

Learning About Law Lecturing

Professor Philip Thomas

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FOREWORD

Books about learning and teaching in higher education have recently begun to make appearances in university libraries, usually in the education section. Books about teaching law, however, occupy little, if any, shelf space in the law libraries, still less on law teachers' bookshelves. Phil Thomas' work is therefore a rare contribution before you even open it. The NCLE approached Professor Thomas with a request to provide broad guidance on teaching large groups of law students. We wanted to provide a manual that would be of help to staff setting out on a career teaching law.

We were aware from the outset that we were setting a challenging quest. Whilst the oral delivery of the expository lecture is still the most common format for delivering legal education, it is also a largely covert activity. Few lecturers welcome other lecturers to view the performance. Whilst peer review and appraisal are encouraging some to be brave enough to submit to the observations by colleagues, the predominant attitude seems to be one of defensiveness or even affront at the idea of such intrusion. Such coyness about our most significant teaching activity lies uneasily alongside our research ambitions where publication, dissemination and self-projection are the hallmarks of the successful academic.

One of the explanations of such contradictory attitudes is that we spend many years learning how to write about law, but have not until recently given much thought to what we should do when teaching it. It might also result from a collective misapprehension amongst a few that law as a discipline only involves that part of the brain that amasses knowledge, rather than the part that deals with activity and behaviour – the motor bits. One sometimes encounters this view when colleagues curl their lips at the whisper of the word 'practitioner', suggesting that those who 'do' law, have been somehow genetically deprived. Whatever its source, the hope is that such prejudice is waning as law teachers recognise that knowledge, experience and ability which is not passed on is worthless. And that if learning is to occur, then those of us who are involved have to be professional (and knowledgeable) about its processes. The new age of staff development and the post Dearing society should soon ensure that all new entrants will have been instructed in the arts and skills of learning and teaching. Even so it is likely that initially most materials and guidance will be generic and reflect the needs and resources of the enterprise.

The aim of the guidance notes is to offer teachers of law a rationale for the introduction of more varied teaching and assessment activities. It draws on research and first hand experience of teaching in higher education and offers practical hints on how to make the most of the lecture environment. It is hoped that the notes will provoke some thought about the purpose and effectiveness of teaching methods and help individuals to plan, conduct and review the teaching and learning process.

Whilst the notion of generally transferable teaching skills is eminently more acceptable than generally uninformed teaching habits, there are subtle ways in which teaching and learning about law have a different profile from other subjects – a profile which places a premium on such skills. The added possibility that the doctrine and practice of law is influenced by the techniques, behaviours and values adopted by those entrusted to teach them, makes the manner in which law is taught an even more significant issue. So we anticipate that a booklet about teaching large groups and lecturing written for law teachers will find a welcoming readership.

If law has its own unique teaching and learning methods, the good law teacher is exposed to a range of institutional customs and influences alongside personal experiences, ambitions and anxieties. Our teaching behaviour is the product of our experiences, both as student and law teacher. The culture of CNAAL has resulted in many law schools adapting more readily to efforts to monitor institutional performance and evaluate course

and programme delivery. A few staff in the pre 1992 universities may still resent such initiatives as an infringement of their academic freedom. Whatever institutional stance is adopted, it is to be hoped that such sentiments would not obstruct the reflective approach to learning about teaching that is encouraged in this work.

If twenty law teachers could each project onto a wall the image of their typical lecture class, we would likely see twenty quite separate scenes. Size of class, shape of lecture room, facilities, space, student expectations, age and experience of audience, time of day, and the lecture room environment are all opportunities for differences which can contribute or detract from the large group leader's task.

Professor Thomas' account may not reflect the experiences and aspirations of all. If some feel that such guidance is unnecessary or that their own and their colleagues' teaching already reflects the suggestions that follow, a measure of self congratulation is in order. Pass on the good practice. If on the other hand you think that some of the ideas have not yet occurred to colleagues, or that new staff might find much to support them before they set mouth in the lecture room, photocopy the pages (no CLA protection here) or download them from the UK Centre for Legal Education website on www.ukcle.ac.uk. Organise a lunchtime discussion on the topic. Raise the issue with the staff development officer, and let others know what you are doing.

Roger Burridge
Warwick

PREFACE

Do you remember this?

"Hello everyone. Is this the first year public law class normally taught by Dr. Jones?"

Can I have some quiet?... Everyone, SHUT UP!!!

Thank you.

I asked if this is the public law class normally taught by Dr. Jones?

It is?

Good.

I am standing in for him, at very short notice, as he has been unavoidably called to London/Oxford/Edinburgh.

Perhaps you already know that I am interested in long-term relational contracts about which you will learn a great deal. Correction, that statement applies to those fortunate few who will elect to study advanced contracts with me in their third year. Anyway, let's get on with the public law lecture.

Sorry I'm so late, and thanks for waiting.

By way of explanation, I wasn't sure of the classroom number so I was obliged to look in several rooms. More importantly my dog was very ill last night and I had to take her to the vet this morning. Amy, that's my dog's name, not the vet's name, or rather was her name, is, or rather was, 14 years old so I guess it's no surprise I had to have her put to sleep. It's a terrible wrench, as you pet lovers well know.

Anyway, let's get on with it: stiff upper lip, and all that, as we Brits say. Sorry. I probably shouldn't say that, now that we're nearly part of Europe. Incidentally, hands up any of you who do come from Europe. My goodness, nearly all of you. No Welsh here?

First, what did you do last week? It's been a while since I taught public law but Dicey hasn't written much recently so I should be OK on the rule of law.

No, seriously, that's a joke.

Actually, I have written some important articles on this topic and I will give you the references later in the lecture if I have brought them with me.

Anyway, Dr Jones has loaned me his Dicey acetates. Does anyone know how to switch on the overhead projector? This new technology can be a challenge for older members of staff but some of us attempt to keep up with the very latest developments.

More important, does anyone know where the overhead projector is stored? You with the yellow spiky hair, could you please find a porter and ask him to trundle it to this room, but be as quick as possible. Oh, and can you get a screen as this wall is painted brown?

Well, well, time seems to be flying and I've a lot of information to dictate in order to get you ready for the examination question on this subject – assuming, of course, that there is an examination question on this subject. This subject is examined isn't it? It's not one of those 100% assessed jobs, is it?

Oh, incidentally, and how rude of me, I forgot to introduce myself to you first year students. My name is Professor Disaster although, and puzzlingly, I understand that the students' nickname for me is 'Total'. You will be seeing a lot of me during the coming three years... ”

Whilst this caricature does an extreme disservice to the efforts of countless law teachers, we all know that such colleagues still exist, if not in our law school or department, then down the road or across the water. Moreover, such memories may exert a more subconscious influence. A recent study of the perceptions of staff and students in higher education acknowledges the significance of prior teaching and learning experiences in university teachers' approach to their work (Prosser and Trigwell, 1999). Our experiences of how we were taught and how we learnt as students informs our perceptions, alongside our more recent ones. In the absence of training in how to lecture, our early experiences provide the main models.

When I started writing this publication a visiting law professor came into my office, looked over my shoulder at my draft, and declared: “Law teachers are born not made”. I disagree. They may be “born” but they certainly can be shaped and even possibly made. This booklet is a contribution to support that creative process in which I address two main concerns. The first relates to the place of the large lecture format in the struggle for resources and considers the relationship between educational practice and legal theory, as well as the relationship between content and method. This contextual overview stems from my belief that lecturing is not a mechanical process. In my view the good law teacher needs an appreciation of the purposes of legal education and its appropriate place within the social sciences. The remainder of the booklet focuses on *how* to lecture rather than the *why* and *what* addressed in the first section. For those who are interested in the work of educational theorists who have subjected the lecture to the sort of analysis that the lawyer accords to the duty of care or *mens rea* of murder, a selection of the growing body of specialist literature is included in the bibliography.

Hopefully *Learning About Law Lecturing* will provide fresh ideas and exercises to reinvigorate the fatigued or support the research overburdened. It is dedicated to a conviction that law teaching can be fun, and that professionalism as teacher, lawyer, or indeed both is an attainable target for all.

The Law Lecture in Context

Whilst legal and educational orthodoxy explain the popularity of the lecture, other influences ensure its continuance. Professors Disaster are not born, but made, or self-made. They allow themselves to happen.

Unfortunately they are more likely to occur when an environment conducive to 'Disasterism' is being encouraged by the financial restructuring occurring in higher education, fluctuations in the demand for law graduates by the professions, and shifts in educational orthodoxy. A brief assessment of the current environment facing law teachers reveals:

- The number of undergraduates in law schools and the number of law schools have increased dramatically. The Ormrod Committee in 1971 stated that 1,449 law graduates came from law schools in 1970. There were only 6 colleges outside the 22 traditional universities teaching law that provided any form of legal education.
- The Higher Education Statistical Agency for 1997/98 recorded 35,273 full time law undergraduates and 8,189 part time law undergraduates. Law degrees are offered by 89 universities. Law teaching also takes place in 36 institutions that are not traditional universities.
- The student numbers in 1971, it has been argued, were more appropriate for an overwhelmingly vocational degree than those for 1994 (SPTL Reporter, 1998).
- The pressures to obtain professional training have grown but a smaller percentage of law graduates are obtaining training contracts and pupillages (Shapland, 1995). Student demand for legal education remains surprisingly buoyant but the mismatch of professional openings and law graduates raises again the question whether law is a purely vocational training best undertaken within universities.
- Law student numbers have tended to grow as the financial resource base sinks (Abel, 1988). As they include the more highly qualified students and can be taught at relatively low cost, universities are unlikely to disband their law schools. Legal instruction via the large class, enhanced by new technologies and hi-tech teaching aids is, and will continue to be, perceived as a cost-effective way of teaching.
- In the future even more students may be looking for a law degree or other legal education. The Kennedy Report on Widening Participation attacked the barriers to accessing education. Lord Dearing reported in the same year that the proportion of young people going to university should rise from 32 per cent to 45 per cent over the coming twenty years. David Blunkett set an interim target of increasing the proportion in England and Wales at 35 per cent by the year 2002. In October 1997 at the Labour Party annual conference the Prime Minister targeted 500,000 extra students who would enter higher or further education by the year 2020.

The Law Lecturer's Environment

- Growing student numbers demand a concomitant financial commitment from the state. This response has not yet been forthcoming, other than a requirement that students pay towards their tuition, thereby breaking a long-standing tradition of free education.
- A likely response is that students will increasingly see themselves and behave as purchasers of a product: a marketable degree. They will become more discerning and demanding thereby ensuring that the issue of teaching quality becomes more important as the 'customers' become more vocal and powerful. Professors Disaster will find it increasingly difficult to hide behind their Chairs, and will feel themselves further isolated as junior staff, equipped with new skills and fresh knowledge about teaching techniques take over the auditoria.
- All this is occurring at a time when the conditions under which law teachers work are also changing. Currently, some 45 per cent of university academic staff are either on fixed term contracts or are part time teachers thereby making them less secure and possibly less forthcoming in their views on teaching, research and the necessary and appropriate professional requirements for student learning.
- New law teachers are increasingly required to participate in their University's staff induction programme. The advent of the Institute for Learning and Teaching means that all new staff in higher education are likely to be required by their university to undertake professional training.

Message v. Medium

When planning this publication I sought to avoid impaling myself publicly on the palisades of theory. I also thought this would allow me to focus on the structure of the law lecture and thereby slip past content. I was wrong. Theory's implication, whether legal or educational, cannot be ignored any more than law's substance can be separated from its mode of exposition.

Content shapes structure and 'legal' theory shapes content. Nevertheless, not even legal theory commands its rightful space here other than the recognition of its primary formative functions. No more can one talk of 'the legal theory' than one can talk of 'the lawyer'. Both come in various shapes, sizes, reflecting, for example, ethnicity, gender and moral codes.

The City solicitors' conglomerate, operating in a global setting exclusively in matters of corporate activity for corporate clients, works light years away from the inner city, sole practitioner who practices in the local magistrates' courts.

Likewise, St Thomas Aquinas would pass Louis Althusser on the street, neither acknowledging the other as a legal theorist, yet each, in his way, has and continues to influence the structure of legal thought and its teaching.

Legal positivism was the backbone of my undergraduate education with genuflection in the jurisprudence course in the directions of natural law, and American and Scandinavian Realism. Though tedious the Austinian shadow provided continuity and coherence during those undergraduate years. The quiet certainty of law was held out to those who were diligent and enthralled by the seamless web of the common law. Smith in *The*

Law of Contract (1989) declared “for a thorough understanding of a subject, there is no substitute for a study of the cases.”

Thus, theory informed content which in turn affected the structure of the lecture. The Contract course was the syllabus. Trailing through offer, acceptance and consideration involved coming to terms with a stream of cases through which the bizarre postal rule could be learnt. The cases were stacked up in a neat, hierarchical order before moving onto the next set of legal conundrums.

On reflection, classical contract theory was educational in the way that Latin and Greek are justified: divorced from the present but nevertheless a sound discipline for the ill disciplined mind. That was not the time for radical ideas advanced later by the economic theorists of Chicago, the critical legal scholars, post-structuralists, feminist jurispruders, the socio-legal teachers or the business world contract scholars such as Macaulay and McNeil.

Today if we ask, what do law schools teach, the answer will be, almost anything! No longer do law schools expound an exclusive concentration on legal doctrine as the component for a law degree. There is new content to accompany new theories. Nowadays law teachers frequently demand that student eyes lift from the pages of the Law Reports and find understanding from graphs, statistics, political theory, social science surveys, legal and business practice, and popular culture. The black letter of the law is invariably brightened with the background of social and cultural context, even if the full potential of socio-legal and critical perspectives is not universally embraced.

The credit for challenging and changing the theory and content of legal education cannot be claimed exclusively by late twentieth century scholars as lawyers such as Oliver Wendell Holmes prove.

“When you get the Dragon out of his cave onto the plain and in the daylight, you can count his teeth and claws, and see just what is his strength. But to get him out is only the first step. The next is either to kill him, or to tame him and make him a useful animal. For the rational study of law the black-letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics.” (Holmes, 1897)

Such directional change has significant meaning and potential for the teaching of law (Thomas, 1997). Cotterrell has concluded that “all the centuries of purely doctrinal writing on law have produced less valuable knowledge about what law is, as a social phenomenon, and what it does than the relatively few decades of work in sophisticated modern empirical socio-legal studies.” (Cotterrell, 1995:296)

What is clear is that the law is now commonly accepted as being subject to kaleidoscopic interpretation thereby offering the viewer multiple visions. There is no single juridical orthodoxy practised throughout our law schools. The conclusion is that competing theories produce different contents, which in turn may dictate differing delivery styles in the classroom. In addition, the lecture theatre is a site where more than observation of the law occurs. It is also a site where law is interpreted, evaluated and created. It is a process where method is determined by message. Some would argue that message and method combine to shape the next generation of lawyers, influenced by the theoretical positions of the staff (Brigham, 1996).

What Do Law Schools Teach?

Liberal Education? Or Vocational Enterprise?

The fractured discourse of law which characterises contemporary research complements the long standing debates concerning the purpose of classroom activity: liberal education or professional preparation. The debate has been extensive along with the literature it has produced but nowhere has the essence been more succinctly captured than in the metaphor offered by Twining who questioned whether the quest for law schools was to produce a plumber or a Pericles (Twining, 1967).

The issue of purpose remains unsettled. The location of professional training in university law schools for the Law Society and more recently for the Bar Council both reasserts the power of the professions and facilitates an expansion of academic influence. External review bodies have consistently recognised the importance of a broad, liberal training for those intent on entering the legal profession. The Ormrod Report in 1971 recommended that the objectives of the academic stage should include a basic knowledge of the law, the intellectual training necessary to apply abstract concepts to case facts and an understanding “of the relationship of law to the social and economic environment in which it operates” (Ormrod, 1971: para. 185).

The Lord Chancellor’s Advisory Committee on Legal Education and Conduct 1996 (now the Standing Conference on Legal Education) supported this position. In addition, the Dearing report on higher education stated “while many students will continue to welcome the opportunity to pursue a relatively narrow field of knowledge in great depth, there will be many others for whom this will neither be attractive, nor useful in career terms, nor suitable. In a world which changes rapidly, the nation will need people with broad perspectives.” (Dearing, 1997: Para. 9.3)

The draft Joint Statement from the Law Society and the Bar Council seeks to assert the importance of both a minimum ‘law’ content to the undergraduate stage and the significance of understanding the social context within which law operates. The volume of ‘law’ appropriate in a law degree which brings exemption from the professional examination for entry into the vocational stage is periodically disputed between the professions and the academics. It is being debated as this booklet is being written and will probably be argued again in the early years of the second millennium. It is difficult to find in law schools’ undergraduate programmes evidence that alterations in the Joint Statement in the recent past resulted in any significant changes, although the threat to universities of ‘non recognition’ still lurks somewhere. Joint and mixed degrees are particularly exposed to the uncertainty surrounding such debates.

If much of the debate in legal circles has centred upon the content of the undergraduate degree, in education debates the focus has been upon three main themes : the process of teaching and learning; the inculcation of broad skills that are appropriate for the perceived needs of employers; and access to undergraduate programmes for greater numbers. The seminal texts of these debates are the Dearing and Kennedy reports, but educational change has been affecting law schools during the past two decades. Vocational programmes had long been urged to adopt courses that were more attuned to the needs of practice. In 1989 the Bar reformed the vocational stage to incorporate advocacy, negotiation and conference skills. The Law Society introduced the Legal Practice Course soon afterwards. This emphasis upon practical skills had received impetus from moves within the Council for National Academic Awards (the body responsible for Polytechnics) to identify vocational skills for

Currents of Educational Policy

development in undergraduate programmes. Dearing insisted that higher education needed reform. Degree programmes should make their objectives more explicit. General transferable skills should be included in the curriculum. Academics should be trained and accredited. Degree programmes should be subject to greater external scrutiny and comparative evaluation. Learning and teaching was to be more student centred, although many doubted whether this was possible with the level of resources proposed.

The culture of objective setting, evaluation against declared criteria and external scrutiny which had been introduced into primary and secondary schooling was already permeating the tertiary sector. Panels of experts in each discipline were visiting departments and assessing the quality of teaching. Another panel was evaluating research output.

The context of law teaching today is accordingly a very varied one. Some law schools, especially those in the new universities, have comprehensive teaching and learning packages in which programme objectives, and the learning outcomes of each course are documented and the syllabus and assessment criteria spelt out for students. Others are only now recognising the need to create a paper trail that reflects the content and methods of their programmes, mindful of the requirements of the next round of visits from the Quality Assessment Agency.

A parallel and linked exercise has seen efforts to 'standardise' degrees by seeking to regulate the level of degree awards between different disciplines in a university and different universities within a discipline. The development of the concept of graduateness and the identification of mechanisms for setting standards in relation to law is undergoing 'piloting' in Scotland and Wales, which resulted from the *Graduate Standards in Law Project: A Report on Pilot Feasibility Study, 1997*.

Although Scotland has developed a slightly different approach, all jurisdictions adopt an approach that Benchmarking is appropriate to prescribe a "minimum level of performance required to pass an honours degree". This 'Threshold Statement' relates only to the minimally acceptable graduate, and the standard is set by specifying what such a student should know and be able to do by graduation. The standard identifies a number of 'Areas of Performance' in which a graduating student will be expected to show a prescribed level of achievement. These are set out in Figure 1.

Benchmarking and Grades

Areas of Performance

Figure 1. Areas of Performance

<i>Subject specific abilities</i>	<ul style="list-style-type: none"> - Knowledge - Application and problem-solving - Sources and research
<i>General transferable intellectual skills</i>	<ul style="list-style-type: none"> - Analysis, synthesis, critical judgement, evaluation - Autonomy and ability to learn
<i>Key skills</i>	<ul style="list-style-type: none"> - Communication and literacy - Other key skills: <ul style="list-style-type: none"> numeracy information technology teamwork

Source: *Graduate Standards in Law Project Report, 1997 Appendix A*

The Proficient Law Undergraduate

From these Areas of Performance the Pilot Benchmarking Statement for Law identifies the level of achievement that might be expected in each of the categories for a proficient law undergraduate, thereby prescribing in the Benchmarking panel's view the minimum capabilities of any Honours law graduate. These are set out in Figure 2.

Figure 2. Example of Level of Achievement for a Proficient Law Undergraduate

<i>Knowledge</i>	<ul style="list-style-type: none"> ● able to demonstrate knowledge and understanding of wide range of legal concepts, values, principles and rules of English law and able to explain relationships between them in a number of particular areas ● able to explain accurately the major institutions and procedures of English law ● able to demonstrate a sound and generally accurate knowledge of the law and its content in relation to most areas of law which have been studied
<i>Application</i>	<ul style="list-style-type: none"> ● able to apply knowledge to complex situations, able to recognise potential alternative conclusions for particular situations, and provide supporting reasons for them
<i>Sources And Research</i>	<ul style="list-style-type: none"> ● able to select key relevant issues for research and to formulate them with clarity ● effective in use of standard paper and electronic resources to produce up to date information ● with the assistance of secondary sources, able to integrate material from primary sources using standard techniques of legal interpretation to provide a substantially accurate picture of the state of the law
<i>Analysis, Synthesis, Critical Judgement and Evaluation</i>	<ul style="list-style-type: none"> ● able to rank relevance and importance within unfamiliar arguments in the light of established law ● able to bring together and present in a coherent way materials from various primary and secondary sources in an integrated way ● able to offer an accurate summary of the current state of doctrinal and policy debate in an area
<i>Autonomy</i>	<ul style="list-style-type: none"> ● in areas of law already studied, able to negotiate the definition of own project and to identify independently a wide range of legal materials and standard non-legal sources ● in areas of law not previously studied, able to use a full range of legal sources to identify the principal controversial issues in a topic ● able to make reasonable accurate assessment of own progress, to identify and formulate issues on which assistance is needed and to act on feedback given
<i>Communication & Literacy</i>	<ul style="list-style-type: none"> ● able to write and use orally fluent and complex prose, using legal terminology correctly ● can relate material appropriately to the concerns of the intended audience and to summarise their arguments accurately
<i>Other Basic Skills</i>	<ul style="list-style-type: none"> ● able to make relevant use in an argument of numerical and statistical information derived from primary sources ● able to conduct efficient searches of websites to locate information; able to exchange documents and manage information by e-mail ● able to use a wide range of formatting and other techniques within a standard software package; able to make limited use of spread sheets ● able to conduct searches efficiently, using a number of retrieval systems

Source: Graduate Standards in Law Project Report, 1997

The Benchmarking Standard being developed for law does not specify the mode of study or the learning methods by which any of the outcomes may be achieved by a student. Presumably, the panel wishes to free law schools to choose whichever methods they feel can best deliver the outcomes for their students. Whilst these are laudable aims in keeping with a spirit of institutional autonomy, those anxious to improve standards and ethical values in learning and teaching may regret the omission. Whilst much freedom should be afforded education providers and students to allow the diversity of access to programmes and freedom to learn that modern education demands, this would not preclude the identification of minimum standards to encourage the ethical delivery of teaching and learning. For example, the Threshold Statement could require that materials should encourage equal opportunity, promote basic human rights; and reflect values such as integrity, value for money, pluralism and constitutional democracy. Reminders that assessment approaches should relate, for example, to course delivery or that appropriate practices to minimise plagiarism are adopted might also be expected in the delivery of undergraduate learning programmes.

On the other hand the standards do encourage the incorporation of knowledge areas, applications and transferable and specific skills that may have previously been omitted from some undergraduate programmes. Whilst these do not necessarily impinge on the content and delivery of a lecture, the time spent with a large group provides a good opportunity for incorporating general transferable skills and specific skills in part of the class, or some of the lectures.

Each institution will probably have its own description of the grades or classes that it adopts for its degree, which should be made available to students. For those schools that have not produced their own descriptors, and to assist teachers in their approach to assessment grading, Appendix 1 reproduces two examples of guidance for the different 'classes' of a degree.

I have declared my commitment to socio-legal teaching. It is not one that is shared by all law teachers. Nevertheless, what follows reflects the belief that traditional doctrinal exposition is a desert fit neither for the habitation of the eclectically curious nor the single minded, would-be successful, legal practitioner. There are limited and limiting returns for these classically polarised students. Instead, the content must reflect an awareness of the wider political and social structures that affect and are affected by the law and legal personnel. Teachers committed to a social policy approach in the classroom, thereby taking into account the role of law as a form of social engineering, must recognise that 'facts' are negotiable, constructable and open to alternative usage. Indeed, all outcomes are interim in nature, and each set of circumstances that we label an effect becomes a causal part of the next set of situations to emerge in need of a fresh solution. Thus even within the relatively familiar territory of social policy and law there must be a willingness to question, challenge and dissent from the prevailing orthodoxy even at the risk of unpopularity by challenging law's empire. This is not to suggest that law students must become social science vampires, living off the intellectual life of other disciplines. There is a need to recognise law as a social science but with its own vocabulary, style and life force. The study of the legal discipline must provide adequate space clearly preserved for working with and within the rules, regulations and cases that contribute to an appreciation of the 'broad perspectives'.

For the foreseeable future, teaching in very large groups is guaranteed,

Standards for Learning Methods

Grades and Degree Classes

Socio-Legality Reaffirmed

although student expectations and departmental review may require adjustments to the format and delivery of large group teaching. This booklet does not seek to suggest that the expository lecture is defunct, nor that it should be discarded from the law teacher's portfolio of teaching methods. The challenge is to ensure that the events that take place in the large lecture room make the best use of your and your students' time.

How Can Lectures Help Students Learn?

Until recently, few of those who are teachers of law will have started with any analysis of their role as a professional teacher. A few of us may think of ourselves as primarily members of a legal profession. For the rest a self-image of the academic as part teacher and part research scholar probably predominates, alongside myriad images of secretary, counsellor, committee member, photocopy operative, referee, marker and memo maker. But because we define ourselves mainly by the legal knowledge we have accumulated, we are slow to ask ourselves what we hope to achieve by our teaching. If you doubt this, pause for a second and make a note of the main things that you hope to achieve from lecturing. These first thoughts can be built into a list of the objectives that you think you should fulfil in carrying out your role as a teacher in higher education.

Since many law schools and law teachers are not used to thinking about teaching and learning objectives, you could usefully consider involving colleagues in your reflections. Get the subject team together or join a group of colleagues in discussing individual and institutional objectives. Suggest that participants start by completing the simple chart set out in Figure 3.

Figure 3. Developing Teaching Objectives

Developing teaching objectives

Write down as many conclusions as you can think of to the following:
“As a result of my teaching, students should be able to.....”

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

(Continue as necessary)

*Work Out What
You Are Trying
To Do*

*Developing Teaching
and Learning
Objectives*

How Will My Teaching Objectives Be Accomplished?

Not all teaching and learning objectives will necessarily be able to be accomplished in the lecture or large group. Some will be more appropriate for private study or seminars. Having identified what you hope to achieve by teaching, you can then go on to consider how your objectives can be achieved and which of your objectives you think can be accomplished in the lecture. You could begin this process with your colleagues by photocopying Figure 4 and asking each of them to fill it in as an introduction to a discussion about the role of teaching objectives and the spread of learning experiences for students. If you agree the main objectives you will already have the beginnings of a teaching and learning strategy which can then be presented to students.

Figure 4. How will my teaching objectives be accomplished?

- A. Write down any objectives that you hope to achieve for your students as a teacher (e.g. transmission of knowledge etc.) in the first column.
- B. In the 2nd column write down which of your objectives you intend to accomplish partially or completely in your lectures.
- C. In the 3rd column note other ways in which your objectives will be achieved.

Objectives of my teaching	Will objective be fulfilled in lectures?	How otherwise will the objective be accomplished?
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Teaching Objectives and the Benchmarking Initiative

The Benchmarking initiative is important in the context of the teaching and learning objectives. The articulation of levels of achievement that may be expected from graduates studying law provides a helpful focus for developing a record of teaching and learning objectives in an individual course or across a whole degree programme.

As Figure 2 illustrated, they provide examples of the level of achievement that might be expected of the 'Proficient' law graduate on a single subject law programme. Based upon the above level of the 'Proficient' student, a range of levels can be identified.

Appendix 2 shows the outcomes that might be expected at Pass, Proficient and Very Proficient grades suggested by the Benchmarking Panel for Law. The illustrations drafted by the Benchmarking Panel provide a useful example of how a hierarchy of levels across a spectrum of capabilities can be articulated, whether or not a law school wishes to adopt the Panel's Guidance or develop its own definitions.

The Benchmarking Panel also provides in Appendix A of the report an illustration of the possible modal statements that might be adopted for programmes other than the single subject law degree – mixed degree, subsidiary and vocational programmes, and interested readers are referred to the Pilot Benchmarking Statement.

The Guidance for Law Schools on the Benchmarking Standards expects that the learning outcomes and marking criteria are to be communicated to students to make it clear what is expected of them. It also makes clear that it is for each school to specify the achievements or learning outcomes that they expect of their graduates. As a minimum these will have to conform to those specified, if the Benchmarking initiative is finally adopted.

Entwistle offers a list of objectives to enhance the quality of teaching which include:

- ensuring students have adequate prior knowledge and understanding
- matching content to the intellectual stage of student achievement
- helping students to perceive relevance and develop interest in the syllabus
- teaching in ways which explain concepts fully with enthusiasm and empathy
- emphasising and modelling the ways of thinking characteristic with the discipline
- assessing and providing feedback in ways which directly reward understanding
- developing a departmental or course team ethos which encourages reflection on teaching (Entwistle, 1995:12)

Whilst Entwistle's list provides a good starting point for the law teachers and illustrates the educationalist's expectations, the law teacher will wish to adapt her own approach. 'Prior knowledge and understanding' may be felt to understate the significance of encompassing a sound basic knowledge of legal doctrine in key areas; or the importance of contextual

The Student Dimension – QAA Guidelines

appreciation of the influence of law upon societies. Law as a discipline is essentially concerned with ethical values and their adoption, as it now should also pervasively address human rights issues. The current emphasis on transferable legal skills should be added to the above which in turn raises a question mark over the singular objective of information loading. Increasingly law students are entering diverse careers, both within and outside law, in widely scattered countries. It is no longer appropriate, if indeed it ever were so, to project the typical career structure of the law graduate and seek to shape teaching around that simple goal.

Recent education orthodoxy (correctly in the author's view) emphasises the centrality of the student perspective and the fundamental significance of learning as the function of our teaching. It can be revealing to ask your students what their expectations of the law teacher are. Whilst it may not be possible to get them to articulate in the language of teaching objectives, their insights are nonetheless likely to be informative. Their views could be canvassed during a mini-break five or six weeks into the module or course by such questions as,

“Right, I would be grateful if you would all just pause for a minute and think about the module/course so far. What do you think you have been learning? What do you believe are the objectives behind coming to this class each week? What do you think the course leaders are trying to do? Make a quick note of your thoughts and after 3 or 4 minutes reflection, discuss your thoughts with a colleague sitting next to (or behind) you. Then we will have a quick review of what you think the teaching is trying to do and what you hope to get out of it.”

You may need to be brave the first time that you raise this with students and it is a good idea to write the issue that you want them to consider on a white board or OHP. But perseverance will be rewarded usually by valuable feedback on the students' perception of your work. You may also be surprised by the appreciation that they show for involvement in the teaching process that goes beyond the more formal Student Feedback Questionnaire.

Student feedback and evaluation is considered in more detail in Section 8 but it is important to link one's teaching objectives at an early stage with their appreciation (or otherwise) by students. It is to this end that the Higher Education Quality Council, before its duties were taken over by the Quality Assurance Agency, began its recommended outline for student evaluation of teachers with an enquiry about the objectives of a class (see Appendix 3 for an example of questions for self evaluation based on the HEQC guidelines). The HEQC also specified the characteristics that it associated with good practice in teaching. These are set out in Figure 5.

Why Lecture?

If good teaching is dependent upon clearly expressed objectives and can be recognised by the QAA checklist, these standards alone do not explain why the lecture is still the dominant mode of teaching delivery. Why do we lecture other than because of a conditioned conviction that such an enduring process must contain some benefits?

Since the Middle Ages universities have employed this pedagogical technique. Readers will have experienced the classroom lecture as an undergraduate or 'taught' post graduate. Undoubtedly the significance of the lecture will be eroded by technology, not least the Internet and its

Figure 5. HEQC (now QAA) Characteristics of Good Teaching

Good teaching practice occurs when staff:

1. display a sound understanding and up to date knowledge of their subject, and bring this appropriately to the design of teaching and learning strategies;
2. communicate enthusiasm, drawing on scholarship, research and professional activity to support students in developing their academic skills;
3. recognise and respect the contribution made by students to each other's learning;
4. display an informed understanding of how students learn and demonstrate this in their contact with students whether in large groups, small groups or one to one;
5. demonstrate an awareness of a range of educational backgrounds when defining achievable learning outcomes for a programme element;
6. encourage students to learn how to learn, and to appreciate the need for continuing lifelong learning;
7. demonstrate concern for development of learning by setting each session in the context of what has gone before, and what it is intended to achieve;
8. show sensitivity to individual differences in learning styles, and use of a variety of teaching strategies and methods of assessment to promote learning;
9. make clear to students the structure context and opportunities for choice in the programmes for which they are responsible;
10. specify for students their expectations of student learning activity, performance and achievement of academic standards;
11. give prompt, informative and constructive feedback to students on their work, relating explicitly to the aims, learning expectations and assessment criteria;
12. make effective use of feedback from students and peers in reflecting upon their own practice as teachers, and in further pursuing their professional development;
13. work co-operatively with professional, non-teaching staff to develop teaching and learning methods;
14. make optimum use of the resources available to staff and students to support learning.

Characteristics of Good Teaching

potential for distance learning programmes. But the delivery of teaching and learning experiences through face to face meetings between a group of students and a teacher will continue indefinitely.

The traditional model of the lecture is an audio-visual presentation on a single topic lasting approximately fifty minutes. Its tone is expository and a single lecturer usually addresses a group of students ranging from thirty to over a thousand in number. During this performance students take notes and do not interrupt the flow of the solitary speaker and may be embarrassed to ask for clarification. Why is it so popular and enduring?

- a It is economical because it allows a single expert authority to present substantial amounts of information to large numbers of students in a short period of time where space is the main premium and technological requirements are simple and cheap. In an age of intellectual property rights the live spoken delivery can be delivered to students without additional proprietary and publishing costs.
- b It allows a teaching programme to be organised around a set volume of knowledge.
- c It has traditionally been accepted as a process which distinguishes between knowledge dissemination and doctrinal exposition in the large forum and discussion and reflection in the smaller arena.
- d It is instantaneous and can be utilised to explain recent developments, not yet in the text books, or complex or new ideas awaiting common promotion.
- e It is a powerful vehicle for the charismatic lecturer to enthuse students about the social value and challenges of well crafted law or expose its doctrinal shortcomings.
- f It is a mode of teaching that replicates the traditional school classroom 'chalk and talk' presentation and students from most backgrounds and cultures are so familiar with it that they come to expect it.

The formal lecture then has clear benefits and should have a place in every law teacher's compendium of teaching approaches. It is important to appreciate what the place of the formal lecture is in the teaching programme as well as to understand the variety of ways in which the traditional, formal method of lecturing can be enhanced and orchestrated into a more effective learning experience for your students. The first of these concerns – an appreciation of the role of the lecture in the teacher's collection of teaching techniques – will be assisted if we know a bit more about student learning in the lecture.

What can the formal lecture achieve? How and what can students learn during a lecture? In order to select appropriate aims we need to identify and prioritise our objectives within the classroom. A starting point is to consider what ideas we as lecturers have about the purpose of the lecture. Fox discovered that lecturers presented four basic conceptions of their role:

- 'transfer theory' which treats knowledge as a commodity to be transferred from one vessel to another
- 'shaping theory' based upon the objective of moulding students to a predetermined pattern
- 'travelling theory' where there are hills to be climbed for better viewpoints, with the teacher acting as an expert guide
- 'growing theory' which focuses more attention on the intellectual and emotional development of the learner (Fox, 1983)

Some or all of these approaches may inform our approach to the lecture. Whichever conception(s) conform to your own approach, it may be valuable to review the overall syllabus and individual lecture outlines

How Do Students Learn From a Lecture?

against the background of Fox's model. Firstly, the exercise may reveal opportunities for developing your lectures in ways that you had not previously appreciated. Secondly, you may increase your understanding of a greater appropriateness of an approach to a particular section of the course. Thus 'shaping theory' may seem appropriate to a task where behaviour adaptation or formulaic thinking is a predominant concern of a class or part of it. Finally, Fox's conceptions may suggest that our approach to the lecture is unduly narrow. Most of us would recognise that each of the conceptions may have a place in the lecture room. Few would regard a lecture that failed to recognise 'growing theory' as a successful experience for the students.

It has already been suggested that lectures in the formal sense of lengthy exposition to a large group of listeners and note takers are most appropriate for conveying knowledge and achieving comprehension. The Teaching More Students Project at Oxford Brookes in 1992 identified the key objectives that are likely to be achieved and those which are unlikely to be achieved as:

Figure 6.

What formal lectures can (usually) achieve:

Knowledge
Remember specific facts *i.e. name, recall, repeat.
recognise etc.*

Comprehension
Organise facts so as to make
sense of them *i.e. describe explain,
define etc.*

What formal lectures are unlikely to achieve:

Application
Apply known concepts or
principles to solving problems in
new situations *i.e. solve, apply, interpret, etc.*

Analysis
Analyse information into its
constituent elements *i.e. identify interrelationships
and key concepts*

Synthesis
Put together information in
new or original ways *i.e. produce a unique solution
or original plan*

Evaluation
Make critical judgements *i.e. compare and contrast
explanations or theories*

Source: *Lecturing to More Students*, 1990, p8

What is it Realistic to Achieve in a Formal Lecture?

What Formal Lectures Can and Can't Achieve

As we might expect, the table suggests that lectures are successful at conveying information and facts. Lectures are therefore appropriate when helping large groups of students to develop an understanding of legal content. In order to acquire critical and evaluative skills however, students need opportunities to talk to each other and to gain some conception of what constitutes quality in a given area (such as legal method). In helping students to develop these sophisticated skills it is

Enhancing Lecture Performance

The Tyranny of Content and Coverage

The Lecture in its Learning Context

necessary to provide an interactive and communicative environment and this is often better accommodated through problem solving, legal clinics and group work. Employing a variety of teaching environments allows students to play to their strengths and to expand the range of learning outcomes.

What we teach and what is learnt is not necessarily the same! Students learn in different ways, at different speeds, in different places. Brown and Atkins argue the lecturer's intention should be to achieve coverage, understanding and interest (Brown and Atkins, 1988)

Coverage should reflect the breadth of the syllabus and issues to be examined should be made specific. On the other hand, there are staff who seek to cover all the course, or the entire set book, in lectures regardless of student attention or interest. The danger is that 'information overload' may occur, and the opportunity to engage the students' own thinking and reflection will be lost. So long as students are clear what topics may be examined and have the opportunity and facilities to study any topics not dealt with in lectures, emphasis can be placed upon the effectiveness of the lecture as an event rather than the drive to complete the syllabus.

Moreover the lecture is only one of several ways in which students learn. What they learn out of class is greater in volume than what they learn in it – or should be since they will spend more time and effort studying on their own than they will listening to your lecture and making notes. As teachers we need to acknowledge the significance of learning achieved in the law library or in discussion with colleagues. We can do so by course planning that allocates specific tasks to the students' overall learning effort. Whilst this booklet concentrates upon the lecture or large group teaching event, a similar analysis and approach can be made for small group teaching, home study, field work, empirical research, essay writing and library exercises. The NCLE Teaching and Learning Manuals *Teaching Legal System* and *Teaching Human Rights* demonstrate the place of the lecture within the overall plan for a subject syllabus.

The wider context of the lecture will usually be provided by the allocation of staff time, student numbers and the construction of the programme – the number of courses or modules per year in each semester or term. A common model for a course or module in many law schools is two one hour lectures per week and one seminar, tutorial or small group session each week or fortnight. The lecturer's starting point will be to ensure that the lecture programme addresses the overall aims of the course, and provides opportunities for the students to fulfil the learning outcomes.

The course or module materials should set out the aims and learning outcomes that underpin it. An example of the aims and learning outcomes for a Trusts module is set out in Figure 7.

Figure 7. An example of aims and learning outcomes for a Trusts module

The Law of Trusts Module

Aims of the Module

The primary aims of this module are:

- to explain the development of the trust and to provide an understanding of its adoption as a vehicle to protect and distribute private and public resources
- to provide an understanding of the obligations of trusteeship, the fulfilment of express trusts and the nature of equitable liability
- to enable students to apply the law to factual problems, identify those facts which are relevant to legal issues and to devise a solution to the problems and draft opinions citing the appropriate legal authorities
- to critically evaluate the effectiveness of the trust as a legal and social tool

Learning Outcomes

After studying this module students should be able:

- to explain the development and modern role of the trust
- to describe the nature and duties of the trustee and the consequences of a breach of trust
- to provide a reasoned opinion of the legal implications of creating, managing, enforcing, breaking or discharging a trust
- to analyse the current state of the law and to discuss possibilities for its reform
- to solve practical problems involving trustee duties and beneficiary privileges

Example

We usually familiarise ourselves with *what* we are going to say in a lecture rather than *how* we say it. Whilst concern over the content of any lecture inevitably dominates our preparations, the failure to prepare for the event can result in the complete waste of the time and effort invested in the syllabus and structure. An incoherent, inaudible, dull or confusing delivery can terminally damage your intellectual mastery of a subject. The skills and abilities of a creditable performance before a large group can be accomplished by study and practice. The experience for students can be immeasurably enhanced by some imagination and forethought on the part of the lecturer.

Brown and Atkins have identified four key skills of the good lecturer as:

- explaining
- presenting information
- generating interest and
- preparing

Key Lecturing Skills

Elements of Good Lecturing Practice

Clear explanation, they consider, is achieved by being familiar with and knowing what it is that you wish to explain and in structuring the explanation clearly (Brown and Atkins, 1988:19).

This can be accomplished by using 'signposts' to tell students where you are going; by being explicit with the framework that you are using (e.g. "I'll now move on to my second point..."); by emphasising the key conclusions or observations; and by linking the sections of a lecture together in a way that encourages synthesis of ideas rather than contributing to a disjointed delivery.

There are a number of guides to improve your lecturing techniques, some of which are to be found in the bibliography at the back of this booklet. The key elements that you should be thinking about before you venture into the lecture theatre include:

- Preparation
- Delivery
- Interactive and experiential learning
- Using the equipment
- Review and evaluation

If these issues are addressed, much of the anxiety that can accompany the task of standing up in front of between thirty or three hundred undergraduates can be avoided or contained. Each of the stages of Preparation, Delivery, Teaching Methods and Review will now be dealt with in greater detail.

Preparation

What the student already knows will heavily influence what she will learn and therefore what you should be offering. Consequently, ensure you are aware of the composition of your class. Some of the questions you may ask yourself could include:

- Are they first, second or third year undergraduate law students?
- Are various years mixed together, as is common on modular programmes or amongst 2nd and 3rd year students?
- Have all the students studied contract prior to your first lecture in company law: or land law prior to your class in succession or trusts?
- Are there joint honours students present? Or are there students from another discipline, for example, sociology, who are studying only one law course such as the sociology of law within the LLB stream?
- Are you addressing full-time or part-time students (or both)?
- If you are providing support teaching in another department, for example land management, journalism or business, what law subjects have the students studied and at what level?
- If you are part of a teaching team, are you aware of who and what has preceded you on the course in order to relate to the students' current levels of progress within the syllabus?
- Have you informed the next team teacher of the materials that you have covered, and passed on any group characteristics that may assist a colleague if briefed beforehand?

If you are unfamiliar with the composition of a group, before you begin consider checking their shared knowledge about the topic. You can do this by a simple show of hands ("how many of you are familiar with the concepts of *mens rea* and *actus reus*?" or, "Before we begin can I have a quick show of hands from those of you who are broadly familiar with the distinction between recklessness and intention?"). Whilst students are often reluctant to confess in public to having even the most rudimentary legal knowledge, a suitably couched enquiry will usually be able to elicit whether a particular topic has already been covered elsewhere.

Ensuring that you have correctly gauged the collective knowledge of your group at the outset may warrant giving them a short written quiz of five or six questions. Before beginning a series of lectures in a constitutional law course, you might consider something along these lines:

Identify the Audience

Test the Audience's Knowledge

Choosing the Content

“Before we start, a quick quiz. No prizes, no dunces.

1. What is the doctrine called which emphasises the importance of not confusing the roles of the legislature and the judiciary?
2. What is the name of the procedure for challenging the decisions of local authorities or state officials on the grounds that their behaviour was unreasonable?
3. What is the difference between the United Kingdom, and Great Britain?
4. How many countries are there in the European Union?
5. Name 3 key legal differences between the United States and the United Kingdom.”

After a minute or two ask the class to swap their answers with their neighbour, before briefly summarising possible correct responses. The answers themselves may be unimportant at this stage, but the class response can be gauged by enquiring about ease/difficulty of the quiz or asking how many got all questions right. Even ‘silly’ answers can reveal the level of knowledge that the majority of the class has reached.

Most of us will have developed an unstated approach to preparing a lecture. The topic or subject for a lecture may be derived from the syllabus, selected by a colleague or chosen by oneself. It will thus relate to a key concept in the analysis of the subject – ‘recklessness’ in criminal law; the doctrine of ‘consideration’ in contract; or the ‘rule against perpetuities’ in trusts. How can the topic be transformed into a lecture plan?

The unwritten process that lies behind much lecture preparation includes the following, often approached as a series of stages:

Figure 8. Stages in Lecture Preparation

subject identification	<i>from the syllabus</i>
bundle of contents	<i>learning outcomes, statutes, leading cases, associated ideas, empirical data, social context</i>
selection of key issues	<i>keynote concerns – doctrinal challenges, policy issues, implications for legal theory, problems</i>
learning components	<i>how contents and key issues will be dealt with during class (e.g. explanation, exercise, groupwork)</i>
choice of explanatory title	<i>title for lecture which encapsulates issues</i>
outline of teaching plan	<i>topics and timetable of lecture period (one side of A4)</i>
selection of teaching aids	<i>equipment and accompanying materials</i>
structured lecture notes	<i>headings and full content of lecture in note form</i>
openings and endings	<i>ideas for beginning and ending lecture, including connection with seminars or out of class assignment</i>

If the lecture is to avoid a mere replication of the text from the course book, you may seek to place the topics from the syllabus within a commentary or critique that employs your own ideas, observations or reflections. It is important to make it clear to the students where your commentary begins and ends, but the injection of the lecturer's standpoint will encourage the students to think for themselves or challenge your perspective. The successful incorporation of your own critique deserves the same planning and thought as your exposition of the doctrinal issues. Before you set about planning the lecture take some time to think more widely about the subject. Try to illustrate the dryness of abstract concepts with topical allusions or relate the remote circumstances of a case to the immediate experiences of your audience. List the random thoughts that you might wish to explore with the students, before assembling them into an order that will become the basic structure for your lecture. This list of ideas, reflections and topics-to-be-covered can be assembled as a list of key words. These key words and phrases can become the basis for the structure and outline of the lecture.

The design of a series of lectures and their individual outlines represents considerable intellectual investment of the law teacher and the final process is likely to be individualistic. Nevertheless there are certain common approaches which can assist those approaching the task for the first time. An example of working through the preparation of a lecture on Legal System or Legal Method is to be found in A. Bradney and F. Cownie, *Teaching Legal System* (Bradney and Cownie, 1999: pp 25-30).

Hierarchical classification or 'chaining' of the lecture encourages clear presentation of facts and provides the students with a recognisable framework. Start your plan by jotting down the various leading cases, statutory rules, topical illustrations, social issues, theoretical implications, economic effects, policy developments and other ideas, which you wish to address. These will obviously be suggested by the lecture subject derived from the syllabus. Figure 9 illustrates such a list that might form the basis of a lecture on Employer's Liability.

Figure 9. First thoughts for Lecture on Employer's Liability

<u>Employer's Liability</u>		
significance of Pers. Inj. (46% of torts)		who will be liable? why?
● contrib.	● volenti	● causation
strict liability??		History – <u>Priestley v Fowler</u>
role of welfare state		20th cent. growth
common law v. statutory duties		"safe system of work"
<u>Cummings v Arrol</u>		
decline of common employment = growth of vicarious liability		
role of criminal law		
burden of proof and 'reasonably practicable'		
NON DELEGABLE		
Problem of independent contractors		

Choose a narrative – such as the chronology of law reform, the resolution of social tensions or the unfolding of conceptual challenges – and assemble your list of issues into a skeleton of the lecture.

Bligh suggests structuring a lecture through a hierarchical classification (Bligh, 1972). Each item of information is linked with only one other idea

The Lecture Structure

Example – First Thoughts

in order that the grouping might aid the memory and provide a minimum number of links for students to remember. A lecture course that relies heavily on case law lends itself to this technique as chronology, court structure, precedent, dominant and exceptional rules can be laid out in a regimented order.

Breaking the lecture into sections, with appropriate use of illustrations, cases or statutes, allows a session to adopt a different format. Students can be presented with a mini lecture interspersed with examples, reservations, elaborations and a brief summary of the key issues of the moment before moving onto the next topic or mini lecture. This allows you to break up what otherwise might be tedious material into bite size pieces and maximise attention spans which fluctuate during the lecture period. By giving these sections numbers or some other form of identification the students know where they are in the lecture and for those who have had an out of body experience for part of the class the numbering identifies what they have missed during their absence! The use of headings and sub-headings, perhaps presented orally, or on the whiteboard, via the overhead projector [OHP] or Power Point, allows you to take stock of the presentation at various times. It will provide a map of the subject for your students and in some form should be made available either as a hand out or as part of your teaching pack.

An example of such an outline for the Lecture on Employer's Liability is in Figure 10.

Example – Topic Outline

Figure 10. Topic outline for Lecture on Employer's Liability

<u>Employer's Liability</u>	
<u>A.</u>	<u>Importance</u> 46% of tort claims 1 in 10 of work accidents end in claim
<u>B.</u>	<u>Bases of Liability</u> Vicarious Liability Breach of common Law Duty Breach of Stat. Duty
<u>C.</u>	<u>Non Delegable Duties</u>
<u>D.</u>	<u>Is Fault Relevant?</u> Vicarious Liability – employee fault Common law duties – Fault based Statutory duties – strict or fault?
<u>E.</u>	<u>History</u> Vic. liability first Limit imposed by common employment (<u>Priestley v Fowler</u>) Develop. of common law duties Decline of common employment Growth in Health and Safety legislation Decline of common law duties "safe place of work" "adequate plant and equipment" "competent staff" "safe system of work"
	<u>Continuing Importance of breach of Stat. Duty</u> Non delegable = liability of independent contractor Defences harder to establish contrib. neg. volenti causation can = avoidance (<u>Cummings v Arrol</u>) Reversed burden of proof for 'reasonably practicable' Stricter liability than negligence?

The downside of this teaching method is that it may encourage a rigid way of thinking. The chronological or evolutionary presentation of law through case study has a mechanistic, preordained attraction, which privileges the rationality of legal doctrine to the exclusion of the social reality of law. As I have suggested earlier, for some the law is 'seamless' but for others it is 'fractured'. At its most simple, the expository law lecture can be a rehearsal of the key statutes and cases and an examination of their individual judgements. In order to engage students in this process, you need to consider next the learning components that will make up your lecture.

Once the basic structure, or order of topics, is established you can begin to think about the way in which you want to deal with each topic. What is the balance between providing the group with knowledge and comprehension, (see Figure 5 above)? Do you hope to engage the students in more analysis and evaluation, by asking them to apply their knowledge? How will you do this? What opportunities will you provide in the session for reflection and internalisation of the subject? Are you intending to use any interactive techniques? When would these be most effective?

Add these elements to your outline of topics and estimate the amount of time that you will need to allow to complete an exercise or for students to conduct a 'buzz group' (see Section 6 below) and allocate the time available between the different topics and activities.

The sequential nature of your outline promotes good time keeping. You will quickly discover that what you prepare, the time you allocate, and the actual delivery time can be on different time frames! This technique offers you staging points to check against the clock.

A lecture plan will help you accomplish the tasks that you have set yourself in the time available. Whether you are preparing a formal lecture or a more mixed session comprising exposition accompanied by episodes for student interaction and reflection, make a plan of how the time of the class will be divided. Whether the session is 50/60 minutes or a two or even three-hour class, keep the teaching plan to a brief skeleton. Reducing your outline and timetable to one page of A4 will give you a clear overall picture of each class, with the topics and activities laid out alongside the time to be devoted to each activity. The class on Employer's Liability might have a lecture plan like that illustrated in Figure 11.

Selecting Learning Components

Making a Lecture Plan

Example – Lecture Plan

Figure 11. Lecture plan for Lecture on Employer's Liability

Employer's Liability (E.L.) Lecture Plan		
1.	Intro. and reminder of place of topic in tort syllabus	2 mins
2.	Importance of E.L.	15 mins
3.	Bases of Liability	
4.	Non Delegable Duties	
5.	Is Fault Relevant?	
6.	Buzz group – social benefits and problems of vicarious liability	8 mins
7.	History	
8.	Vic. liability first	
9.	Decline of common law duties	15 mins
10.	Continuing Importance of breach of Stat. Duty	
11.	Exercise – Identify <i>Ratio</i> and in judgement of <i>Cummings v Sir William Arrol</i> (1962)	8 mins
12.	Class discussion	4 mins
13.	Summary and conclusion	3 mins

Selection of Teaching Aids

Reconnoitering the Room

Knowing the Classroom and How it Works

By now it should be clear what sorts of teaching aids you are going to require for the lecture. Variety is almost an end in itself for long periods of collective study, where most of the time is devoted to one person (the lecturer) talking and the others listening. Within reason the more media that you can marshal to illustrate your lecture, the more interest you are likely to attract. It is more effective for example to have all the students looking at a single representation of a short text or diagram on a board than looking at a sheet of paper in front of them. An OHP or projector will ensure that everybody is focused on the same material, so long as it can be clearly viewed by all students.

Build in time to your preparations to visit the room where you will be giving the lecture. Imagine what it will be like to be a student sitting at the back of the room. Check any equipment such as an OHP, computer projector, video, slide projector or microphones. Make sure that you know how it works; whether it is plugged in and where to turn it on; and ensure that it is focused correctly. Decide whether you will use a lectern or not. Consider whether you want the room rearranged for the class before you start so that they are not in serried ranks but in a horseshoe or grouped around tables. Often the arrangement of the class will be constrained by the fixed chairs in the lecture room. Think of ways in which you can encourage students to interact, if this is in your teaching plan.

A fuller discussion of coping with visual aids and other teaching equipment is in Section 7 below.

Ask colleagues about the characteristics of the room and have a trial run at walking into the room when it is empty, setting out your notes and other aids and then speaking to the 'class'. Check the acoustics by speaking, at lecturing level and speed, in the empty classroom but remember that in a full room sound will not travel in the same way. Does your voice carry to the back of the room? A colleague sitting in the rear will tell you the answer. If you do not make this test the students will quickly shout at you to speak up and then you might discover your voice simply does not carry to the back of the class. Some rooms are fitted with lapel or static microphones. If you require voice amplification test it before your lecture. The fact that it worked last week does not mean it is still operational. It is not simply a question of whether it works. Know how to switch it on and off and establish what effect it has on your voice level and its projection. You only know by trying it out for yourself. Some people have voices that carry and others benefit from the support of a microphone. If you need it to be heard then use it. Establish well in advance into which category you fall.

Is the seating raked or flat and can you be seen and heard from every seat? Today, with growing student numbers, you need to check, in advance, that there is a seat for every student. I have seen classes where late arriving students in large 'foundation course' classes have been obliged to sit on the steps. Overcrowding and inadequate seating not only contravene fire regulations but can be disruptive and will discourage students from attending future lectures. If the room is inappropriate report this immediately to the relevant staff member or administrator. You may have blind or deaf students in the room or wheelchair space is needed. You may be asked to reserve a place for a special-needs student and in a busy classroom this needs prior thought and attention.

You should also check the heating and ventilation of your classroom. Poor ventilation or overheated rooms will put your students to sleep even

faster than the achievements of Professor Disaster, so ensure that sufficient windows are open if the weather or heating system demand fresh air. Large classes quickly use up the fresh air and a bracing atmosphere helps to keep both you and your class attentive!

Know where the lighting controls are to be found especially in the large lecture halls where multiple switches and panels are commonplace. Selective lighting and dimmer switches may be found alongside air conditioning and volume control panels for ancillary equipment. Make sure you know which knob does what! If you are using visual aids check that the plug points are live, accessible to your equipment and the leads are sufficiently long to reach the power. Any static equipment should be tested prior to the class. Not only should you examine it just before class but also ensure it has not been booked out for another purpose. Double booking of scarce equipment is not unusual. Usually there is a booking record book with an administrator. Broken items take time to be replaced or fixed so leave adequate time for testing them and, if necessary, amending your lecture in order to compensate for equipment which is unavailable.

Obviously these recommendations are made for the ideal world! In many instances time will not permit the checking of every last detail but by taking steps to eradicate potential contextual hazards you free up valuable time for the real business of teaching the law.

Delivery

In the past many law teachers were content to simply preface their lecture with the announcement of a title, followed by uninterrupted exposition. Nowadays, lecture outlines and teaching objectives are commonplace in many institutions. More effective use can be made of the lecture opportunity if teachers explicitly share with students the objectives they seek to achieve in the class. Whether this is the communication of large amounts of fresh knowledge (e.g. a rehearsal of the rules and cases explaining the maxim *res ipsa loquitur*), the analysis and critique of the operation of legal rules (e.g. the plight of the rape victim as witness), or a cross disciplinary exploration of key legal concepts (e.g. a comparison of medical and legal approaches to mental illness), it is helpful for students if you summarise the key substantive topics and specify any issues to be addressed. If students have a map of the subject being discussed, they will more quickly understand the route of your lecture, and will probably travel faster and even further with its aid.

At the first lecture go through with the students the information set out in the course documents, pointing out the course criteria and any learning outcomes.

Students are locked into the examination system. In the first lecture you should also make clear the formal examination hurdles they will face. If there are assessed essays in your course, remind them of the due dates and point out the examination criteria in the syllabus. Make sure that these are contained in the course handbook or Faculty Teaching and Learning Manual. Tell them where to find copies of previous years examination papers, and any differences that will occur this year. Ensure that they understand good practice in writing their assessed work, and that plagiarism is clearly explained and the consequences spelt out.

As well as explaining the objectives of the course, tell the students how you see your role and that of the lecture. For example, you may believe that information on the lecture topic is best obtained from the course text and reference books, as listed in the syllabus. If private reading at the student's own pace is your expectation, explain to them that you will not be talking at dictation speed. Even if some students do not appreciate your approach, they at least know what they should do and why you are talking 'too fast' for their pens. Take the students into your confidence; tell them what to expect from you and what you expect from them.

The formula of description and recall, with students passively taking notes, remains a style commonly developed and relied upon especially by overseas students prior to their arrival in the UK. Therefore if your lecturing style is anything other than at dictation speed, or not delivered in the expectation of detailed note taking, prior notice and an explanation from you is particularly important. Otherwise some students may become distressed over their inability to take what they have been encouraged to believe to be adequate notes.

Structure and frame the sections of your lecture with obvious starting and finishing points. Tell the students on commencing the class that by the end of lecture "they will be able to appreciate the following issues and principles....." For example in Evidence, they will be able to distinguish "four kinds of 'fact' offered to the jury in criminal trials: primary fact, inferential fact, evaluative fact and denotative fact, as developed by Glanville Williams."

Sharing Your Objectives with the Audience

This means you are stating your lecture objectives before commencing on the substance of the lecture. Tell students when you have come to the end of a section and finish it with a mini-conclusion.

Bradney and Cownie advocate 'signposts', 'frames', 'foci' and 'links' as mechanisms for constructing a lecture (Bradney and Cownie, 1999:25).

'Signposts' signal the direction of a topic:

"Today we will be considering freedom of information and the effectiveness of recent legislation claimed to ensure that citizens have access to various state records and documents."

'Frames' mark the end of a topic or signify the beginning of another:

"That concludes our consideration of the enforcement mechanisms and their limitations."

'Foci' are statements that emphasise key points:

"Freedom of information means that citizens have a presumptive right to documents held by public authorities which is enforceable." (Pause, repeat or write key phrase on the whiteboard.)

'Links' connect one topic with another and are both retrospective and prospective:

"So that is the scope of legislation affecting central government. But how does it affect local government? That is the topic which we will consider now/next week/for you to investigate during the week."

Starting to Talk

We tell our students, in regard to their essays, that a good conclusion and a strong opening are important. Indeed, many staff gauge the quality and importance of published articles in the same way and upon this quick judgement may decide to read the entire paper. Likewise the opening of the lecture is a testing moment for the remainder of the period. It is possible to lose the class within the first moments as was done by Professor Disaster. You should aim to gain their attention, establish a relationship and show the content and structure of the lecture. In a noisy class staff have various ways of gaining attention. Professor Disaster shouted at the students: not recommended. Nor should you throw chalk at the students, an experience I suffered as a student. If using an OHP, switching the light on and off will quieten the class. Otherwise, you could start despite the noise but ensure that you repeat your opening remarks once the group has quietened down.

Extempore Delivery or 'One I Prepared Earlier'?

Advice about not reading from notes is also well made. Apart from the inevitable tendency to drop your head to read from the notes, people nearly always read much faster than they talk naturally. Skeleton notes as an aide memoir will not impede your performance. For example, the lecture outline illustrated in Figure 11 above could be developed into a more detailed breakdown of lecturer's notes for the class on employer's liability (see Appendix 4). Using coloured highlighters to mark essential points and the insertion of class exercises will help you keep your place and run to time. On the other hand, if you really feel that you will be unable to say anything without a detailed script in front of you, practise reading it out loud a number of times. Again the use of highlighters and structured headings

should assist you to proceed as quickly as you can to a practice where the script is only for prompts, and the main delivery is extempore.

You will be able to speak louder and breathe more easily if you stand up to lecture. Only sit down if the group is very small and you do not need to project your voice. Sometimes sitting on the edge of the desk presents an informal image and can still allow you to speak sufficiently loudly to be effective.

First impressions are important and you need to show your class that you are interested both in the subject and in them. Be enthusiastic and, if you have it in you, be humorous. If your style is one of personal distance display it not as a product of disdain or elitism but of professional choice. Body language is important. Look at the students rather than at your feet, walls or ceiling. Your voice follows the angle and direction of your head and the sound projection will be affected if you look at your feet while talking. Apart from audibility problems it also looks strange. Dress appropriately for the lecture room and your own personality. Some rooms are hot and others cold. Remember you are going onto a stage and giving a public presentation. I have a colleague who on occasions wears a dark suit instead of his normal casual attire. The explanation is that the lecturer wishes to keep the students' interest and clothing is fashion and fashion is of interest. Remember that the lecture is an audio-visual exercise in communication. You could even open the discussion up to consider the effect that clothing has on presentation, and the role of the suit or other formal attire in court.

Some staff find lecturing more demanding than others so it is constructive if you examine your strengths and weaknesses in an honest and critical manner. Do you have irritating or embarrassing mannerisms that you should seek to correct; do you over use certain words or phrases, or use time filler words? Do you mumble or speak too quickly? You can analyse your classroom performance either by asking an experienced colleague to sit in on the class or have your lecture taped or even video taped. It might be a disturbing moment of truth for you but it provides you with the evidence of your performance and the areas of practical weakness requiring remedial action.

The careful use of language is an obvious consideration. Inappropriate or inaccurate language are concerns we would express about a student presentation and these should apply with equal force to the lecture. The precision we expect from others should be displayed in our own lectures. However, if you are using technical terms or foreign words, e.g. (Latin – *pro bono* or French – *cy près*) which have been absorbed into the legal language, ensure that the students know their meaning. In addition, the growing number of overseas students who may be non-native speakers of English demand that we pay particular attention to appropriate language and those elements which are culturally or geographically specific. For example, Professor Disaster talked of a 'stiff upper lip'. He could equally have mentioned 'playing a straight bat...., coals to Newcastle...., beyond the pale...., lock, stock and barrel...., the cat is out of the bag' or a number of other metaphors which could puzzle students and interrupt their concentration and comprehension. Likewise culturally specific illustrations or vocabulary, which UK students would appreciate, such as the use of the word 'sleaze' in a public law class should either be avoided or explained. Cultural and religious sensitivities should be known and observed.

Mind Your Language

Pacing the Performance

An hour or more is a long time for most students to maintain concentration through the same activity. Most education theorists advise that extended passages of speech should be broken up, either with different activities or by using pauses or other techniques to enable listeners to reflect or relax (Le Brun and Johnstone, 1994:260). Divide the allotted teaching time into periods and distribute the activities and topics between them. Below I give some examples for doing this, but whether or not the more interactive approaches to dealing with large groups are adopted it is important to provide opportunities for students to pause and reflect.

Pace and timing are frequently cited as a cause of concern by lecturers. There is a natural tension in any interactive method between the desire to engage students and provide opportunities to reflect and analyse, and the pressures of subject coverage or the desire to follow the lecture timetable. Some balance is necessary between affording students the time and space to think and the need to avoid distracting digression. Such balance will come with experiment and experience.

Note Taking

At the start of the course pay particular attention to the classroom skills of the first year students. Evans' and Abbott's study of student and staff perspectives on teaching and learning reveals the importance that students attach to accumulating a set of notes, and their appreciation of lecture handouts summarising the content (Evans and Abbott, 1998:33). Let the students know whether you expect them to take notes and how much of the lecture content is contained in your course notes or handout.

Speak slowly. Poor note takers are easily overcome by speech delivered at around 100 to 200 words a minute. Students for whom English is not the first language may encounter even greater difficulty, especially when dealing with legal language and its 'terms of art' or jargon. When you use technical terms, write them on the board or flip chart.

Do they know how to take good notes? Some students may assume that the objective is to take down every word verbatim, although unless they have shorthand skills they will be unable to accomplish this and they will miss important features, information and principles. Good note takers have developed the skill of listening, absorbing and noting the key elements of the lecture. They follow and possibly anticipate the argument being developed in class.

You should not leave the development of this elementary but fundamentally important skill solely to the Legal Skills teachers. An integrated degree programme places a responsibility on you to assist students in obtaining maximum benefit from your lecture. If the Law School or First Year teachers' group has not addressed the approach to note taking and resolved whether it will be treated as a generic skill or left to individual teachers, consider placing it as a topic on the next faculty or departmental agenda.

The lecture process is not simply what you do but also what they learn and write. There are two parties involved in the classroom activity: you and the students. The students develop a range of skills with which you should become familiar, one of which should be note taking. You can occasionally ask students to see their lecture notes or invite them to make a photocopy for your benefit. Suggest that they swap notes in class and discuss them amongst themselves. A minute or two at the beginning of the lecture for the class to look through notes from the previous class is beneficial.

A careful explanation of your reasons should reassure them that you are offering support in a constructive manner not simply testing their skills, commitment or intellect. In addition, reading their notes will also tell you something about your own performance as a communicator.

Encourage them to adopt a regular format to their note taking. Suggest that they write the time and date at the top of page and start each law lecture on a separate page to assist subsequent filing. Tell them that their notes of your lecture are not the final product, or the last word on the subject matter, but an aid to their private study. The notes are only part of their work on that topic. Other than reading student notes the other support techniques can be covered in the first lecture. Basically, anything that helps the students to be more efficient will ultimately help you be more successful as a lecturer. If they experience you as interested and supportive of them the classroom atmosphere will reflect your commitment.

Law students are confronted with an ever-increasing volume of published material that supplements their study. This is as it should be.

Within the discipline of law there has been a rapid growth of subject specific 'Cases and Materials' texts, stimulated by diminishing library resources, and increased controls on photocopying of copyrighted texts for distribution to students under the auspices of the Copyright Licensing Agency. An entire class may now be encouraged to purchase or share a common collection of materials, such as *Contract Cases and Materials* by H. Beale, Bishop and Furmston, *Casebook on Contract Law* by J. Poole, or *A Casebook on Contract* by J.C. Smith.

Whilst text books still provide a staple measure of substantive law and commentary, most courses also publish their course outlines in paper or electronic form, and many also produce photocopies of relevant articles and topical newspaper comment. It is good practice however to provide either on the School's website, intranet or in printed pages, an outline for each module or course which should usually explain in outline:

- the syllabus
- learning outcomes
- the assessment pattern
- the timetable
- deadlines and word limits
- suggested texts
- recommended further reading
- other learning and teaching guidance specific to the course (e.g. field/court visits; study groups; student led seminars).

The course outline will provide students with a map for the module or course, and a class handout for each lecture will considerably reduce student stress levels and will be of special benefit to weaker students and those less familiar with the way you talk. At the beginning of the lecture an outline of the lecture, any quotations or cases with citations, along with basic sources and any statistical information will be much appreciated. The handout should be short (two sides of A4 should be sufficient). The lecture plan illustrated in Figure 11 is an example with the possible inclusion of citations of leading cases or references to appropriate articles for later reference being included. Details of any cases or other sources will avoid students leaning over to neighbours to check on what you have said.

Module/Course Materials

Bringing the Session to a Close

You will quickly appreciate the value of this suggestion if you occasionally look at student notes. Inaccuracies of name spelling, citations and references are commonplace, especially in large classes, in a room with poor acoustics or with students whose first language is not English. For the more technologically advanced this information could be relayed to the students via e-mail. It is also a sound rule of any large presentation that you supply those present with copies of any visual aids used. Software packages such as PowerPoint make this task much easier.

It is common for blind or overseas students to record lectures. Absentees also adopt this technique by asking a friend to tape the lecture. If your absentee rates are high because many of your students experience difficulties in attending all lectures due to external commitments, such as family demands or paid employment, you might consider taping your lectures and putting them on desk reserve in the library. This allows students to fill in gaps in notes and review your lecture at their own speed and not that dictated by you. A tape left in the library for those who have missed a lecture may help.

We are made aware of the limits of our own attention span in staff seminars, and conferences, but can forget to apply the same tolerance to students in lectures. Attention does fluctuate and, although accounts vary, it is commonly accepted that twenty minutes is the maximum unbroken attention expectation which then declines but increases again towards the end of the lecture. Much of what I have suggested above is directed towards introducing variety, reflection and pace change into the large group session, whether interactive performance or an expository lecture.

Whichever method or combination of methods is adopted, the end of the session is important. Students sense when the end of class approaches so when it does do not rush your conclusion. It is valuable. Leave ample time for your closing remarks. The words, 'and in conclusion' may simply resuscitate some members of the class bringing them back from their temporary membership of the living-dead. It may trigger an audible rustle of papers, the closing of folders and the packing of bags, as students prepare to move onto their next activity. Try to avoid sending out false signals like switching off the OHP or putting your notes away in advance of your conclusion. The sight of you packing up may indicate to the law students the end of the class rather than the beginning of a crucial section of the lecture: the conclusion.

You should never run beyond the scheduled time. An overrunning lecture upsets students, eager or obliged to be away for other commitments, as well as frustrating the incoming class and its lecturer. Careful time management during the lecture should help avoid this pitfall.

Some lecturers, anxious to escape, try to be the first out of the door. Students often have questions. They may have a simple request (such as for a copy of the handout for an absent student) or want clarification of a case citation. Even if you provide an opportunity for questions in the classroom, some students may feel unable to speak out in front of their peers. Stay a couple of minutes in the classroom. If the lecture room is needed, step outside with the students and try to resolve their anxieties.

Interactive and Experiential Learning

Whilst most of us do not think of ourselves as entertainers, the ability to hold the attention of a large audience for up to an hour or more demands considerable entertainment skills. A few may be able to hold their audience's attention for such a period through personal charisma. Most of us however are not blessed with such abilities, and should seek other methods to ensure that the audience remains attentive and engaged in the topics of the lecture.

In recent years educationalists have placed considerable emphasis upon the importance of varying teaching methods. This has been in response to technological innovation, research into the way that adults learn and the strictures of funding in higher education. Law is not intrinsically boring but can be made so.

Whilst entertainment is not an express objective of any of the various teaching methods described below, enjoyment is a major advantage in learning and boredom and blandness can be a severe obstacle to good teaching practice. Without wishing upon all law teachers a Disney inspired culture of 'edutainment', the modern law teacher is wise to cultivate a wide repertory of teaching approaches and students and employers alike will appreciate a varied style.

The interactive lecturing approaches that have developed over the years in law schools are:

- problem solving
- clinical teaching methods
- other interactive teaching methods
- the case method and the Socratic method, particularly in the USA

In the UK concern about *how* law is taught as well as *what* law is taught is recent. In most law schools the model of the formal lecture dominated schools teaching methods with little acknowledgement of diversity of delivery or variation in activity. Such methods, in so far as they were acknowledged, were the province of the seminar or tutorial.

In recent years, however, teaching methods have become much more varied in higher education. This is largely as a result of government efforts to encourage more effective teaching methods and to incorporate new technologies of learning. Law is subject to the additional perspectives that are being introduced by a growing number of institutions, mainly the newer universities, which are providing the vocational courses for the professions. These utilise more interactive and role play approaches to learning, which are normally attributed to practical training but which can also have benefits for undergraduate programmes.

Books of Cases and Materials, such as those for Contract, facilitate interactive teaching techniques, such as the problem solving approach, in the lecture hall and outside of it. By asking a question based on common information a dialogue becomes possible which can involve all students. For example, a contract class on the topic of the intention to create legal relations could begin with the problem of how the law should resolve the

Engaging the Audience

Problem Solving

Other Interactive Activities in the Lecture

problem of domestic agreements. Students could be asked to work in pairs on their response to the domestic arrangements that existed in Balfour v Balfour, which are laid out in Poole's *Casebook on Contract Law* at pages 164-165.

Information, arguments, new problems and various solutions: all may emerge during the classroom dialogue. The relationship between question and answer requires reasoning on the part of all who are involved but for the new lecturer it can be a challenging experience. A firm control of the direction of discussion is required so that the goals must be predetermined and known to the lecturer. Steady and sequential progress must be made, leading students through the argument. Without involvement or understanding the attention of students may wander or simply disappear leaving the lecturer involved in a discussion, relevant or otherwise, with one student who might be exceptionally bright or simply pushy.

However, the problem method, by use of memorable examples, allows principles to be exposed and explored in class. Memory by association is something we use in our everyday activities and it works well in the classroom. For example, Re Rowland [1963], where a husband and wife died in mysterious circumstances on a boat in the South Pacific leaving a knotty question about the interpretation of their wills, is particularly memorable. It can be used in an English Legal System class to explore the rules of statutory interpretation, various degrees of judicial activism and the appropriateness of such involvement.

Similarly, the case of Pedro v. Diss [1981] presents a challenging scenario to debate issues arising out of the meaning and application of the Rule of Law. Students easily identify with the questions linked to the granting of special powers to the police and feel able to argue positions from personal experience and sometimes prejudice! Thus, a strong case is used as a jumping off point for a range of issues. The drama found in these cases is obvious and the dilemmas offer a spectrum of solutions for the courts and therefore for the students.

All law, but especially criminal law, holds considerable fascination for students. The law reports are full of decomposing snails in bottles, jaguars masquerading as cars, ineffective smoke bombs, objects escaping dangerously and people doing the most amazing things to themselves and to consenting others! It is the unusual, comic, strange or sexy cases that often feed students' long-term memories and trigger the application, challenge or refutation of established principles.

It is gradually being recognised that the large lecture provides an opportunity to engage large numbers of students in a wider variety of learning activities than is achieved by the formal 'chalk and talk' session. There are still likely to be occasions when the direct but compact solo exposition will be appropriate. Even so thought should be given to ways in which the lecture can be varied to enable students to reflect on what has been said and to 'think for themselves'.

A lecture can be broken up in the following ways:

- *The 2 minute break*
A simple pause for the students to gather their thoughts, review their notes or even have a stretch and chat with a colleague.

- *3 good/3 bad things about the subject*

Ask the students to each list 3 positive and 3 negative points about the subject that has been discussed so far. After a couple of minutes call for suggestions or go along a row asking for their list of points and write them on the board.

- *Note swapping*

Ask all students to swap their notes with a neighbour and then ask them to compare any differences.

- *Give them a spot question*

Give the students a question related to the lecture so far and ask them to note down a brief answer, such as,

“Right, before I go on, I want you to spend a couple of minutes considering this: ‘Why is there a presumption that domestic and social arrangements do not create legal relations?’ Two minutes to note down your reasons and then we will have a brief discussion.”

- After a minute or two ask them to discuss their answer with the person in front/behind. Then briefly rehearse the answer and move briskly on with the rest of the class.

- *Exam question exercise*

Ask the students to draft an exam question, which they believe would test their knowledge about the subject under discussion. This will give you a good understanding of the level of their knowledge and their grasp of a topic. It is also a useful way of compiling suggestions for exam questions - although you would be wise not to use them during the current year!

- *Case discussion*

If the students have access to the same text or if you provide a handout, ask them to read a case and answer 3 simple questions based upon it. These could include anything from “What was the reason given by L.J. Bryson for allowing the appeal?” to “How long did the case take as measured from the date of the event (accident/offence/contract breach) to the judgement of the Court of Appeal?” or “Which circumstance did Bamber LJ claim distinguished the case from DPP v Gascoigne?”.

You may think these techniques break the concentration of the class, reduce teaching time, stop you ‘completing’ the lecture coverage and possibly disrupt your thoughts. Of course there may be occasions when coverage and continuity outweigh other considerations, but personal goals and syllabus objectives should be balanced by pedagogic needs.

Students see such innovation as a welcome break. It allows them to move, stretch, talk briefly and ultimately refocus on the lecture. It changes the rhythm of the class, produces interaction amongst the students and makes the students think aloud about your lecture rather than simply attempt to record it.

Any of the above can be accomplished in less than five minutes. Other techniques, which are slightly more involved, can also be effective.

A personal experience with the problem method involved splitting my class of 100 students into 20 buzz groups, each consisting of 5 students. The groups could be larger in order to cut down on the number of

groups. Each student needs to be provided with a copy of a common problem with a few questions that they work on in their group for a previously stated time. After the allotted period, a *rapporteur*, selected by the group presents its conclusions. The aims are to develop time management skills; to review the issues; to illustrate how the groups reached their (differing) conclusions and to explore their reasoning for their results. Such an exercise combines cognitive, analytical and interpersonal skills.

I asked them to assess this teaching method. From the majority, comments included:

“It helped me to think for myself rather than being told what to think.”

“Our group thought this method was very interesting and much better than the normal lecture.”

“I found it extremely useful as I felt more involved in the process as opposed to a lecture by a sovereign to his subjects.”

A tiny minority felt that essentially, “the lecture is more informative....I like my lecture before my tutorial!”

The class problem was engaging, current and relevant to the students. There was undoubtedly novelty value in the presentation and these factors could well have influenced their conclusions. Yet these reservations are in themselves lessons for us as instructors: relevance, topicality and novelty. A thoughtful selection of contemporary illustrations of relevance to the students coupled with a catholic and changing use of teaching techniques will enliven your classroom performance thereby encouraging student learning.

If you are able to get your students to discuss topics frequently and introduce reflective breaks on a regular basis, they will come to both expect and appreciate the periodic opportunity to learn from each other. As students normally gravitate to the same seats in lectures this technique may also stimulate the development of ad hoc study groups and co-operative activity both in and outside the lecture theatre. Law students frequently share accommodation in the private and university sectors so that study syndicates are easily developed. Tell them that putting ideas into words helps develop understanding and that a group of people is likely to produce more ideas than a person sitting alone at the study desk. Not all students are interested in group learning but pointing out this possibility to the class will encourage them to consider this option.

The Socratic Method

The acclaimed originator of the Socratic method, as applied to law schools over a century ago, is Langdell, a former dean of Harvard law school. His was a technocratic vision of law claiming the law library was the laboratory. Judicial decisions were experiments and through logical induction would come principles of law. Thus assigning students cases to prepare for class and making them induce conclusions was the appropriate teaching path. This was law as a science requiring no involvement with anything other than the reported cases which were collected into student directed case books.

Basic expectations are that the student has prepared a previously assigned number of pages from the case book for class and sits in an

identified seat. The instructor engages in a dialogue with an apparently randomly chosen student with the intention of testing the case and its principles to the limit and beyond, and possibly along with it, the student. American law students are graduates, relatively mature, and from an oral educational culture. They are exposed to a commonly used and acknowledged law school teaching process which accepted this technique as the norm. Those familiar with the film, *The Paper Chase*, will recognise the process in the student responses that Dr Kingsfield created in his classes at Harvard law school (Auerbach, 1971).

The Socratic method, which has also been adopted in law schools in the Philippines and elsewhere, is a rigorous way of testing both student understanding of a judgement and their ability to project the reasoning of individual judges to hypothetical situations that tease out the contradictions within the decision. It is dependent upon a random system of calling upon a student in the class to answer questions related to a particular case or line of cases. The example below is based upon the practice in some law schools of teachers giving all students a class number for random selection. Other methods include teachers having a card index for all students from which one can be selected as needed. A Socratic exchange based upon Donoghue v Stevenson might develop as follows:

“Number 47? Jessica. Would it have made any difference to the case if Mrs Donoghue had purchased the ginger beer herself? Why?”

“Number 12? Jasdeep. What would the reasoning have been if the ginger beer bottle had not been opaque? If Mrs Donoghue had had an opportunity to see what was inside the bottle?”

“Number 4? Colin. Suppose the proprietor, Mr Stevenson, had given the bottle to Mrs Donoghue as a gift. Would that alter the situation?”

“Number 82? Sandra Wilkins? Sandra not here today? OK Number 66. Kemi. If the bottle had contained a disclaimer that the manufacturer would not be liable for any misdescription of the contents or any harmful affect to any body, would that be effective to protect the proprietor? Why/why not?”

“Number 90? Selena. The last question in this round. What if the drink had contained a peanut based substance to which Mrs Donoghue was allergic? And she died as a result. What do you think the decision of the House of Lords might have been then?”

The pure unadulterated Langdellian/Socratic approach is currently far less common as American law students demand the importation of extraneous materials into the law school curriculum: products of social science and political scholarship, ethnic and gender experiences, clinical education and the problem solving method. Increasingly, there is a mix and match of case method, lecture, question and answer and Socratic technique (Carrington et al., 1995).

The Socratic method is felt by some teachers to be intimidating and therefore counter productive for some students who become nervous when asked to speak in front of the whole class. It is, however, a good mechanism for engaging students in analysing and formulating legal reasoning and practising their public speaking skills. It can be considered as an occasional exercise for discussing cases when the students have been suitably briefed.

Clinical Legal Education

The clinical movement in the UK is less developed than in the USA, although an increasing number of law schools offer courses that incorporate the experience of 'doing law' as part of the process of learning about law. Their activities provide valuable alternatives to the traditional diet of lecture and seminar, although the climate of tightening law school budgets and increasingly unattractive staff-student ratios are obstacles to the wider adoption of clinical methods in the undergraduate curriculum. Clinical legal education is concerned with wider issues than getting students to 'play at' being real lawyers, however, and there is greater scope for involving law students in learning about the law and its processes from clinical experiences than is often appreciated. Clinical programmes exist in some form at the law schools of the Universities of Belfast, Bristol, Cardiff, Central England, Derby, Kent, Northumberland, Sheffield Hallam, Warwick, West of England and Westminster. Clinical programmes are also provided at the Inns of Court School of Law and the College of Law.

Clinical learning emphasises students' experiences as a catalyst for understanding and internalising. Experiential learning is undergoing renewed interest amongst educationalists in the UK, and experiential learning methods are being developed for architects at the University of East London and elsewhere. There is a range of possibilities for introducing clinical methods into the law curriculum from the clinic staffed by students serving the local community to the simulated trial or more modest but effective role play adopted by many law teachers (Brayne, Duncan and Grimes, 1998; Bergman, Sherr and Burrige, 1986).

The scope for clinical teaching methods is considerable, particularly since law is essentially concerned with people, disputes, activities, action and choice. Impressive progress has been made in many law schools, particularly in Australia, South Africa, Poland, the Philippines, India and elsewhere, demonstrating the benefits of interactive and clinical teaching methods for students and in some instances for the wider community. This is particularly so when programmes are introduced which utilise the knowledge and abilities of students in support of the local community, such as legal literacy campaigns, environmental law clinics, family mediation centres or alternative dispute resolution programmes.

Using the Equipment

We live in a society dominated by visual images. Our universities are being reconstructed as new 'visual identities' and our students are shaped as much by visual as scripted images. Oral delivery is the basis of the lecture but visual presentation is increasingly common and of importance. Chalk and talk is no longer sufficient. There are a number of techniques available to support the effectiveness of the spoken word.

However loud your voice or booming your projection it is likely that you will appreciate the support of a microphone in big lecture classes. Large numbers of students absorb sound and unless the acoustics in the room are excellent, you will have to maintain a steady decibel level to reach all parts of the room without a mike. If you have to keep talking loudly to make yourself heard, the range of tone and volume that is necessary to vary your delivery will not be available.

Lapel microphones enable you to move more freely, especially if they operate on a radio basis. If you are using a static microphone the following (fairly obvious) points should be remembered:

- adjust the height to suit your mouth (seems obvious but it is surprising how many speakers adjust their mouths to the height of the microphone!)
- stand close enough (but not too close) and remember not to move away from the mike
- test the mike before you start by asking somebody to stand at the back of the room
- familiarise yourself with the controls, especially the volume control in case of 'feedback' (whine), – if it happens, turn the volume down
- don't shout; use your normal speaking voice

Software packages, such as PowerPoint, make available a range of techniques and options that previously were only within the means of the most sophisticated and well funded presentations. Now from the privacy of one's own desk you can design and produce visuals to accompany your oral presentation that will both aid explanation and enhance the impact of your content.

The advantages of such programmes are that they:

- allow simultaneous production of visual displays, handouts and lecture notes
- build upon and enhance the structural framework of a lecture
- make visually exciting use of colour
- incorporate bar charts/ graphs/pie charts etc.
- have the capacity to include scanned photographs in one display programme
- have the capability to reveal information step by step

Whilst the above represent considerable advantages, any IT programme needs to be tested before use in public. The packages are liberating once you are familiar with them, but otherwise can appear daunting and unworkable.

Microphones

Powerpoint Benefits and Capabilities

Powerpoint – Check Compatibility with Other Equipment

OHP

Whilst different versions of software programmes are being developed and alternative formats of computers are available, you need to check the compatibility of the computer projector well in advance of your presentation. Technicians may not always be available when you need them. As an absolute safety provision, if you are not confident of the PC programme, prepare a back up set of acetates.

The OHP has become one of the most common methods of presenting material in a visual form. We are used to seeing court structures, appeal procedures and the doctrine of precedent reduced to and presented as an acetate. Moreover, the advances in photocopying now mean that it is possible to make a colour acetate by scanning and digitising a photograph. A picture is, indeed, as good as a thousand words and can be used to good effect in the lecture room. The following points should be remembered when using an OHP:

- ensure the projector is available and working before the students arrive
- try out a transparency and make sure it fits the projector, focuses properly and is visible from all parts of the room
- ensure that the light levels in the room can be adjusted to an adequate level to see the transparencies
- tell students at the beginning of the lecture that you will be using the OHP so that anyone who needs to relocate in order to see the screen can do so with minimum disruption
- copying the contents of the transparency is unproductive so prepare a duplicate handout for distribution and use the image as a teaching tool – the handout will form part of the class notes and will find its way into the students' class files
- give the students adequate time to read any overhead. It is frustrating for them if you remove it too soon
- if you use soluble ink to write on the transparency during class as you develop the lecture, you will be more able to think on your feet and respond, graphically, to student questions
- you can develop arguments by revealing the picture progressively – a blank piece of paper laid on a transparency allows you to show the transparency as your lecture progresses, and keeps students focused on the point you are discussing
- make sure your transparencies are in the correct order and will appear on the screen as intended – it is a common mistake to lay them the 'wrong' way round
- use an object, such as a pen or pencil, over the projector itself to point out any particular matter on the screen; alternatively, use a laser dot light on the screen – this should give you greater control over the screen and allows you to move away from the projector.
- practice your technique before using the OHP – it sounds simple enough but errors happen with some frequency
- do not turn your back on the class when using the OHP – especially when you are talking about the contents on the screen
- if you have a complex transparency and colour is used to unravel the component parts remember that red, orange and yellow do not show up well at a distance, which may result in student confusion and misunderstanding

Flip Chart

The most trusted and fool proof piece of display equipment. There is nothing to fail, crash, dim or blow up. Nevertheless ensure that it is in a

position where everyone can see it and that any writing is large and legible enough to be seen by the entire audience.

If the room has a poster bar, the class can also use the flip chart and their posters displayed around the room for all to read. A poster display of the results of group work can be a good way of economically disseminating the reflections of a large class.

Black boards are the traditional teaching aid. They are still popular although the mess of chalk dust and the difficulty of seeing them from a distance in certain lights has given rise to the increasing popularity of whiteboards. The latter have many advantages – easy to use, colour receptive, accessible, large size – but ensure that you have the correct marker pens. A permanent marker can cause serious damage. You should also ensure that the surface that you are using is a white board. It is easy to make a mistake and write on the projection screen!

Videotape is commonplace in lecture theatres and in some larger rooms there may be several fixed videos positioned to allow groups of students to share a common programme. The lecture theatre may have one very large screen for the entire class. Once again, familiarise yourself with the equipment in advance of the lecture period. Television channels are constantly broadcasting programmes of interest to law students, although if you propose to record off-air for playback to class you should check on copyright provisions.

If your law school does not have its own collection of lawfully obtained videos in a mini-video library, ask colleagues if they have personal copies, which might be helpful to your course. There is a growing literature on law and popular culture that provides useful examples of films, such as “My Cousin Vinnie” or the various films of John Grisham’s novels. Bergman and Asimov have compiled examples of Hollywood’s misrepresentations of procedural justice, which is also a useful reference for film clips about law (Bergman and Asimov, 1996). Mailbase enquiries are a further good source of suggestions and the UKCLE is encouraging staff to share such information and material on its web site. Videos help us to be topical with our class room material if there are matters of the moment in the public eye which are also part of the teaching schedule. The up to date use of topical references from the media can add considerable to the interest of your lecture.

Consider beforehand why you are intending to use a video. It breaks up a teaching style and therefore helps to retain interest. You might use it as a ‘reward’ by showing something of general interest to a hard working group of students who might benefit from an alternative view of the subject matter. I have shown Kafka’s “The Trial” to students on the Legal Systems course and followed it by a general discussion. Alternatively the film might show interesting non-verbal or architectural aspects of your lecture topic. It is good for demonstrating body language, or things happening, or facial expressions. It helps to bring law alive and place it in a social context that students can easily appreciate. The physical structure of the courtroom, the dress of the actors and their inter-action presents and reflects the hierarchy of power within it. This is immediately apparent on seeing the layout, occupants and their behaviour in the court. In this instance, seeing is more effective than telling.

To reinforce the status of the video in the course inform them if the contents are considered ‘examinable’ as this helps to concentrate the mind! It also helps concentration if you distribute questions about any film before a showing. These can give an indication of your purpose in showing it.

Poster Bar

White or Black Boards

Video – Individual Set or Screen Projector

The following suggestions may assist your use of video in the classroom:

- Decide what goals you have as a result of viewing the video. What do you expect of the students at the end of the film? Tell the students, in advance, why you selected it and what to look out for. Also tell them what you will be asking them in order that they may pay particular attention to key points
- Never use a video to avoid giving a lecture or to fill time. If you play one do not leave the room in order to do something else with the time. Such action sends out negative signals to the students
- Be prepared to freeze the film if there are issues you think best emphasised or even discussed at that particular moment
- Do not devote the entire period to the video but leave adequate time for discussion and feedback
- Consider supplementing the video with your own handout or there may be supporting text from the production company
- Check that the television is large enough and properly positioned so that all members of the class will be able to see it easily
- Ensure that the light levels in the room can be adjusted to an adequate level to view the video
- Finally, for those students who couldn't or didn't make it to class put a copy of the video in the law library for individual viewing or for revision purposes for those who saw it in class

Film Projector

The advent of videotape has almost consigned the film show to the museum. If possible convert any film to video, which is more convenient and less prone to breakdown.

Slide Projector

This is also falling in popularity as new technologies offer greater convenience and reliability. Nevertheless if you are using slides ensure that the obvious precautions are taken:

- check the slides are in the right order and the right way up
- use a carousel that can be easily inserted onto the projector. If possible maintain your own stock of carousels
- use blanks for any periods within your presentation when you wish nothing to be displayed on the screen
- ensure that the room you will be using can be darkened to an adequate level for the slides to be seen

Checklist

Figure 12. Checklist for Equipment

Equipment	Use?	Working?
Microphone		
PowerPoint		
OHP		
Flip chart		
Poster bar		
White or Blackboards		
Video – Individual set or screen projector		
Film Projector		
Slide Projector		

Review – Am I a Good Lecturer?

There are three sources where you can get some indication of whether you are an effective lecturer or not :

- your colleagues
- your students
- yourself

The lecture theatre is traditionally seen as the private domain of the particular lecturer speaking in the room. In such circumstances suspicion and embarrassment may characterise visits by third parties. For students the presence of a stranger may produce unease and tension, but such activities (peer review) can be supportive and creative. Involving a friendly colleague in visiting a lecture and giving feedback can provide much needed confidence in your key abilities as a lecturer and be a great source of ideas, as different styles and learning plans are exchanged. Invite a colleague to act as an honest and frank reviewer of your lecture. The process works best when the suggestion comes from you and you should be prepared to accept all the comments not simply those you want to hear. Ask someone you trust and possibly recognise as a role model, and visit each other's lectures. If another member of staff or a visitor joins the class, it is courteous to explain their presence. Most peer observation tends to focus on the content of a lecture. It may be useful to ensure that somebody who may not have subject knowledge but who has learning and teaching expertise observes you.

However informal the observation, it is a good idea if you agree the purpose and set some criteria which emphasise the topics that you feel are important before the observation. You should also acquaint yourselves with any formal criteria, such as the Guidelines on Quality Assurance issued by the Higher Education Quality Council (now the Quality Assurance Agency) – see Appendix 3 for an example of some questions based on these guidelines.

When you are being observed by a colleague she should:

- be unobtrusive, but be able to observe both the teacher and the group
- be discreet and diplomatic and avoid intervention if she can possibly avoid it. Any errors or differences in interpretation should be discussed afterwards and corrected subsequently if necessary
- focus upon learning and teaching processes rather than upon content
- continuously look for interaction between teacher and students
- ensure that she gathers and records evidence for discussion later.

If you are taking part in peer observation remember that its purpose is developmental rather than the judgmental approach of formal evaluation,

*Ask Your
Colleagues*

Peer Observations

and that comments should be confidential to the parties involved (Blackmore, 1997).

Having our teaching observed is an anxious experience for most of us and it is particularly stressful for new teachers. Its effectiveness is dependent upon feedback and its follow up. Both process and content are important in giving and receiving feedback and both parties should look for the following:

- a prompt discussion after the observation
- b informal atmosphere
- c follow agreed plan and criteria
- d start with lecturer's opinion
- e observer's comments to identify strengths as well as weaknesses
- f teacher invited to reflect and respond
- g joint agreement on remedial steps and future reviews

A suggested form for Feedback from Observation is in Appendix 5.

In addition to the school's evaluation procedures you can create your own methods of assessment.

Ask Your Students

Students will be the final judges of the success of any lecturer. You may feel that this is unfair since they can be swayed by the simplistic or glib presentation; and their limited exposure to law teachers does not necessarily make them the ultimate arbiters of quality. Nevertheless, they are the consumers of the lecture and are entitled to receive the best lectures you can offer.

During the lecture watch their body language. Their facial expressions, including wandering, glazed or closed eyes, will tell you a great deal about your effectiveness as a communicator. You can create your own questionnaire about your lecture performance, for example, by asking them to ring key words such as 'bored', 'interested', 'stimulating', 'lulled to sleep', 'too much information', 'late arriving', etc. Ensure student anonymity in such surveys.

Day, Grant and Counsel (1998) have identified broad indicators for measuring student appreciation of a lecturer's performance:

- Attendance
- Attentiveness
- Note taking
- Questions from students
- Responses to questioning of students
- Quality of notes
- Later performance
- Exam questions chosen
- Options selected
- Staff students liaison committees
- External examiner's comments

Post-It Pauses

You might also consider a simpler and more direct review by passing around a couple of pads of Post-Its. Ask the class to respond to three things: stop, start, and continue. The 'stop' category can alert you to

habits that annoy or offend; the 'start' urges you to introduce something that is missing from your lecture; and the final category, 'continue', will identify your strong points when students ask you to continue activities and styles of presentation that they appreciate. You will also meet students informally, either in groups or individually, and these are opportunities to invite student feedback. Study groups are also talking shops and these are a fruitful source of comment. Try a 'surgery hour' as this will not only support students but allow them to comment on a one to one basis in your room. It may be their difficulties are a result of your failure to communicate.

Donald Schön has emphasised the importance of professionals applying their knowledge to practical situations and learning from the experience by reflecting upon its affect upon your knowledge (Schön, 1983). As a result both knowledge and future behaviour may be enhanced, leading to further insights and even better experiences. 'Reflection in action' (reflecting how behaviour and action could be improved *during the point of doing* rather than reflection-on-action which is post-action) is all the more easy if you adapt ways for encouraging self analysis by identifying issues concerning your teaching that you wish to understand better. Most aspects of our work as law teachers can be assisted by simply identifying why there might be cause for concern or comment and then constructing a simple checklist to use when reviewing our own performances.

Gibbs and Habeshaw have set out a number of approaches to self evaluation, from how we use overhead projectors to how we encourage and respond to question from large groups (Gibbs and Habeshaw (1988). The table in Appendix 6 is adapted from a Gibbs and Habeshaw chart and indicates that a reflective checklist can be a thorough method of evaluating our performance. The table in Appendix 7 is offered as an example of the rigour that others have applied to their teaching. It is an approach that is readily adaptable to your own needs.

If you are unable to persuade a colleague to observe a lecture, it is a good idea to video one of your lectures, so that you can judge for yourself whether you have any distracting mannerisms. Find out what facilities the University provides for lectures to be recorded and contact staff development and enlist their support.

More formally, many law schools now accept the need to find practical ways to evaluate the classroom performance of their lecturers. The formal processes of evaluating staff lecturing performance are appraisal, student questionnaires and mentoring:

- Appraisal reviews are commonly built into staff development programmes. The appraisal has a fuller remit than simply the classroom and may not even involve classroom visits by the appraiser(s), although probationary appraisal usually involves teaching observation.
- Questionnaires focus on issues such as content, objectives, punctuality, clarity and preparation by the lecturer (a typical example is included in Appendix 7). These should be completed anonymously, and can be designed in such a way as to be computer read. Student evaluation questionnaires which focus on issues such as content, objectives, punctuality, clarity and preparation are also commonplace. Student questionnaires can both reveal issues that may need to be improved and provide grounds for self-congratulation. Students are as

Ask Yourself

Appraisals

Questionnaires

Mentors

capable of expressing approval as they are of dishing out disapproval. The frequency of their use should be monitored because students experience questionnaire overload, which can reduce the number of responses to an unrepresentative level.

- You may also be given a staff mentor to whom you can turn for support and advice. Sometimes this relationship can be very successful and other times not. People are busy and senior staff may see this as yet another administrative duty to be completed as quickly as possible. You may feel uncomfortable with the mentor and if this is the case seek a replacement by discretely mentioning your concerns to the head of school.

The three methods of assessment should be in place in your law school and you will be subject to their application. Properly used they can support your work rather than become a form of unwelcome control. New staff are more likely to view such measures positively and to derive benefit from them if they collectively adopt informal processes for sharing experiences and exchanging perspectives informally.

QAA Subject Review

The main focus for teacher evaluation is the QAA's subject review, and the Guidelines set out by the HEFCE indicate the criteria by which staff will be evaluated, which can be summarised as :

- clarity of objectives and structure
- visibility and audibility
- key points emphasised
- clear explanations and examples
- stimulating and varied delivery
- well referenced
- clear summary and conclusion

Conclusions

This booklet has concentrated upon the lecture. In doing so it has recognised both the value and the shortcomings of the traditional expository model of the law lecture. It has advocated strongly however an approach to law teaching that is reflective of the enterprise of teaching and understands the process of learning. The skills of teaching in higher education are now familiar and there are many opportunities to learn and practice, although unfortunately there is still too little recognition of the value of the Good Lecturer. The booklet also suggests that substance cannot be divorced from method and that law teaching is an integral part of learning the law. Accordingly law lecturing should reflect the values of democracy, participation, justice, fairness and equal opportunity to which law itself aspires. Those law teachers whose only teaching tool is the traditional lecture declaimed in tedious tones are not just serving students badly. They are also purveying a concept of law that may mouth principle but the practice of which is predicated on submissive acceptance of its doctrines. If law is to be a dynamic process reflective of society's instinct for fair dealing and open governance, then law learning has to adopt appropriate methods for its study.

Hence this booklet has suggested that the law lecture should be treated as an opportunity to structure and deliver a variety of experiences built upon the educational objectives of the programme and placed within the context of students' other opportunities to develop their intellectual and social abilities. This may better be achieved by thinking of the lecture opportunity as an occasion for large group teaching in which the particular constraints of space, time and staff-student ratio impose common challenges, but which are in essence only one of a number of complementary occasions where students are learning law. If, therefore, readers feel having reached thus far that the title of the booklet would be better suited as *Learning Law in Large Groups*, the author would not disagree.

There is a tendency for us to regard teaching issues as solely the domain of academic autonomy or as a private problem. We would be critical of our students if they ignored the practice of law as an irrelevance to its study. We should be relaxed and familiar with discussions about the practice of teaching, especially lecturing. This booklet has suggested on a number of occasions that the key to successful learning and teaching practices both for the individual law teacher and the institution lies in spreading many of the existing good practices and sharing initiatives and problems. The NCLE and its successor the UKCLE exists to assist this process. The government claims to place much importance upon the way students learn and the capacity of law schools to provide a high standard of educational programmes. From this declared interest law teachers should derive some confidence and even pushiness in expecting sufficient prominence and, dare we say, resources, to ensure that the standards are attained and staff correctly equipped. In this enterprise the active participation of students is essential and throughout the booklet I hope that I have conveyed the view that staff teaching is worthless if it does not reflect students' learning needs or suit their opportunities for study.

*Putting Teaching on
the Law School
Agenda ...*

*... and Students in
Their Place*

Examples of Description of Degree Classes (from Assessment in Higher Education and the Role of 'Graduateness' HEQC 1997)

Example 1

First Class (70+%)

A first class answer has a thoughtful structure, a clear message displaying personal reflection informed by wider reading of articles and/or other commentaries and a good grasp of detail (as evidenced by the choice of relevant examples which are well integrated into the answer's structure). Complete with no errors or omissions.

First class answers are ones that are exceptionally good for an undergraduate and which excel in at least one and probably several of the following criteria:

- comprehensiveness and accuracy;
- clarity of argument and expression;
- integration of a range of materials;
- evidence of wider reading;
- insight into the theoretical issues.

Excellence in one or more of these areas should be in addition to the qualities expected of an upper second class answer. Although there is no expectation of originality of exposition or treatment, a first class answer is generally expected to spot points rarely seen. A high first (75+ %) is expected to display originality and excel in most if not all the aforementioned criteria.

Upper Second Class (60-69%)

An upper second class answer generally shows a sound understanding of both the basic principles and relevant details of the law, supported by examples which are demonstrably well understood and which are presented in a coherent and logical fashion. The answer should be well presented, display some analytical ability and contain no major errors or omissions. Not necessarily excellent in any area.

Upper second class answers cover a wider band of students. Such answers are clearly highly competent and typically possess the following qualities:

- generally accurate and well-informed;
- reasonably comprehensive;
- well-organised and structured;
- provide evidence of general reading;
- demonstrating a sound grasp of basic principles;
- demonstrating a good understanding of the relevant details;
- succinctly and cogently presented;
- displaying some evidence of insight.

One essential aspect of an upper second class answer is that it must have competently dealt with the question asked by the examiner. In problem questions – i) all the major issues and most of the minor issues must have been spotted; ii) the application of the legal rules must be accurate and comprehensive; iii) the application of the legal rules must be insightful (ie the candidate must demonstrate that s/he can both distinguish cases on their facts and argue by analogy); iv) there should be a conclusion that summarises the legal position of the relevant parties.

Lower Second Class (50-59%)

A substantially correct answer which shows an understanding of the basic principles.

Lower second class answers display an acceptable level of competence, as indicated by the following qualities:

- generally accurate;
- providing an adequate answer to the question based largely on textbooks and lecture notes;
- clearly presented;
- no real development of arguments;
- may contain some major error or omission.

A lower second class answer may also be a good answer (ie an upper second class answer) to a related question but not one set by the examiner.

Third Class (40-49%)

A basic understanding of the main issues but not coherently or correctly presented.

Third class answers demonstrate some knowledge or understanding of the general area but a third class answer tends to be weak in the following ways:

- descriptive only;
- does not answer the question directly;
- misses key points;
- contains important inaccuracies;
- covers material sparsely, possibly in note form;
- assertions not supported by authority or evidence.

Pass (37-39%)

A pass represents the minimum acceptable standards at the bottom of the third class category. There is just sufficient information to indicate that the student has a general familiarity with the subject area. Such answers typically:

- contain very little appropriate or accurate material;
- only cursorily cover the basic material;
- are poorly presented without development of arguments.

Borderline Fail (34-36%)

Not a category as such but answers in the range usually contain some appropriate material (poorly organised) and some evidence that the student has been to one or two lectures and done a bare minimum of reading.

Clear Fail (0-33%)

Example 2

First Class

It is recognised in all marking schemes that there are several different ways of obtaining a first class mark. First class answers are ones that are exceptionally good for an undergraduate, and which excel in at least one and probably several of the following criteria:

- comprehensive and accurate coverage of area;
- critical evaluation;
- clarity of argument and expression;
- integration of range of materials;
- depth of insight into theoretical issues;
- originality of exposition or treatment.

Excellence in one or more of these areas should be in addition to the qualities expected of an upper second.

Upper Second Class

Upper second class answers are a little easier to define since there is less variation between them. Such answers are clearly highly competent and a typical one would possess the following qualities:

- generally accurate and well-informed;
- reasonably comprehensive;
- well organised and structured;
- displaying some evidence of general reading;
- evaluation of material, though these evaluations may be derivative;
- clearly presented.

Lower Second Class

Such answers show an acceptable level of competence, as indicated by the following qualities:

- generally accurate, though with some omissions and errors;
- an adequate answer to the question, largely based on lecture material and required reading;
- a good answer to a related question, but not the one set;
- clear presentation;
- no real development of arguments.

Third Class

Such an answer demonstrates some knowledge and understanding of the area, but tends to be weak in the following ways:

- does not answer the question directly;
- misses key points of information;
- contains important inaccuracies;
- coverage of material is sparse, possibly in note form;
- does not support assertions with proper evidence.

Pass

This grade is used in some but not all courses to indicate an answer which narrowly avoids the fail category. For markers unfamiliar with this grade, it represents the minimum acceptable standard at the bottom of the third class category. There is just sufficient information presented to indicate that the student has general familiarity with the subject area. Such answers contain:

- very little appropriate or accurate material;
- cursory coverage of the basic material, with numerous errors, omissions or irrelevancies;
- loose structure;
- poor or non-existent development of arguments.

Borderline (compensatable) Fail

Again, this is not a category that is always used; it corresponds to the top end of the Fail category. Such answers involve:

- some appropriate material, but poor coverage;
- bare minimum of reading;
- disorganised or sketchy essays;
- inappropriate material;
- lack of argument.

Examples of Levels of Achievement at Undergraduate Level (from Benchmarking Statement for Law, Appendix B, November 1998)

	VERY PROFICIENT	PROFICIENT	PASS
KNOWLEDGE	<ul style="list-style-type: none"> ● able to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and able to explain the reasons for the relationships between them in a number of complex areas ● able to give reasons for the major legal institutions and procedures of English law ● able to demonstrate a comprehensive and accurate knowledge and understanding of the detail of the law and the theoretical issues involved in areas studied and their relationship to the relevant economic, social, commercial or political context 	<ul style="list-style-type: none"> ● able to demonstrate knowledge and understanding of a wide range of legal concepts, values, principles and rules of English law and able to explain the relationships between them in a number of particular areas ● able to explain accurately the major legal institutions and procedures of English law ● able to demonstrate a sound and generally accurate knowledge and understanding of the law and its context in relation to most areas of law which have been studied 	<ul style="list-style-type: none"> ● passed modules which, taken together, require identification and explanation of principal major concepts, values, principles and rules of English law ● can explain the basic structure of courts, legal professions and main features of criminal, civil and administrative law procedures ● able to demonstrate some general knowledge and understanding of some areas of English law which includes most of the major principles, supported by some important case-law and statutes and with appropriate, though brief, references to their economic, social, commercial or political context
APPLICATION	<ul style="list-style-type: none"> ● able to apply knowledge to difficult situations of significant legal complexity, to analyse facts and to produce well-supported conclusions in relation to them 	<ul style="list-style-type: none"> ● able to apply knowledge to complex situations, able to recognise potential alternative conclusions for particular situations, and provide supporting reasons for them 	<ul style="list-style-type: none"> ● able to apply existing knowledge to situations of limited complexity and produce arguable conclusions, treating the situation as an exemplification of established rules and lacking awareness of more sophisticated issues.
SOURCES & RESEARCH	<ul style="list-style-type: none"> ● able to recognise sophisticated legal and related non-legal issues and to formulate a clear and coherent research plan ● effective in using a range of research sources to produce up-to-date information ● able to produce a clear and accurate presentation of the law on a topic directly from primary sources and to use techniques of legal interpretation to complex issues arising from them 	<ul style="list-style-type: none"> ● able to select key relevant issues for research and to formulate them with clarity ● effective in the use of standard paper and electronic resources to produce up-to-date information ● with the assistance of secondary sources, able to integrate material from primary sources using standard techniques of legal interpretation to provide a substantially accurate picture of the state of the law 	<ul style="list-style-type: none"> ● able to identify principal issues for research on the basis of similarity to previously encountered situations or those well-established in case-law or doctrine ● with substantial reliance on secondary sources, able to read cases and statutes and identify the principal rules which they lay down and to apply basic techniques of legal interpretation to them

<p>ANALYSIS, SYNTHESIS, CRITICAL JUDGEMENT & EVALUATION</p>	<ul style="list-style-type: none"> ● able to produce and justify own ranking of relevance and importance of issues ● able to demonstrate insight in presenting materials drawn from a wide variety of primary and secondary sources and doctrinal commentary ● able to produce a synthesis of doctrinal and policy issues in relation to a topic which offers a personal perspective on a topic ● able to offer a personal and informed criticism in relation to arguments arising in wider reading, including comments on reliability, validity and significance; able to come to conclusions based on contradictory or incomplete information 	<ul style="list-style-type: none"> ● able to rank relevance and importance within unfamiliar arguments in the light of the established law ● able to bring together and present in a coherent way materials from various primary and secondary sources in an integrated way ● able to offer an accurate summary of the current state of doctrinal and policy debate in an area ● able to make a personal and reasoned judgement based on an informed understanding of standard arguments in the area of law in question 	<ul style="list-style-type: none"> ● able to rank relevance and importance of standard arguments based on well established orthodoxies in the area of law ● able to bring together mainly relevant materials from cases and statutes but not in a well focused way ● able to produce a brief statement of the principal doctrinal and policy issues in relation to a topic drawn exclusively from secondary sources ● able to see flaws in an argument in a well-established area of law ● able to make a choice between positions based on the adoption of the arguments of one of the protagonists with limited supporting reasons
<p>AUTONOMY</p>	<ul style="list-style-type: none"> ● in areas of law which she or he has already studied, able to take initiative in design of own project and find own sources (both legal and non-legal) ● in areas of law which he or she has not previously studied, able to use a wide range of information (both legal and non-legal) sources and able to identify complex issues in a topic; ● able to make independent assessment of own progress, able to present work in timely fashion for feedback and assistance, to establish a programme of action based on feedback given 	<ul style="list-style-type: none"> ● in areas of law which she or he has already studied, able to negotiate the definition of own project and to identify independently a wide range of legal materials and standard non-legal sources ● in areas of law which he or she has not previously studied, able to use a full range of legal sources to identify the principal controversial issues in a topic; ● able to make reasonably accurate assessment of own progress, to identify and formulate issues on which assistance is needed and to act on feedback given. 	<ul style="list-style-type: none"> ● a basic ability, with limited guidance, to produce own information (cases, statutes and bibliography) from standard within the framework of an agreed task in areas of law which she or he has already studied; ● in areas of law which he or she has not previously studied, able to use basic sources (e.g. textbooks, Halsbury's Laws and Current Law) to identify the principal legal rules on a topic; ● ask for help when needed and to follow guidance given by way of feedback.

COMMUNICATION & LITERACY	<ul style="list-style-type: none"> ● able to use the English language and legal terminology at all times with scrupulous care and accuracy ● able to present arguments to a variety of audiences and moderating presentation to suit the needs of each ● able to read with care and discuss a range of complex works about law and other subjects 	<ul style="list-style-type: none"> ● able to write and use orally fluent and complex prose, using legal terminology correctly; ● can relate material appropriately to the concerns of the intended audience ● able to read a range of complex works within and about law and to summarise their arguments accurately 	<ul style="list-style-type: none"> ● able to understand presentations in English using legal terminology, to write and speak in generally comprehensible English using legal terminology with satisfactory accuracy ● able to present largely expository material such that the major points are focused relevantly on the question asked ● able to read and discuss the contents of standard legal textbooks, cases and statutes showing a basic understanding of their content
OTHER BASIC SKILLS	<ul style="list-style-type: none"> ● able to generate own numerical or statistical information from either primary data or by combining information from other sources ● able to create a WWW home page and to produce HTML documents; able to set up and manage email discussion groups ● able to customise own word-processing formats; able to make design the layout and use of spreadsheets to present information; able to specify technological tools needed to support desired tasks ● able to make use of unfamiliar electronic retrieval systems; able to use such systems to conduct complex searches ● able to take initiative as a participant or leader of a group, and able to identify the needs of others in the group 	<ul style="list-style-type: none"> ● able to make relevant use in an argument of numerical and statistical information derived from primary sources ● able to conduct efficient searches of websites to locate relevant information; able to exchange documents by email and manage information exchanged by email ● able to use a wide range of formatting and other techniques within a standard software package; able to make limited use of spreadsheets ● able to conduct searches efficiently using a number of electronic retrieval systems ● able to work in groups as a participant who contributes effectively to the group's task 	<ul style="list-style-type: none"> ● able to make some relevant use in an argument of numerical and statistical information derived from secondary sources ● able to locate WWW sites from given web addresses and retrieve information from them; able to send and receive basic email messages ● able to produce the text of an essay with footnotes and basic formatting using a standard software package ● able to perform basic searches on standard electronic retrieval systems in the institution ● able to perform adequately assigned tasks within a group setting and to take part in group discussion

Questions for Self Evaluation of a Large Group Session

1. What were the objectives of the class?
2. Were the objectives made clear to the students?
3. Was the topic introduced within the context of the module or course as a whole?
4. Were the key points emphasised?
5. Which technology or teaching aids in the room were utilised?
6. Was there a variety of activity?
7. Were students asked to participate?
8. Were any citations or references clearly given in a form that students could copy or take away?
9. Did the class raise issues or visit perspectives from other disciplines?
10. Was a handout available setting out the structure of the class?
11. Was the class appropriately ended with the key points being summarised?
12. Will the topic be assessed and, if so, how?
13. Did the class address any of the key skills (communication and literacy; numeracy; information technology; and teamwork)?

Example of Lecturer's Notes

Lecture: Employer's Liability

A. IMPORTANCE

- ❑ 46% of tort PI claims
- ❑ 1 in 10 of all work accidents result in a tort claim

B. BASES OF LIABILITY

1. Vicarious liability

- ☞ developed by common law
- ☞ breach by employee for which employer responsible
- ☞ plaintiff can be anyone injured even if not employee

2. Breach of common law duty

- ◆ breach of primary duty placed on employer by judges
- ◆ plaintiff can only be an employee

3. Breach of statutory duty

- ❑ breach of primary duty placed on employer by Parliament
- ❑ plaintiffs usually are employees

C. NON-DELEGABLE DUTIES

Common law and statutory duties cannot be avoided by an employer engaging an independent contractor to carry them out.

By contrast vicarious liability can be thus avoided.

D. IS FAULT RELEVANT?

- 1) *vicarious liability*: employee fault is usual base of action
- 2) *common law duties*: essentially fault based
- 3) *statutory duties*: controversy whether they are strict or fault

E. HISTORY

- ❑ Vic liability developed first, followed much later by common law duties and eventually statutory duties
- ❑ Limit on vic liability imposed by the defence of common employment
 - ◆ Priestley v Fowler (1835) established the defence.
 - ◆ The defence declined in use especially where the worker was running a public risk.
 - ◆ The defence was eventually abolished in 1948.

- ❑ Avoidance of common employment by development of common law duties.
- ❑ Decline of common employment led to increased use of vicarious liability, which is now the main basis of liability.
- ❑ Growth in health and safety legislation in 20th century.

F. THE DECLINE IN IMPORTANCE OF THE COMMON LAW DUTIES

(because of growth in vicarious liability and intervention of statute.)

The duties imposed only a fault-based liability on employers:-

1. 'safe place of work'
– see instead the Factories Acts and the Occupiers Liability Act
2. 'adequate plant and equipment'
– see instead Employers Liability (Defective Equipment) Act 1969
3. 'competent staff'
– overtaken by rise in importance of vic liability following the decline of common employment.

But the duty can be wider than vicarious liability
(eg employer can be liable for independent contractor).

4. 'safe system of work'
– remains important where difficult to pinpoint fault of individual although there is an overall failure in management.

G. THE CONTINUED IMPORTANCE OF BREACH OF STATUTORY DUTY

Advantages over vicarious liability:-

1. Non-delegable = there can be liability for independent contractor
2. Defences are harder to establish
 - a) *contributory negligence* – eg more allowance for tiredness of worker because of repetitive routine work
 - b) *volenti* – prohibited. No evasion of Parliamentary intention to impose the duty upon the employer is allowed.
 - c) But *causation* can be used to avoid liability if P's own wrongful act puts the employer in breach of the statute and this is the sole cause of the accident:

Cummings v Sir William Arrol (1962) – D not liable when P fell following failure to use safety harness. P would not have worn it even if it had been supplied.
3. Reverses burden of proof: it is for the employer to establish that it was not 'reasonably practicable' to do otherwise.
4. Potentially there is a stricter liability than in negligence. Does 'reasonably practicable' differ from 'reasonable care'?

Judicial attitudes are confused because the justifications for strict liability have been removed:

- i) does the welfare state now meet the need for compensation?
- ii) are safety statutes now better enforced in the criminal law?

Observation Feedback Form

UNIVERSITY OF WARWICK TEACHING OBSERVATION FORM



PART A (to be completed by the Observee).

Name	Dept.	Course	Year
Observation Date	Type (e.g. lecture, lab. etc.)	Status of Report Confidential/Non-Confidential	
<p>1. Aims Briefly outline the broad purpose of the teaching session:</p>			
<p>2. Objectives Indicate what you might expect students to gain from the teaching session, in terms of knowledge, skills and understanding</p>			
<p>3. Observation Focus Identify any aspects of the teaching session that you would like the observer to comment on in particular:</p>			

PART B (to be completed by the Observer and discussed with the Observee).

4. (Please circle as appropriate: 1 = unsatisfactory; 5 = exemplary)					
Appropriateness of objectives to course/student level	1	2	3	4	5
Achievement of objectives	1	2	3	4	5
Quality of structure (e.g. sessions outline, summary, links to other teaching)	1	2	3	4	5

5. General Observations/Points of Clarification

6. Strengths

7. Suggested Areas for Development

8. Additional Comments in relation to Observation Focus in Section 3

9. Further Action (this should be discussed and agreed jointly by the Observer and the Observee)

We agree that this is a fair record of the teaching session:

Signature of Observee

Date

Observer's Name

Signature

Checklist for Self Evaluation

Record with a tick in the appropriate column the comments which come closest to your opinion of your performance in each of the following areas:

NB: some of the statements below may not be applicable to you for your particular session.

How well did I?

	very well	well	not very well	poor
1 link this session to other sessions				
2 introduce this session				
3 make the aims clear to the students				
4 move clearly from stage to stage				
5 emphasise key points				
6 summarise the session				
7 maintain an appropriate pace				
8 capture student interest				
9 maintain student interest				
10 handle problems of inattention				
11 ask questions				
12 handle student questions and responses				
13 plan and direct student tasks				
14 monitor student activity				
15 cope with the range of ability				
16 cope with age range				
17 use AV aids to augment my session				
18 make contact with all class members				
19 cope with individual difficulties				
20 keep the material relevant				
21 use my voice				
22 make use of appropriate body movements				
23 check on student learning				
24 motivate students				
25 convey my enthusiasm				
26 provide a model of good practice				

(Adapted from Gibbs G, & Habeshaw S, '52 Ways to Appraise Your Teaching'. TES 1988).

Questionnaire to Obtain Student Feedback

Lecture: Employers' Liability

Feedback Sheet

We would value your comments on today's lecture. The information provided will be very valuable in planning future courses and will be treated in confidence.

On a scale of 1 to 5, how would you rate the following:

(1 = poor and 5 = excellent)

The way in which the lecture was presented

The amount of information presented

The accommodation and equipment used

The lecture materials used

The usefulness of the handout

Your knowledge of the subject before the lecture

Your knowledge of the subject now

1	2	3	4	5

Any other comments:

Thank you for completing this questionnaire.

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Useful Web sites

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www.lgu.ac.uk/deliberations/

HEFCE

www.hefce.ac.uk

Higher education statistics

www.hesa.ac.uk

Institute for Learning and Teaching

www.ilt.ac.uk

Law Benchmarking Standards for Pilot Project

www.law.warwick.ac.uk/ncl/news/gs-7.html

UK Centre for Legal Education

www.ukcle.ac.uk

Staff Guide to Self and Peer Assessment

www.bristol.ac.uk/Depts/Education/saphe/.htm

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