. For example, gender differences showed a difference in performance of only around 0.8 of a mark out of 30, while at A level, females out-perform males by 10%.

While these results show that the measures taken by LNAT to widen participation are working, there is still some concern that white British students continue to out-perform most ethnic minorities, both at A level and in the LNAT. Nevertheless, even in relation to ethnicity, the gap is much greater in A level performance. For example, only 1.9% of students from Black Caribbean backgrounds, 4.8% of Pakistani origin, 3.2% of Bangladeshi origin and 3.9% of Black African heritage obtained three or more Grade As at A level, as against 8.2% of white students. In LNAT performance, the differences were less pronounced, with white students in the larger group achieving an average score of 17.56, and Black Caribbean students 14.84. The gap shrank a little in the latter group, with average scores for White and Black Caribbean students standing at 18.32 and 16.2 respectively.

More details on the results can be obtained from the LNAT website at: [www.lnat.ac.uk](http://www.lnat.ac.uk)

## CLEA curriculum and model course on combating transnational crime

In today's highly interconnected world, where travel and instant communication have conquered distance, transnational crime takes on an added urgency. The traditional law school curricula, with their national focus, do not always prepare lawyers for the reality of transnational crime. The Commonwealth Legal Education Association (CLEA), which first looked at the issue several years ago, has now produced an updated and revised curriculum and model course on transnational crime.

Crime can be transnational for a number of reasons. The very nature of the crime, such as drug trafficking and cybercrime, can involve more than one country. Then there is the possibility that the evidence or even the culprit for a crime committed in one country is situated in another. Finally, the laundering of the proceeds of crime can involve more than one country.

There have been various international initiatives to tackle transnational crime, but it seems few law teachers incorporate discussions about it in their teaching. One reason for this is the lack of any information and course materials on the subject. The CLEA course materials are designed to meet this need. They cover mutual legal assistance; extradition; and anti-money laundering and proceeds of crimes. The materials can be used in any Commonwealth jurisdiction and the hope is that they will stimulate further research and writing in this area.

The updated material is available free of charge on the CLEA website at: [www.cleonline.org](http://www.cleonline.org)

## New Access to Higher Education Diploma is launched

The QAA is phasing in a new Access to Higher Education Diploma between now and Summer 2009 to replace existing QAA-recognised Access to HE certificates. The new award will be based on a more common structure, leading to a credit-based qualification which will require successful students to achieve 60 credits, at least 45 of which must be at Level 3 (with the remainder at Level 2).

The QAA has launched a dedicated website to advertise and support the new courses: [www.accesstohe.ac.uk](http://www.accesstohe.ac.uk)



# people

## HEA project to examine how teaching excellence is rewarded

A new initiative from the Higher Education Academy (HEA) could see academics more likely to win promotion as a result of good quality teaching. Although the full details have yet to emerge, the HEA will assess the systems individual universities use to reward good teaching and will also look at the extent to which teaching is rewarded in comparison with research.

[www.heacademy.ac.uk](http://www.heacademy.ac.uk)

Learning  
in  
Law 2008

Annual Conference

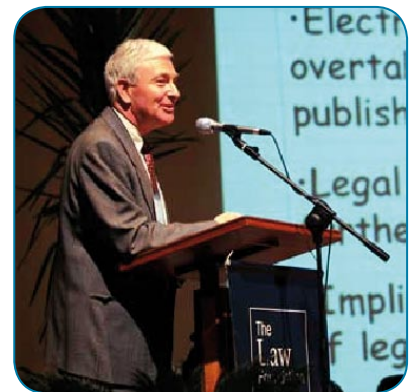
See the back page for details of the Learning in Law Annual Conference 2008

## A profile of... Avrom Sherr

Professor Avrom Sherr (Director, Institute of Advanced Legal Studies), who became Chair of the Advisory Board and Strategy Committee of the UKCLE earlier this year, has had a distinguished legal academic career that began at Warwick University, where he was a pioneer of clinical legal education. Professor Sherr's wide experience also includes five years of teaching at Liverpool University, where he developed research into the legal profession and teaching at UCLA, University of San Francisco, New York Law School, Touro College and a number of other US law schools.

Among the variety of areas of his academic interest are development of legal education, sociology of the legal profession, professional ethics, professional competence, legal services delivery and public funding for legal services. Professor Sherr has written in the field of human rights generally and specifically on freedom of protest, rights to religious observance and rights of people with HIV/AIDS. He was a member of the Lord Chancellor's Advisory Committee on Legal Education and Conduct, a member of the Judicial Studies Board Ethnic Minorities Advisory Committee and of the Race Relations and Equal Opportunities Committees of the Law Society of England and Wales. He is currently a member of the Advisory Board for the Legal

Services Complaints Commissioner. He also acts as a consultant to government and professional bodies on access to justice and professional training issues.



For more information visit:  
<http://ials.sas.ac.uk>

## Here Professor Sherr answers some questions for Directions.

### What challenges do you see for the future of legal education in the UK and what role do you see for the UKCLE in addressing those challenges?

Legal education in the UK is facing many challenges in a fast changing world. The following items are just some of those challenges:

There is insufficient money for higher education and the beneficial attempt to bring more people into higher education without funding them and their education properly is a cause for concern for the future if not today. The UKCLE is obviously not in any position to change this state of affairs, but a better recognition of the situation across the sector would be useful, and taking this into account is essential in all areas of its work.

The system for regulation of lawyers is changing and the new system does not yet allow sufficient involvement from academics in the process. Decisions made about Qualifying Law Degrees, the new Training Framework and Law firms' own LPCs all reflect on the way in which university legal education is carried out. We need a strong and continuing presence on the bodies which make the final decisions on these issues. This is not an area in which the UKCLE has been sufficiently represented yet and it would be good to hear its voice in the appropriate places.

The massive changes in the technology of legal information demand different approaches to teaching, researching and understanding law. We have hardly begun to address these problems and bring ourselves into the new world. We must adapt our teaching and what we teach to new knowledge horizons.

The UKCLE has already been at the forefront in some areas of change and technology is certainly one of them through its fostering of the virtual world of the SIMPLE project. More blowing of its own trumpet on this item would be a good idea.

### In your opinion what factors are necessary to the further development and recognition of legal education scholarship in the UK? And what do you see as the UKCLE's role?

I would like to see more research on law, lawyers and legal education coming out of the current SLSA revisiting of socio-legal work. We need to know far more about the changing make up of the students and lawyers who will be so important in looking after the legal needs of people and organisations in our changing economy, environment and world need. We should also be doing far more to bring the scholarship of education itself into the postgraduate curriculum for all those who wish to teach law. In order to do this we must carry out necessary research to link the information which

exists in relation to other subject areas into our own, because lawyers are often reluctant to listen to learning relating to other disciplines.

The UKCLE has already carried the flag for this latter area since its inception. It does an excellent job in bringing education scholarship to the troops of teachers. Tied in with the excellent new LLM on Legal Education at Warwick, it should be possible now to take this issue further as an acceptable research option.

### If you could change one thing about UK higher education, what would it be?

I would try to fund it better.

### Finally, which person inspires you most, and why?

The person who most inspires me is my late father. For most of his life he worked for a large merchanting company in the centre of London, but his delight was to be involved in teaching which he did almost as a pastime, and part time, for some 40 years. He taught children in evening and Sunday religious school (Cheder). He was a "born teacher" and could well have taught anything, but he had left school to look after his mother and family very soon after his father died when he was 14. Soon after that came the War and very little opportunity to continue any further learning.

He loved the awakening of intellect, the dawn of understanding especially in children. He knew three things which I believe are an essential part of teaching at any level: patience, encouragement and silence. He was never

judgemental - but the subjects of his silence could tell you worlds of feeling. He knew that everybody has intellect and emotion and both could be combined into the production of good ideas and work and understanding - but that the key to one person's understanding might not be the same as that of the next person. Sometimes it was important as a teacher just to wait. Not everyone could answer or understand instantly and sometimes a slower development might be more complete and more deep.

In later years I would recount my day to him by phone during my journey home. I miss that most of all. Not that he would say very much - just the odd question here and there. But his ability to listen taught me more as a researcher, as a lawyer, as a teacher and as a parent than anything else.

# centre projects

## A profile of Scots Law Students 2002-2005

by Jenny Hamilton and Scott McMaster

The issue of student debt in England was initially examined by Mike Cuthbert of Northampton University by way of the Law Student 2000 project funded by the UKCLE.

In 2002 the UKCLE agreed to fund a similar survey of Scots law students. However, because there had been very little previous study of Scots law students it was decided to expand the subject matter to encompass not only issues regarding debt, but also issues around student backgrounds, socio-economic status, schooling, what motivated them to study law, and career aspirations. The study was longitudinal, attempting to track student cohorts who began their academic careers in 2002 across a number of years, with a view not only to tracking their debt, but also to find whether their career aspirations had changed over this period. Six of the (then) eight law schools agreed to take part, although one (post 1990) law school did not continue with the survey past the first year.

### Background

Results found that the intake of law students are predominately middle class, of Scottish origin and now predominately female (contrasting with the position in the 1970s when approximately 20% were female). In terms of ethnicity the results broadly reflect a balance in line with the ethnicity of the Scottish population (less than 3% in the 2001 census).

Interestingly, over half (51%) of direct entrants to law school came from state secondary schools, while less than a quarter (21%) of direct entrants came from independent schools although almost all (80%) of those from the latter progressed to study at one of the three Ancient universities (Glasgow, Edinburgh or Aberdeen). Law students in Scotland generally don't travel far from their home location to undertake their degrees.

Parents of Scots Law students came mainly from the professions, management and senior administrative posts and education. Our survey revealed that a very small number have parents in the legal profession, although approximately half have family or friends who are qualified as a solicitor or an advocate.

### Influences on decision to study law

We were also interested in the student's reasons for

choosing law and the influential factors that assisted their decision. While few students have parents in the legal profession, nonetheless parents play an important part in a student's decision to undertake a law degree. Approximately 40% of students claimed to have come to law school having had some experience of a legal office, albeit as part of their previous schooling (ie as a school placement, usually lasting no more than one week), while 9% currently have or have had paid employment in the legal field. Previous work experience (paid or unpaid) was an important influence for many students (36%), as was advice and information from teachers (33%) and career advisors (26%).

TV and press reports were a factor for students, while others cited fictional accounts of lawyers in film, literature or TV to be a factor in course choice. There is perhaps scope for further research into the type of media fiction and the ways in which it influences students to study law.

It is interesting that the survey of first year students revealed that a desire to help others was not the most important factor when choosing a law degree. Most students chose to study law due to their interest in the subject (94%), although given the rather low experiential links students have with the professions it is difficult to speculate how they developed that interest (all the more so as law/legal studies is not available as a Standard or Higher grade subject in Scotland). The perceived high regard held by employers for applicants with a law degree (93%), potential income (77%), the type of work one can do with a law degree (74%), and status (72%) were the following four most important factors. The desire to help others was the sixth most important factor (64%).

### Finance and debt

In response to the question of whether students perceived themselves as "consumers of education" 38% of those who responded said "yes", but when split into Student Awards Agency for Scotland (SAAS) funded and the fee paying part-time or graduate entrant there was a marked difference. As in the English survey, we did not provide the respondent with a definition of "consumer", but when asked to explain why they saw themselves as consumers the most common reason given by the part time student and the graduate entrant was the "payment of fees".

In relation to finances and student debt the research also looked at whether students came to university with savings, received financial support from family or intended to take a loan out of some sort. As with the English survey 65% indicated an intention to work part-time and over half of those indicated that they intended working more than 10 hours per week. This raises the question whether students working this number of hours can be considered to be full-time students or whether the distinction between full-time and part-time still has real meaning.

In terms of debt only 15% of students anticipated having no debt at the end of their academic career and of the remaining 85% over half anticipated having over £7,000 of debt. This was borne out by our findings that at the end of their academic stage of training 81% were carrying debt as they embarked on their final practical stage of training (the postgraduate Diploma). Fifty seven percent anticipated they would be carrying over £7000 debt as they moved into their traineeship, (40% estimated debts of over £10,000), despite the prospect of earning only around £14,000 in their first year.

### Future career

Most students in their first year (82%) intended to enter the legal profession. By second year 20% of full time undergraduates claimed they were less keen to be lawyer. Student preferences for traineeships remained relatively the same with a preference for high street firms and commercial firms over rural firms. 60% of those surveyed that they would consider a traineeship within a legal aid firm but only 6% gave this as their first preference. Similarly, only 14% gave public prosecution as their first preference. By the traineeship year the commercial firm remained the most popular first choice (40%) while the legal aid firm remained at 6%.

As well as confirming anecdotal evidence about the extent of debts students incur during the course of their study, the results also raise interesting questions about the motivations of Scots law students. It may be that debt is driving students towards (higher paying?) commercial firms, but equally there may be issues for the law schools in terms of the way students are socialised into a certain set of values and/or aspirations that over the course of their studies subtly influence subsequent career choices.

Professor Jenny Hamilton and Scott McMaster  
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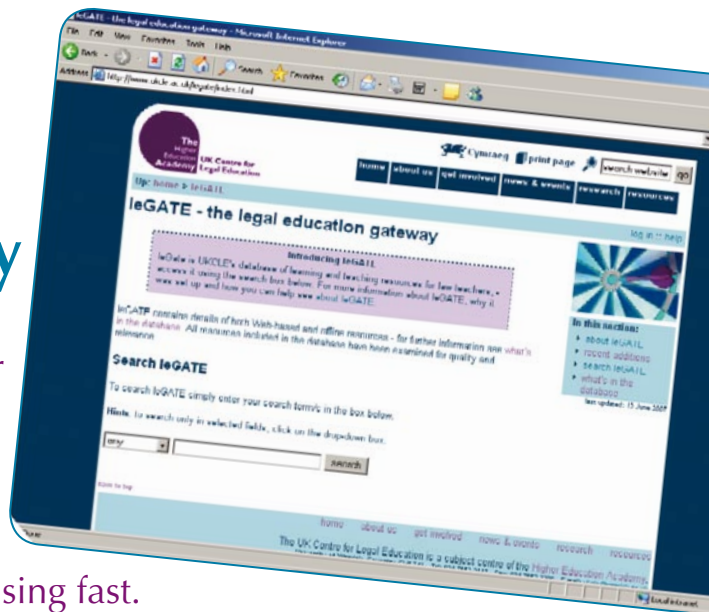
For more details: go to:  
[www.ukcle.ac.uk/research/  
projects/scotland.html](http://www.ukcle.ac.uk/research/projects/scotland.html)



# leGATE - the legal education gateway

by Shakeel Suleman

Do you need help in conducting your research or planning your teaching? leGATE is a database of web-based and offline resources that could help make things easier for you. Launched in March 2006, leGATE is an impressive treasure trove of resources comprising around 1000 records and rising fast.



## So what exactly is leGATE?

In simple terms, it is a database that records information about online and offline resources that relate to teaching, learning and assessing law. It also captures resources that discuss and debate policy issues about legal education. It is, therefore, unlike any other law-related resources database in that its focus is not substantive law. leGATE is an intuitive, easy to use database that runs from the UKCLE website.

The UKCLE's website has a wealth of resources on learning and teaching law. This includes, for example, mini-sites on issues like assessment and widening participation, resource notes offering practical tips and conference papers. There is a wealth of expertise available and it is this that leGATE seeks to tap. It complements the UKCLE website; along with the site itself, leGATE is an important component of the UKCLE's dissemination strategy.

leGATE captures resources on legal education topics only. Given the enormous task of monitoring, and then cataloguing, anything that is written about legal education, it has been necessary to prioritise certain publications and papers from certain conferences. Resources that emerge from UKCLE events and projects are catalogued. Articles from journals such as the Law Teacher, the Journal of the Association of Law Teachers, are catalogued regularly. As capacity permits, the amount and variety of material catalogued will increase further.

## So why use leGATE?

You may want to try a new approach to teaching or assessment of law, for example using e-assessment or on ethical awareness. A search on leGATE would

identify many resources and examples of good practice to help you. Or you may be looking for ideas to help you design your teaching materials or specific course components. If you are carrying out pedagogic research in the context of learning and teaching law, leGATE will provide you with details of similar research. In sum, whether you want examples of good practice to incorporate into your day to day teaching or you want help in carrying out research, it's all available on leGATE.

## Help us to develop leGATE

A lot of creative and original use is being made of technology by law teachers across the UK. We are keen, where possible, to harvest some of this by linking to law teachers' personal websites that deal with legal education and to material posted on departmental pages. To be able to do this effectively, we need you to bring to our attention any resources that deal with learning, teaching and assessing law. Similarly, we would also like to know about any other learning and teaching initiatives you are involved in and which would be of benefit and interest to other law teachers.

The field of law teaching and scholarship is also vibrant internationally. We are therefore keen to capture some of that work and equally to provide a wider exposure to the resources we catalogue. We are also exploring how we may use the Social Science Research Network ([www.ssrn.com](http://www.ssrn.com)) to provide a greater readership for substantive resources on our website, such as conference papers. This means being published on the UKCLE website will enable your material to be accessed by a wider audience.

leGATE aims to bring together expertise in learning and teaching. The vision is to create a culture of sharing resources rather than hoarding them - from

lecture notes to case studies and examples of good practice. Such a culture already exists in other disciplines.

**It is time for legal education to join in.**

## Using leGATE

leGATE is easy to use. Go to the LeGATE search page ([www.ukcle.ac.uk/legate](http://www.ukcle.ac.uk/legate)) and enter your search terms. You can confine your search to the author, description, keywords or title fields by clicking on the drop-down box, or use AND, OR or NOT to search more precisely. The search results will display information about the resource as well as a link to the resource.

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# How do prospective law undergraduates decide where to apply?

*Survey results of over 2,200 students at 49 universities.*

## Part One: Sources of Information

by Paul Catley

**Those of us involved in undergraduate law course admissions are aware that we inhabit a competitive market. More law schools are being established. Competitors are expanding their intakes. New courses are being developed which may attract students who might otherwise have been drawn to law. Our worries may be about filling places, meeting widening participation targets, attracting international students or simply attracting the largest possible pool of high quality applicants. Whatever our worries, it is imperative to understand what influences the choices made by prospective law undergraduates.**

The research started by talking to law students. 20 undergraduate students agreed to be involved in a series of focus group sessions in which they considered, inter alia, the sources of information on which they and their friends had relied and the factors they had taken into account in making their decisions. The group generated many ideas and agreed on a list of 13 sources of information and 21 factors that they felt were influential.

First year undergraduate law students at two universities were called upon to rate these on a scale of 1 to 5: with 1 indicating that the source/factor was "not at all important" and 5 that it was "very important". Respondents were also encouraged to add any factors/sources that they considered important that had been omitted from the questionnaire.

The results of this pilot supported the list generated by the focus group. Very few additional factors or sources were identified and none by more than one student. Over the summer of 2004, in conjunction with Mike Cuthbert of University College Northampton, an on-line survey was developed using the questions generated by the student focus group. In the Autumn term of 2004-05 university law schools were asked to encourage their first year students to complete the on-line survey. 826 responses were received from 17 universities. The following year a further on-line survey was conducted generating 1,388 responses from 41 universities. In total over the two years we had 2,214 on-line respondents from 49 different English and Welsh university law schools.

Table 1 summarises the results of the on-line surveys.

Interestingly the three highest rated sources of information (university prospectuses, university web sites and university visit and open days) are university controlled.

The results for 2004 and 2005 were remarkably consistent. Only one source differed in terms of its mean rating by more than 0.15 over the two years. One possibly interesting trend was that university websites moved up from being the third most important factor in 2004 to replace visit and open days as the second most important factor in 2005. Whether this change was indicative of a shift in prospective student behaviour or simply reflected differences between students at the universities involved in the first survey as against those involved in the second survey may become clearer as further surveys are conducted and analysed.

With over 2,200 responses it has been possible to examine the differences between different types of students and between students at different types of institution. Students were asked to classify themselves in terms of gender, ethnicity, age grouping and university attended. In 2005 additional questions asked them whether they had gained their place through clearing and whether either of their parents had degrees.

Students at pre '92 universities (n=1250) rated press reports including league tables as far more important than students at post '92 universities (n=940). Respondents from old universities gave it a mean rating of 3.76, placing it second only to university prospectuses as the most important source of information in their decision making process. Respondents at new universities, on the

### The 13 sources of information identified were:

- University prospectuses,
- University web sites,
- University visit / open days,
- Careers / university fairs,
- Attendance at lecture(s) or other events at the university,
- Books providing guides to university courses,
- Guidance from UCAS,
- Press reports including league tables,
- Advice from school / college,
- Advice from careers service,
- Advice from people who had been at the university,
- Advice from friends, and
- Advice from family.



# centre projects

other hand, placed it 10th out of the 13 information sources with a mean rating of 3.02. Aside from this major disagreement the two groups of respondents were largely in agreement.

Analysis by age grouping also unearthed some interesting differences in approach. Students aged over 25 (n=143) were less interested in press reports and league tables than their younger counterparts and relatively more interested in advice from people who been at the university. Contrary to the popular perception that it is the young who are most ready to embrace the Internet, it was those students aged over 21 (n=292) who viewed university web sites as the most important source of information, whereas those aged under 22 (n=1872) placed them third. One of the most dramatic differences was that respondents aged

over 30 (n=81) rated lectures or other university events as the equal fourth most important source of information, whereas those aged under 22 viewed it as the least important source of information.

Given HEFCE's concern about recruitment into university law schools it is interesting to note how different groups relied on different sources of information - for example Pakistani and Bangladeshi respondents (n=94) placed considerably greater emphasis on guidance from people who had attended the university and advice from their families (rated by this group as the two most important sources of information) and were much less likely to view visit and open days as important (rated 11th).

Part 2 of this article will appear in the next edition of Directions and will look at the factors that influence

prospective undergraduate students in their choice of law school. The full report into prospective undergraduate students will be published on UKCLE's website during the course of 2007-08. If you would like information about how your first year undergraduate students can become involved in the 2007 on-line survey please email me:

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**Table 1 Sources of information**

Source	All 2214 respondents		Percentage rating the factor at 5 ("very important")		Percentage rating the factor at 4 or 5 ("important" or "very important")	
	Mean rating <sup>1</sup>	Position	Percentage	Position	Percentage	Position
University prospectuses	3.86	1	28.7%	2	68.1%	1
University web sites	3.73	2	24.2%	3	62.7%	2
University visit days / open days	3.66	3	32.0%	1	62.4%	3
Press reports including league tables	3.44	4	21.2%	4	51.5%	4
Advice from family	3.38	5	18.2%	6	48.7%	5
Advice from people who had been at the university	3.32	6	18.6%	5	48.4%	6
Advice from school / college	3.16	7	13.1%	7	41.7%	7
Advice from friends	3.07	8	9.7%	11	36.4%	9
Books providing guides to university courses	3.03	9	11.5%	9	36.8%	8
Guidance from UCAS	2.99	10	12.1%	8	36.1%	10
University / careers fairs	2.82	11	7.3%	13	28.0%	13
Attendance at lectures or other university events	2.78	12=	9.9%	10	31.4%	11
Advice from careers service	2.78	12=	8.7%	12	28.5%	12

<sup>1</sup>The mean rating is calculated by adding all the responses (not at all important = 1, very important = 5 etc.) and dividing by the number of respondents.

# Current developments in legal education in Australia

by Mark Israel and Gary Davis

In 1987, the Pearce Report assessed the state of Australian Law Schools for a Commission established by the Commonwealth government. The Report described an approach to education that was both rule-oriented and teacher-focused.

Sixteen years later, a 'stocktake' report by Richard Johnstone and Sumitra Vignaendra (*Learning Outcomes and Curriculum Development in Law*. Canberra: Department of Education, Science and Training 2003) for the Australian Universities Teaching Committee (AUTC) evaluated, among other things, the nature of changes in the intervening period to curricula and teaching in law.

## Changing Quality

The AUTC report examined changes in the quality of teaching and noted that many Australian law schools had adopted theoretically-driven and student-focused strategies for teaching, despite facing increases in student numbers. Keyes and Johnstone (2004) reported:

*"Clearer learning objectives, better alignment of learning objectives with assessment tasks, more varied assessment and teaching methods, more feedback on assessment tasks, and increased use of teaching materials and methods to encourage active learning... (Changing Legal Education: Rhetoric, Reality, and Prospects for the Future"*

- Sydney Law Review 26/4, pp.537-564

Although many schools have struggled to tackle a long-standing failure of students to develop important practical skills in communication and group work, there have been some successes. For example, Queensland University of Technology has identified a range of generic and legal skills required of its students. The Law School at QUT has embedded development of these skills through the law curriculum, recognising the degree to which students might be expected to have attained mastery of these skills as they move through the degree.

The AUTC Report noted that the amount of research on law teaching has expanded and that some law schools were offering graduate programmes in legal education. For example, Griffith University in Queensland runs a part-time Graduate Certificate programme. However, many law schools were still based on traditional approaches to education.

The quality of teaching in Australia is assessed using student evaluation of teaching questionnaires (SET) designed by central university units as well as by a survey of graduates (CEQ). The former may be used to help academic supervisors identify poorly performing teachers and unsatisfactory topics. The latter might give some indication of what students thought of their degree programme.

## Developments in the University Sector

A range of sectoral initiatives may yet have an impact on the quality of law teaching. Australian universities are now subject to audit by the Australian Universities Quality Agency (AUQA) on a five year cycle. The review panel bases its evaluation of, among other things, the adequacy of institutions' quality assurance arrangements in areas of teaching and learning on a review of university documentation, site visits and interviews with staff and students. In late 2006, the Federal government awarded A\$82 million (about £33 million) to 21 universities as a result of competitive funding through its new Learning and Teaching Performance Fund. The purpose of the fund is to reward higher education providers that best demonstrate excellence in learning and teaching, though there has been considerable criticism of the indicators used to assess this. Money for the 'Business, Law and Economics' category will be shared among 10 universities. By 2008, A\$109 million (£44 million) will be distributed to universities through the Fund. Finally, in 2006, the Carrick Institute for Learning and Teaching in Higher Education – the Australian equivalent of Britain's Higher Education Academy – launched a competitive grants scheme and new national awards for teaching. Two law academics – Mary Heath (Flinders University) and Des Butler (Queensland University of Technology) – received national teaching awards and we hope to interview them for a later edition of Directions.

# features



## Vocationalism

Many Australian university law schools promote themselves to potential students as providing practical training in legal skills that will be relevant to the workplace. Vocationalism plays an important part in legal education. Indeed, the AUTC Report described the growth in legal skills training as the biggest change in law school curricula in the 1990s.

Law placements, local, national and international mooted competitions, legal clinics, and practical legal training components are all portrayed as important in making law graduates employable, largely as lawyers.

This reflects the shift of focus from what lawyers 'need to know' to what lawyers 'need to be able to do', a shift heralded and encouraged by the Australian Law Reform Commission.

In some cases, the equivalent of the Legal Practice Course in the United Kingdom has been integrated into the normal, albeit extended, law programme. The Bachelor of Laws and Legal Practice degree offered by Flinders University and the Bachelor of Laws/Diploma of Legal Practice at the University of Newcastle are examples of such qualifications, which allow students to leave university with credentials allowing immediate admission to practice. An alternative approach, found at several law schools including Monash University and the Australian National University, is the inclusion within the university's programmes of post-LLB practical legal training courses, leading to a Postgraduate Diploma in Legal Practice, Graduate Diploma of Legal Practice, or equivalent qualification.

## Planning for the Future

Looking to the future, legal education in Australia is on the verge of major developments. Following

on from the AUTC stocktake mentioned above, the Carrick Institute included Law in its first foray into Discipline-Based Initiatives (DBI). These well-funded pilot programmes (the other two being in the fields of science and information & communications technologies) are calculated to facilitate a transformation in higher education within Australia. The focus is on what higher education graduates will need to be like in 8-10 years. So, a primary objective of the programme is to find out what curricula and approaches need to be developed to best serve the needs of graduates and the Australian community and sub-communities a decade from now.

In this project, to be conducted over the course of approximately 18 months in 2007-08, Law is used as the exemplar of a professional discipline. To give an illustration, one issue that has cropped up in past attempts to change pedagogic practice in professional disciplines is that good ideas for development of teaching, assessment and curriculum are resisted by professional and/or accreditation bodies. The Law DBI will provide an opportunity to determine how best to engage professional bodies actively in professional discipline transformations – to take them 'on the journey with the academics' to facilitate better understanding, break down resistance, and effect real change.

With the Pearce and AUTC Reports as its reference points, the DBI will take as its starting point the tension between, on the one hand, the professional element of legal education and, on the other, Law's claim to being an intellectual field worthy of being housed in a university and of being pursued in its own right as an academic field of inquiry.

The substantial proliferation in the number of law schools in Australia in the past two decades has meant that law students no longer all emerge from

the top two per cent of secondary school graduates, with ingrained characteristics of self-motivation, interest in learning, clarity about goals, and focus on studies as the top priority. The unifying homogeneity of the past has given way to diversity, evident in things such as: student body; body of legal educators; modes of providing and delivering legal education; multiple end points in terms of graduate careers; changing nature of legal practice, both domestically and internationally, including legal services becoming an export industry; challenges posed by ethical considerations, values, attitudes, and community service imperatives.

The Law DBI intends to recognise this new diversity, identify and meet the challenges it presents, and harness its potential for beneficial and sustainable change. Work will be devoted towards identifying pedagogies that can be targeted to the varying typologies of law student. The initiative is expected to result in training programmes, and the creation of sub-discipline networks, resource hubs or clearing houses. The DBI will work to identify exemplars of good practice and to develop effective means of transfer to other contexts. Sustainability, through the establishment of an ongoing entity that will resource and drive further developments in legal education, is an expected end product. Teaching and learning in Law in Australia has moved a long way from the rule-oriented and teacher-focused approach identified 20 years ago by the Pearce Report.

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# Scotland moves forward with radical redesign of the route to qualification as a solicitor

by Christine McLintock, Liz Campbell and Neil Stevenson

Following on from the major consultation closing in February 2007 we are delighted to report that we received around 900 responses to the main questionnaire and some 200 responses to the detailed questionnaires - a much higher rate of response than we might have expected.

Particularly heartening were responses from both staff and students at each of the Scottish universities providing components of the route to qualification as a solicitor. Thirteen of the largest private practice providers of training (representing a third of traineeships) also worked together to submit a joint response, with this data being in addition to the figures mentioned above. We also had a strong response from organisations such as the Scottish Consumer Council, allowing us, where appropriate, to address their concerns from the start. Comments on the "leading edge" nature of the work were received from as far afield as New Zealand. Our thanks go to all who took the time to share their views.

We have now undertaken detailed analysis of the statistical response and of the extensive, well informed and constructive free text feedback. The Education and Training Committee met for two full day sessions to analyse the results, to consider the key themes emerging from the data and to start to develop policy positions on many key areas which will influence the final recommendations.

Once final approval of the proposals is gained observers may not witness an immediate revolution, but the new policy will open up huge potential for change and the profession will undoubtedly witness evolutionary development of exciting new models in the coming years. We will be focussing on establishing a clear framework of exacting but meaningful standards covering content, assessment and accreditation to ensure the continuation and further development of a rigorous and respected route to qualification.

It is entirely possible that, in future, the route to qualification may no longer be the "one size fits all" LLB, Diploma and traineeship we have all come to know in Scotland. Having stated this, it is important to point out that the future is not about the Society setting up different schemes, but about us allowing providers to construct alternative routes within a regulatory framework. As a result students are presented with greater flexibility in their route to qualification and providers are offered the opportunity to innovate.

**The debate on the purpose of the law degree – general 'liberal arts' degree or vocational course as part of a lawyers' training – is likely to continue to run.**

We believe that it is possible to combine academic excellence with an outstanding preparation for practice. The Committee favours more emphasis on a comparative dimension in the teaching and assessment of law, firmly rooting the Scottish position within the UK/EU/international law setting. We also believe that greater integration of the strands of law is desirable, relating the teaching more closely to how a client problem may present in a real life situation.

The Committee also supports a more focussed core to legal education, a core that will act as building blocks, with less focus on individual subjects and more emphasis on, for example, areas of law which pervade a range of practice. Other key policy directions include a move to allowing providers other than universities to offer the Foundation Programme, if they can demonstrate the appropriate standards in accreditation, and the incorporation of a 'professional studies' topic, which will focus on the profession and how it operates.

Responses to the consultation demonstrated a strong commitment to a 'bridge' between the academic and in-office training, although it was felt that this could be delivered to a high standard in many different formats from the current Diploma. The focus will be on outcomes, which could be packaged into an intensive skills course, with some elements then rolling forward into the traineeship, or rolled back into the degree if teaching methods allowed the outcomes to be met (such as in a clinical teaching environment). Such an approach would also permit specialised programmes, which meet the core requirements but give 'value-added elements' in specific fields (be that Legal Aid, or corporate law). This may mean some models being eligible for current government fees funding, and others not, but it was felt inappropriate to limit delivery options by reference to a funding model which may well not be available in the future.

In relation to both these stages it is likely accreditation will require providers to facilitate direct contact between the Society and those studying on the programmes and will focus less on process considerations (length of programme, library holdings) and more on outcomes and assessment. Finally, the new standards also make it likely that the Society will no longer hold its own examinations.

The consultation results revealed strong support for authorisation of firms taking trainees and for the requirement to have a training partner with the necessary skills and experience to supervise traineeships. It has long seemed anomalous that all stages of training except the in-office period were subject to some form of accreditation. The initial stages of any scheme of authorisation will see the drawing together of current requirements into a



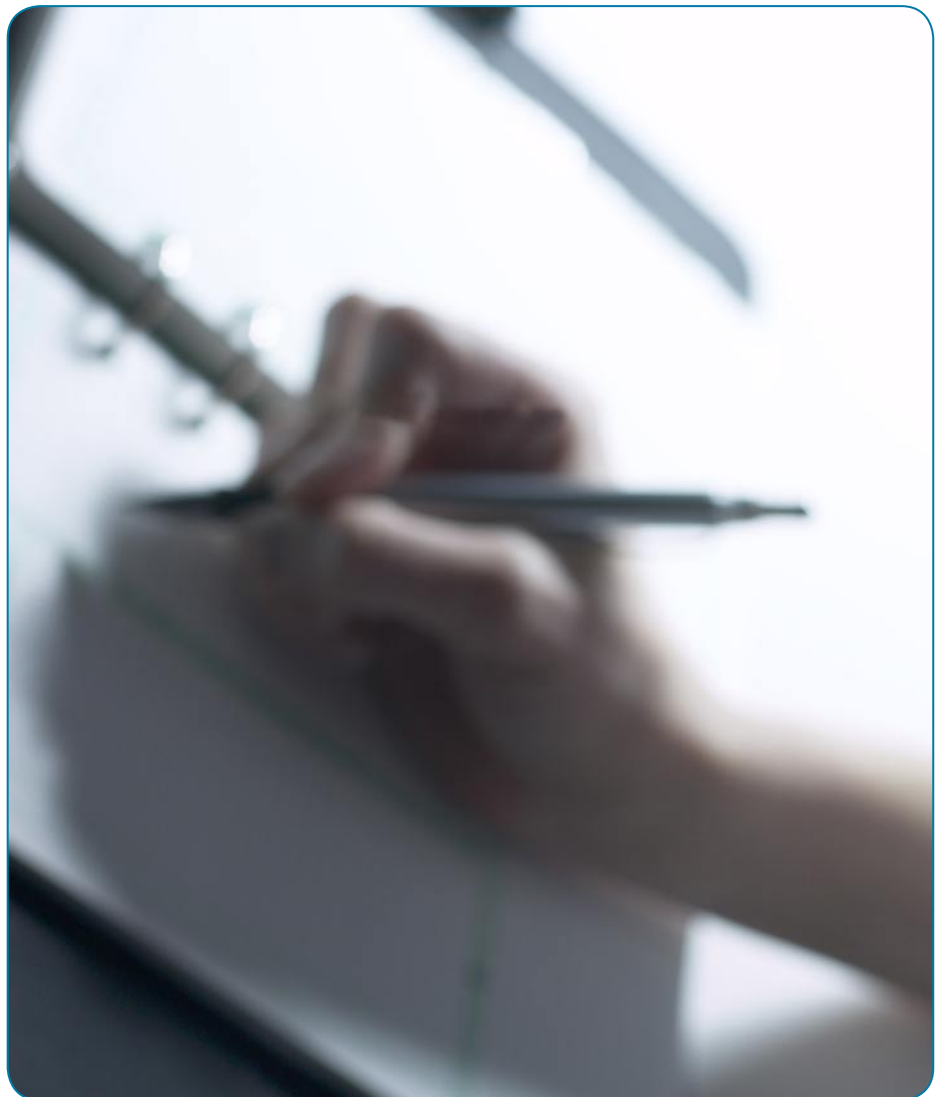
more consistent package with a light touch move to authorisation.

While there was support in the consultation for the concepts discussed in relation to solicitors' CPD, the Committee have acknowledged the need for further in-depth exploration of the concepts, including the length of the CPD cycle, the issue of 'credits' with different values for different CPD activities, accreditation of providers and particular CPD requirements for different careers stages. One thing that is certain, however, is that the current approach to CPD is unlikely to continue.

The next stage of the process involves the construction of detailed project plans for each of five agreed work streams: the content of the foundation programme (the present LLB stage); an accreditation regime for the foundation programme; the content of the combined professional education and training stages (the present Diploma and traineeship); an accreditation regime for this stage and a framework for continuing competence and ongoing development (the future structure of solicitors' CPD). We intend to move forward swiftly with these projects and produce a 'white paper' style document, setting out key policy considerations and the detail of proposals for each stage by the end of 2007.

Effective communication will be one of the keys to successful implementation. Arrangements are being made to meet with key stakeholders and we will update the website ([www.lawscot.org.uk/training/consult](http://www.lawscot.org.uk/training/consult)) as projects progress. We are heading into an exciting and challenging time for education and training, and hope you share our enthusiasm and excitement. As ever, your feedback is welcome.

This article follows on from an article published in Directions, Spring 2007. This can be viewed at: [www.ukcle.ac.uk/directions/lawsocietyscotland.html](http://www.ukcle.ac.uk/directions/lawsocietyscotland.html)



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# Clinical legal education and extra-curricular law clinic

by Donald Nicolson

The benefits of clinical legal education in developing legal skills, revealing how law actually operates in practice and introducing students to issues of professional ethics have long been recognised. Activist, experiential, student-centered learning, which is based on solving realistic problems is likely to be profound and to lead to the life-long habits of the 'reflective practitioner', particularly when emotional engagement with flesh and blood clients is combined with opportunities for guided reflection.

**Compared with other English-speaking jurisdictions, relatively few law schools have embraced clinical legal education and even fewer have established live-client in-house clinics. Instead, many have opted for simulations and role plays, thus losing the benefits of engagement with actual clients, or for placements with advice agencies, thus raising problems of supervision, monitoring and potential conflicts between the student's educational and the agency's service needs.**

There are two main reasons for opting for simulations and placements over live-client in-house clinics. The first is that actual cases cannot be guaranteed to raise the desired educational opportunities and the second is their perceived expense, particularly because a very low staff-student ratio is seen as necessary to protect clients and teach and assess students adequately. Even law schools with in-house clinics limit student numbers and length of involvement.

These concerns recede, however, if in-house law clinics are not seen as being aimed primarily at educating students, and if student participation is not credit-bearing. Instead, clinics can be designed primarily to provide legal assistance to those in need. Moreover, the number of clients served and students involved can be vastly increased if they operate on an extra-curricular basis. Thus, at the extra-curricular clinics I have set up and run at the

Universities of Bristol and Strathclyde well over 100 student advisors in each provide a wide range of services (up to and including court and tribunal representation) to a constant stream of clients. Students can be involved for the duration of their university stay (which for Strathclyde students may be five years), and all of this is achieved for less than £5,000 per year and the devotion of a few hours of staff time per day to clinic management and case supervision.

The cost-effectiveness of these clinics is made possible by two central differences to educationally-oriented clinics. The first is that there is no need for dedicated salaried staff to run the clinic. Instead, students are responsible for all aspects of their cases, including court and tribunal advocacy, as well as for much clinic management, including case allocation, file monitoring, the organisation of training, policy development and ethical decision-making. In addition, advice on cases is provided by law school staff and a few supportive local lawyers, who, like myself, regard their involvement as a form of pro bono work. Secondly, rather than closely supervising students every step of the way, helping them to maximise their learning experience and assessing their performance, supervision is both more hands off, concentrating on the final product (the letter, pleadings, decision to negotiate, cross-examination strategy, and so on), and more direct, in not being treated as an opportunity for teaching

students how to find answers for themselves and to learn from their mistakes, but solely as a means of ensuring a quality service as quickly as possible. Admittedly, closer supervision and direct action by supervisors in educationally-oriented clinics might provide better client service (though in over twelve years of involvement in voluntary clinics I have not experienced any irreparable mistakes). However, this must be balanced against the fact that, with the same level of resources, voluntary clinics can help vastly more clients.

At the same time, while social justice remains the dominant goal of extra-curricular clinics – both directly through service to the community and through inspiring a new generation of social justice-oriented lawyers – they share some of the educational benefits with traditional in-house clinics, while offering some that are unique. Thus, in order to ensure adequate client services, students obviously have to be trained in interviewing, file management, research and letter-writing, and perhaps also in negotiation, advocacy and court procedure. Moreover, even case supervision solely aimed at ensuring quality legal services will teach students about new areas of law and how to solve legal problems, while every engagement with and on behalf of clients is a learning experience and may carry important lessons about legal and social justice. In addition, unlike in traditional law clinics, student involvement in clinic management develops



transferable skills such as organisation, leadership and public relations. Finally, students who sit on the committee which debates and resolves ethical dilemmas arising in cases benefit from the ethical development which accompanies involvement in what Lawrence Kohlberg called 'justice communities'.

More recently, I have sought to exploit the Clinic's educational benefits more directly and to provide formal recognition to students for their clinic work without compromising the Strathclyde Law Clinic's social justice orientation. Thus I have recently established a course for students to improve their skills, and reflect on the ethical and justice dimensions of their cases. However, in order to ensure their long-term involvement in the clinic and that they do not come to see clients as means to their educational ends, this course is only open to those who have been Clinic members for at least a year. More ambitiously, I am developing a clinical programme which, to my knowledge, will be unique in the world. It will allow University members to be awarded a Clinical LLB if they take sufficient classes in which they are assessed partly on their reflection on the legal and extra-legal aspects of relevant cases. Given that students will first have to show their commitment to such aims before being admitted to the Clinic, such a programme will allow for a massive expansion of experiential learning without compromising the Clinic's underlying ethos. Indeed, using this model, were the Clinic to succeed in attracting the sort of funding that some educationally oriented clinics enjoy, it could vastly expand the amount and range of services it offers to the community with a concomitant increase in the educational benefits of clinic work.

**Professor Donald Nicolson,  
Director,  
University of Strathclyde  
Law Clinic**

## The Quiet Revolution: The Government of Wales Act 2006

The May 2007 elections for the National Assembly for Wales was followed by an intense period of political horse-trading as no party was left in overall control of the Assembly. Attempts were made to mix and match every colour of the political rainbow before an historic Labour-Plaid Cymru coalition was agreed in July some two months after the election.

One condition of the coalition deal is that Labour is committed to campaign for a positive vote in a referendum for full law-making powers for the Assembly within the next four years. The excitement surrounding a ground breaking political deal and the prospect that the Assembly may in the future have some primary law-making powers may mean that that people lose sight of the significance of the Government of Wales Act 2006 which has given the newly elected Assembly new powers.

For a start, it marks a change in the way that the Assembly works. It creates a formal legal separation for the first time between the Welsh Assembly Government and the National Assembly for Wales. The Welsh Assembly Government's relationship with the National Assembly for Wales is now more similar to the British Government's relationship with the Houses of Parliament.

The Government of Wales Act 2006 also gives the Assembly new law making powers in relation to devolved matters. However, the National Assembly for Wales will need to obtain "legislative competence" before having the power to make Measures in relation to a particular area of devolved government. These laws will be known as Measures of the National Assembly for Wales to give them their full title or "Assembly Measures" (sometimes referred to as Welsh laws) for short.

There are two ways in which the Assembly can gain legislative competence:

- Parliamentary Acts
- Orders in Council

Under the first method, clauses will be inserted into Parliamentary Bills as they pass through the Houses of Parliament conferring legislative competence on the Assembly in relation to particular topics.

Under the second method, the procedure is more complex. The scope of the legislative competence is defined by section 94 and Schedule 5 of the Government of Wales Act 2006. Schedule 5 consists of a list of 20 devolved areas which include areas such as education and training, and health and health services, known as "Fields".

Legislative competence is gained by inserting a "Matter" into a "Field". So, for example, education and training is a "Field" and "Matter" attached to that field is "provision for and in connection with securing the provision of facilities for post-16 education or training". "Matters" are conferred by a constitutional procedure known as Legislative Competence Orders (LCOs) which are a type of Order in Council and LCOs will only be made after approval has been given by the UK Parliament and the Assembly.

The aim is to speed up law making for Wales so that the Welsh Assembly Government can draft the legislation itself compared to the previous system where legislation which applied only to Wales had to join a queue and compete for UK Parliamentary time.

The 2006 Act marks a challenge for legal education certainly in Wales and arguably in England as well. Although it does not give the Assembly primary law making powers, it does mean that the application of primary UK legislation can be varied in Wales so it could be termed quasi-primary legislative powers. At present, devolution in most law schools in England and Wales tends to be a topic in a constitutional law module with some law schools offering options in devolution law. However, now there is going to be a body of distinctive Welsh laws which may need to take up a greater amount of the curriculum's time.

Another challenge for legal education is the publication of the law that gets created and is accessible to the public and lawyers. Although there is a commitment on the part of the Welsh Assembly Government to make legislation available on its website and there is also a commitment to make paper versions available by Her Majesty's Stationery Office (HMSO) there may be a gap in the commentary available on the legislation which we are used to being provided by commercial publishers. It is possible that a commercial provider such as Butterworths or Sweet & Maxwell may provide such commentary as well as tracking all the amendments and effects on other legislation, etc. but they are unlikely to find it commercially viable.

A further area of educational and training need is to produce additional parliamentary draftsmen. The new law making powers will lead to a greater amount of legislation and as it takes ten years to fully train a draftsman the lead-in period is lengthy.

**Richard Owen, Associate Head, University of  
Glamorgan Law School**

# On Trial: Tutor as silent witness

by Kirsten Hardie

## Introduction

On Trial is a learning and teaching strategy developed over a number of years by a UK National Teaching Fellow working with undergraduate Graphic Design students at The Arts Institute at Bournemouth (AIB). This strategy utilises, adopts and adapts key methods used in legal education to develop creative learning and teaching experiences in an HE art, design and media context. This article provides a summary of this approach and highlights the integrative activities of a lecturer from the HE Art, Design and Media sector who is working with HE Law colleagues to progress this successful learning and teaching practice.

## Background

For BA (Hons) Graphic Design students to consider the practice of law may be an uncommon occurrence within higher education. It is hoped that any legal experience that a Graphic Design student has is a positive one and that it preferably relates to: the study of specific legal issues in the development of their knowledge in relation to their professional specialist practice; well paid design work for a legal firm; an opportunity to undertake jury service.

The relationship of design and law is usually evidenced in two ways: through the work of graphic designers' who create corporate designs for legal firms (logos for law clients) and the legal advice and representation of law professionals for designer clients who need to legally protect their design work. Thus an established professional relationship exists between the two distinctly different disciplines. Whilst differences do exist between the two specialist areas, overlap can occur. Law offers interesting opportunities for art, design and media students to learn from and through.

The methods and processes of the practice of law are perhaps (very) generally understood by many through Law's diverse presence and portrayal in popular culture. Law practice in part is made public,

popular and attractive through the media. The roles, arenas and language of law have become familiar through the broadcast news of law-related events and the depiction of legal activities in the fiction of films, television programmes and popular literature. From BBC's news and Judge John Deed to the books of John Grisham, the practice of law is in part revealed. It is from this basis that the author has capitalized upon Graphic Design students' familiarity with law's popular depiction; to transfer students' prior experiences and passive consumption of popular law films and television programmes to their studies as a context and vehicle for active learning relevant to their own discipline.

## On Trial

To support the development of Graphic Design students as specialist creative practitioners who learn by doing, teaching must create doing opportunities across the curricula both within and through combined practical and theoretical study. However, it can be a challenge to engage practically/vocationally orientated Art, Design and Media students in the theoretical study of their specialism. One example of how the author has addressed this is where the concept of the film/television courtroom drama has been utilised to develop the On Trial approach. This approach uses the courtroom as the context and vehicle to liberate and make more dynamic deep learning through enhanced teamwork, debate and presentation. This method moves away from the traditional seminar or group presentation and uses role play as a mechanism to release students from expected learning activities; to encourage learners to be creative in their study. The On Trial method offers a student-centred, problem based activity where all students across a course (for example 70+. first year BA(Hons) Graphic Design students) can choose specific roles within the loose framework of a court to explore a given problem.

One such problem set by the tutor is for all students to research, critically interrogate and debate the 1964 First Things First Manifesto written by British Graphic Designer Ken Garland (Garland, 1998:2) and its revival in the First Things First 2000 Manifesto. As a polemic, the manifestoes promote the consideration of designers working ethically and the notion of design responsibilities – key issues relevant to the contemporary global warming and sustainability debates and developments. The students are requested to defend and prosecute the manifestoes in a mock court. All students are encouraged to undertake key roles in relation to the nuances of court proceedings and their preferred learning styles. Thus roles of court reporter, film crew, press reporter and photographer work alongside those of witness, jury etc. To address the group size and ensure wider opportunities, the number of judges exceeds that of a formal court making for lively and entertaining moments. In this way students actively research, critically analyse and reflect upon key issues relevant to their practice in a fun and serious way. Related assessment activity via an essay submitted after the event benefits from the shared experiences and group discussion of the trial.

## Teaching without talking: Tutor as silent witness

On Trial follows the teaching approach advocated by Donald Finkel in his book *Teaching with your mouth shut* (2000). Finkel advocates student-centred learning where the student voice is amplified and the tutor is quiet. Thus On Trial positions teacher as coach who sets the problem, offers ground rules and guidance, and then steps back. The teacher becomes the silent witness; the students take centre stage. Students are encouraged to watch classic courtroom dramas to gain an appreciation of space, movement, the pace and articulation of argument, non-verbal communication etc. They are encouraged to explore creative ways of presenting convincing arguments and evidence – to operate within the



format and formality of a law court and to apply their skills as graphic communicators.

'Surprisingly many students assume their roles with remarkable confidence and surprising accuracy; the courtroom strut and banter becomes evident and helps some of the more shy students to adopt an approach that allows them to present in a way they perhaps would never have considered before. However for some students the ordeal of role play in the trial context can be horrifying so roles for participation in the proceedings without open showmanship are necessary. Ultimately the students learn to reflect and reason objectively, to consider and interrogate ideas, to evaluate critically and to make reasonable decisions. They present their cases using a variety of techniques; visuals as exhibits to evidence and illustrate their arguments and on occasion film footage and interviews with designers to add professional weight to their case' (Hardie, 2007b).

In January 2007 the author co-presented with two AIB BA (Hons) Level Two Graphic Design students, Lindsay Noble and Keir Cooper at the Learning in Law Annual Conference, at the University of Warwick, hosted by the UKCLE. This provided a great opportunity for joint reflective consideration and public presentation of learning and teaching. The opportunity to share and showcase the interdisciplinary and trans-disciplinary nature of the On Trial approach established collaborative development opportunities with law colleagues Gary Watt, University of Warwick and Alisdair Gillespie, De Montfort University. Subsequently in May 2007

Alisdair worked with AIB Graphic design students in preparation for their 2007 On Trail event. This unique experience offered by Alisdair encouraged students to consider the format, protocols and procedures of a court and legal systems in greater depth and to learn the nuances of the related language and roles.

A further development this year saw the participation in the trial of the designer and manifesto author Ken Garland. Such magnificent involvement of the core primary source meant that students had to develop a more professional and in-depth approach to their defence and prosecution work. Calling Garland, fellow students and staff from across their course and beyond to the witness stand created exciting moments as students battled to win their case. Evidence was drawn from a wealth of designers internationally who generously provided comments, observations and advice to the students – some unique primary research was secured. Ultimately the event was viewed by a gallery of students and staff from wider courses and institutions and proved to be quite an afternoon – a learning experience for all involved.

Thus the mock trial of legal education offers a wonderful learning and teaching tool that can be used trans-discipline. The author is keen to develop further collaborative activities using the mock trial as the context for great learning. For further ideas please contact: [Kirsten Hardie](mailto:Kirsten.Hardie@aib.ac.uk) 01202 363305 [khardie@aib.ac.uk](mailto:khardie@aib.ac.uk)

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# Making choices about lawyers' ethics: Integrating an ethical dimension into a simulation

by Alywn Jones and Omar Madhloom

Those who teach lawyers' ethics in an undergraduate law course need to address issues such as the meaning of ethics and the goals of ethics teaching. For us, 'lawyers' ethics' can properly include the rules and principles of professional conduct, ethical sensitivity and aspects of political theory (including the responsibilities of 'lawyers as citizens'), philosophy and psychology as well as the development of moral courage and commitment.

**The goals of lawyers' ethics teaching might include, for example, 'making lawyers good,' promoting commitment to pro bono work or social justice or encouraging students to think critically. While recognising that lawyers' ethics can mean different things to different people, we will illustrate one method of ethics teaching that will be used at De Montfort University in a clinic-based module in 2007/08.**

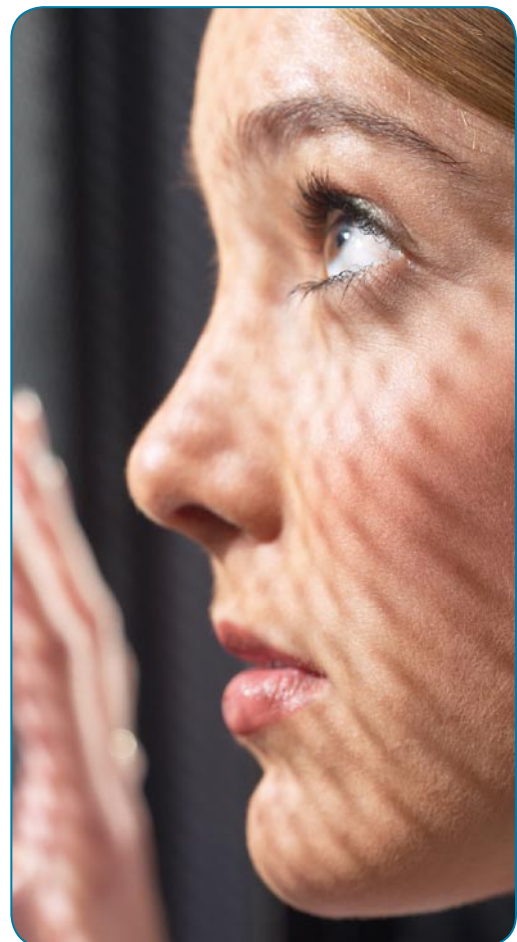
This method employs a simulation exercise that will involve students in making a choice with an ethical dimension. Simulations are sometimes regarded as less than satisfactory by some law teachers. Simulations can be perceived as a distraction from working on 'live' cases for the benefit of the local community or as a less engaging, less realistic substitute for 'live' clinic work. We do not seek to deny the benefits of 'live' work. Carefully designed simulations can provide some of the immediacy of 'live' clinical experience while overcoming potential

shortcomings of 'live' work such as the limited number of students who are directly exposed to ethical issues (Hartwell 2004). In a simulation, every student can experience – not just discuss – ethical issues. They can make choices and reflect afterwards on their significance.

The importance of each student making their own choice should not be underestimated. Stanley Milgram's experiments on obedience to authority are well-known (Milgram 1974). Milgram's work has been linked to the teaching and analysis of lawyers' ethics (for example, Hartwell 2004 and Luban 2000). In the experiments, participants were asked to subject people to electric shocks (starting with 15 volts and increasing in 15 volt increments to a maximum of 450 volts). Before Milgram conducted his experiments, he asked people what percentage of participants would continue to (apparently) administer electric shocks to a subject (an actor who appeared to be genuinely suffering). Most people

responded that few or no people would continue to deliver shocks to the maximum 450 volts. However, when Milgram conducted his experiment, two-thirds of participants continued to the end. This is relevant to clinical ethics teaching on a number of levels. Simulations can give students the opportunity to recognise and reflect on cognitive dissonance (Webb 1996; Maughan and Webb 1996). Also, as solicitors in private practice are expected to conform to the instructions of their superiors, awareness of psychological pressure towards obedience may help lawyers to seize 'moments of opportunity' in which unethical behaviour can be avoided.

In our simulation, students will use a scenario based on an allegation of racially aggravated assault. They will take the role of a prosecution or defence lawyer and for a negotiation or advocacy exercise. The scenario instructions comprise a statement of agreed facts, witness statements and special instructions that raise an ethical issue. The students



will need to select evidence that supports their 'theory of the case' while anticipating the probable arguments of their opponent. In addition to teaching analysis of factual evidence (Maughan and Webb 2005; Anderson, Schum and Twining 2005) our scenario requires students to make an ethical choice.

The ethical choice is raised by 'special instructions' in which the students find that they have received a last-minute message from a witness. (This is a witness whose evidence is useful, but not essential.) The witness has asked to be excused from giving evidence because of a concern about appearing to betray close friends. The witness also strongly hints that their witness statement was exaggerated or mistaken. The students must decide whether to use the evidence of this witness. Some students may defend a decision to use the evidence on the ground that they 'suspect' but do not 'know,' that the evidence is false so that using the evidence would not involve 'knowingly' misleading the court. This choice – whether to use the evidence or not – can be linked to published work on the limits of zealous advocacy. While the propriety of zealous advocacy by criminal defence lawyers is not often denied, it has been debated. When our students write a critique of their experience, they can link their experience to such debates.

The use of a scenario based on racially aggravated assault can also prompt discussion of wider ethical issues. When a defence solicitor chooses an advocate to instruct for the trial of a white man accused of racially aggravated assault, would it be ethically permissible to select a black or Asian advocate in the hope that this will reduce the probability of conviction? Such questions can engage students with Abbie Smith's statement

that "there may well be racial significance in every defense theory, every defense strategy, every defense" (Smith 1999). Would identity-conscious lawyer selection violate a commitment to equal justice or represent a different means to achieving equality? Such questions can engage students in the evaluation of situations such as the

decision of Anthony Griffin, a black ACLU lawyer, to defend the Grand Dragon of the Ku Klux Klan. Ethical questions about 'identity-conscious' lawyering can also be linked to other aspects of the 'non-professional identity' of lawyers such as gender and sexuality.

[www.ukcle.ac.uk/research/projects/jones.html](http://www.ukcle.ac.uk/research/projects/jones.html)

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## (Dis)integration -

designs on the law curriculum

3-4 January 2008, University of Warwick, Coventry

Following the resounding success of the first event held in January 2007, the second Learning in Law Annual Conference will take place on Thursday 3 and Friday 4 January 2008, at the University of Warwick.

The overall focus of this conference is **curriculum design and development**. To encourage innovation and create opportunities to explore new synergies, the conference sessions will be generated around the following keywords:

**integration**

**engagement**

**creativity**

**experience**

**community**

**critique**

**evolution**

**value(s)**

For a booking form and further details, go to:

[www.ukcle.ac.uk/conference](http://www.ukcle.ac.uk/conference)

If you would like to contribute an article to Directions, contact Shakeel Suleman, [S.A.Suleman@warwick.ac.uk](mailto:S.A.Suleman@warwick.ac.uk)

The deadline for submitting articles for the Spring 2008 issue is 15 February 2008.

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The UKCLE events diary covers events with a legal education or general learning and teaching focus, as well as links to other law focused learning and teaching events listings. The listing can be accessed at: [www.ukcle.ac.uk/newsevents/diary.html](http://www.ukcle.ac.uk/newsevents/diary.html). To add your event contact UKCLE (e-mail: [ukcle@warwick.ac.uk](mailto:ukcle@warwick.ac.uk))

### 25 September 2007

Toolkit for law teaching (UKCLE)

Venue: University of Birmingham

For more details, see:

[www.ukcle.ac.uk/newsevents/ukcleevent.html?event=452](http://www.ukcle.ac.uk/newsevents/ukcleevent.html?event=452)

### 25-27 September 2007

Improving legal education and training in a converging Europe

Venue: University of Warsaw, Warsaw

For more details, see:

[www.ccbe.org/en/activites/conferences\\_en.htm](http://www.ccbe.org/en/activites/conferences_en.htm)

### November 2007 – September 2008

A series of four seminars organised by the UKCLE covering a wide variety of topics related to e-learning. The first seminar will be taking place on the 1st of November.

For more details, see:

[www.ukcle.ac.uk/newsevents/ukcleevent.html?event=453](http://www.ukcle.ac.uk/newsevents/ukcleevent.html?event=453)

### 9-10 November 2007

Second Annual Conference on Empirical Legal Studies

Venue: New York University, School of Law, New York

For more details, see: [www.law.nyu.edu/cels/](http://www.law.nyu.edu/cels/)

### 16 November 2007

Creating an impact: enhancing teaching to large groups

Venue: Hilton York

For more details, see:

[www.ukcle.ac.uk/newsevents/ukcleevent.html?event=432](http://www.ukcle.ac.uk/newsevents/ukcleevent.html?event=432)

### 17 November 2007

Pro Bono Conference 2007

Venue: QEII Conference Centre, London

For more details, see:

[www.probonouk.net/index.php?id=conference\\_top](http://www.probonouk.net/index.php?id=conference_top)

### 7-8 December 2007

Legal Research Conference for postgraduates

Venue: Quinn School of Business, University College Dublin

For more details, see: [www.ucdconference.com](http://www.ucdconference.com)

### 3-4 January 2008

Learning in Law Annual Conference 2008

Venue: University of Warwick, Coventry

For more details, see: [www.ukcle.ac.uk/conference](http://www.ukcle.ac.uk/conference)