

recognising the importance of learning from mentors.

Design and build: the legal practice course at Nottingham Law School

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In 1990 the Law Society of England and Wales decided to replace its final examination with a new course, the Legal Practice Course ("LPC"), which would include the teaching of legal skills. Of great significance was its decision to devolve much of the responsibility for professional legal education onto individual teaching institutions, which were required to design their own LPCs based on a set of predetermined objectives, apply to the Law Society for validation and deliver their own courses and assess their own students, subject to regular Law Society monitoring. This article describes the process of transformation of Nottingham Law School, in which a team of law teachers took on the job of designing and developing its own LPC.

The designers reduced the Law society's objectives to an easily understood two-point aim, which became the theme around which the course was designed: to enable students to prepare for practice by learning (a) how to solve clients' legal problems; and (b) to adopt attitudes which encourage professionalism. They identified three basic ingredients of problem-solving ability: *knowledge* (of procedural and substantive law as well as transactional law), *relevant skills* and *attitudes*. This conceptual vocabulary enabled the designers to break down legal problem-solving into teachable parts: lectures, prescribed readings and discussions

for knowledge, and practical activities or "learning by doing" for skills. Since issues of professional ethics pervade the curriculum, these and other attitudinal objectives were to be met in a variety of ways.

However, an important realisation was that legal skills and knowledge are inextricably linked, so that one cannot learn skills without knowledge. One of the challenges was to arrange core subjects and skills in order to integrate the knowledge and skills elements, yet keep them separate so that students could transfer skills among different knowledge contexts in ways that propelled them toward the problem-solving goal.

After giving a description of the structure of the course, the authors explain how the integration of legal knowledge and skills was achieved in the design. Two principles were adopted: legal knowledge and skills should be integrated no matter what sequences the learning follows; and theory should usually be followed by practice. The core subjects provided the contexts into which the skills are integrated e.g. writing, drafting and negotiation with business and conveyancing.

Successful integration of knowledge and skills is thus mutually enhancing: skills enhance and deepen knowledge by enabling students to manipulate the knowledge for a specific purpose; and knowledge enhances skills by enabling students to practise those skills in a variety of realistic contexts. Since both knowledge and skills are necessary in solving clients' problems, the integration of knowledge and skills in a series of purposive transactions helps the curriculum to achieve its problem-solving goal.

An attempt was made to keep assessment strategies simple and to ensure that it did not dominate the course at the expense of new learning. Two devices are used: a practical exercise, being a piece of assessed course work; and a final written assessment, which aims to provide a summative assessment of a student's ability to solve clients' problems using the knowledge and skills acquired during the LPC. In addition, each student has a "narrative" assessment, compiled by tutors during the course, intended to reflect the student's attitudes towards the LPC learning experience and the development of the professional attitudes necessary for practice.

It is recognised that a concentration upon getting students through the tasks might suggest a regimented style of instruction that professional educators seek to avoid. Students may also be tempted to adhere rigidly to the prescribed criteria, using a lockstep approach rather than learning to solve clients' problems holistically as in real life. Legal education must be designed, therefore, to encourage reflection and deep approaches to learning that are compatible with learning how to solve realistic problems.

Professional legal training in the Commonwealth

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Professional legal training is a reasonably new phenomenon in many parts of the Commonwealth and it is only currently that it is being considered by a few states in the United States.

Only recently, with the increasing concern about the competence of lawyers, has there has been

sufficient attention paid to the training of lawyers. In particular, many professional legal training courses have been substantially revised and there appears to be a trend toward increased controls by regulatory bodies over professional training, articles and continuing legal education.

In Australia, Canada and England lawyers are required to complete three stages prior to being allowed to practise law: obtain an LL.B. degree; attend a professional legal training course (and examination); and spend a period of articles in a law firm or a court (except N.S.W.). In comparison, in the majority of the United States, the only educational requirement is an undergraduate law degree and the successful completion of a written state exam. The articling or apprenticeship component was abandoned upon the introduction of university education.

This article surveys a number of systems of professional legal training (including articles/pupillage and practical legal training courses) in different countries and, where appropriate, the separate jurisdictions within those countries. The position is considered in all the provinces of Canada, England and Wales, only one of the states of Australia, New South Wales (in which there are indeed six different practical training courses), New Zealand and Hong Kong.

After a detailed analysis of the provision in these countries, the author concludes that after many years of differences, there are now many similarities. As more is learned about the different ways in which lawyer training is provided, new ideas can be tested and implemented to strive ultimately for

the best form of education for lawyers.

PURPOSE

Narrowing the gap by narrowing the field: what's missing from the MacCrate Report - of skills, legal science and being a human being

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The MacCrate Report is to be criticised for what it says and also for what it doesn't say. The Report attempts a taxonomic classification of lawyering. It is over determined and rigid and at the same time incomplete. It presents a view of a lawyer as principally one who is a litigator, a means-end thinker who maximises an abstracted client's goals. By attempting to clarify and codify a view of the lawyer that can be taught in law schools, the MacCrate Report encodes a particular image or vision of a lawyer. A lawyer should be a professional with a wide range of skills, but also a human being who exercises judgment and cares for fellow human beings, both clients and the larger society. The MacCrate Report pays insufficient attention to the human aspects of lawyering - variously called the empathic, affective, feeling, altruistic, and service elements. The education of lawyers should deal with the cognitive, behavioural and experiential, affective and normative aspects of being and learning as a professional. As it stands, traditional legal education deals with the first of these over and above all others.

The MacCrate Report and Tony Kronman's *The Lost Lawyer* are both premised on the concern that the

work of the law schools has strayed too far from that of the legal profession. What, however, is really appropriate in legal education is intimately connected to what ends and means the lawyer employs for what he/she will be doing. Langdell's view of law as a science and the Socratic method of law teaching are brought together in the MacCrate Report, as evidenced by the Task Force's attempt to specify a "Statement of Fundamental Lawyering Skills and Professional Values". By ignoring the likes of Karl Llewellyn and Jerome Frank, who thought it important that law be studied as a social science, the MacCrate Report focuses on the science of lawyering rather than exploring the human, emotional and empathetic side of the law. In this way it misses its mark.

The MacCrate Report creates a picture of the lawyer as a technocratic problem solver. The Report contemplates a lawyer as representing a single client and assumes a representational-litigation posture. The lawyer develops a plan or strategy on behalf of the client. The lawyer marshals evidence, gathers facts, devises arguments, does research, counsels clients about client decisions and negotiates with the other side. Kronman's conception of the lawyer is similar. However, Kronman's lawyer is inured with practical wisdom and judgment which consist as much of intuition, feeling and sympathy (affective aspects of lawyering), as reason and the science of lawyering. Kronman recognises aspects of lawyering that the MacCrate Report barely, if at all, mentions. The author concurs with Kronman's belief that the affective aspects of lawyering can be taught and learned.