tential to offer much more and to more people than it does at present. Ways around the current mental and material constraints need to be found.

Affordability is merely one aspect of access to legal education. Another way of improving access would be for the barriers currently restricting movement of students between the study of law and other disciplines to be relaxed. Given the historical bias in law student selection processes, steps in this direction would facilitate greater exchange between students of different types. Greater student diversity becomes an obvious consequence. Legal education can be part of the education of a much wider and diverse group of students.

Another way of tackling the professional snob syndrome is to proliferate the range of courses and programs taught within legal education institutions. To some extent, this will have been begun through the integration of non-LLB or non-practice oriented students into mainstream law-related topics. The stigma attached by some students to such courses by comparison with the LLB law topics might indeed be reduced by shared teaching arrangements. A blending of functions within a particular university environment would offer a number of benefits. There are clear practical advantages, as this method avoids the artificial divisions that exist around areas of legal knowledge dictated by professional status and program, rather than knowledge or skill affinities.

By admitting a more diverse student body to an enhanced range of legal education programs, there is the promise of identifying a wide range of social problems in need of legal research and problem-solving. Until the strong grip of commercial law practice on legal education and the imagination of many law students is loosened, the value of research looking at social issues will remain diminished and largely irrelevant. In an integrated legal environment, there is even more reason and opportunity for acting imaginatively and doing things differently in the field of legal education. Only if we have the courage to do so will legal education cease to be simply training future professionals to think like lawyers, and expand to become thinking about law by a much wider group. Then perhaps, we will have moved closer toward legal education in the public interest.

SKILLS

Flexible paradigms and slim course design: initiating a professional approach to learning advocacy skills
M Soanes
5 *Clinical L Rev* 1 1998, pp 179–210

Professional training programs in England seek to prepare students for a lifelong journey of development in the world of practice. Many decisions have to be made about course content and the structure, form and method of the educational program. As part of the planning strategy the course designers have to ask themselves and others fundamental questions about the nature of the legal profession and the role of the lawyer in society.

The answers to two such fundamental questions have influenced the way in which the Inns of Court School of Law (ICSL) chose to teach the Bar Vocational Course (BVC)[1]. First, what does the recently qualified barrister do? Second, what does the student need to learn at this stage to begin the transition from student to professional? In designing a suitable educational program for its students the ICSL has had to address a third fundamental question: how do people learn legal skills?

The professional in the field needs to possess both the 'know how' and the 'do how'. Thus students need to learn substantive and anecdotal law — the 'know how'. But they also require performative and cognitive skills — the 'do how'. 'Do how' includes the intellectual skills of problem solving and decision making, as well as the ability to present the fruits of such labour orally or in a written form.

The aims of the BVC are tailored to realise these qualities in the students. It aspires to initiate the education of the professional. In just nine months students are taught to think, act and behave like a recently qualified barrister. Without doubt these are ambitious goals.

Lying behind the ICSL's advocacy course there is a two-fold didactic program: first, exposure to advocacy tasks as part of a general introduction to the work of the lawyer; second, individual performance to realise behavioural outcomes, which provides students with training or coaching in the sub-skills of advocacy.

After several years of experimentation the advocacy course has been divided into two parts that are distinct but not unrelated. The first term concentrates on the skill of addressing the court, whether in the context of chambers applications or trial speeches. Students receive a lecture on the set of papers that they will use in the tutorial. They are expected to prepare these Practical Training Exercises (PTXs) before attending the class where they will have an opportunity to perform. The second term uses witness handling PTXs both in chief and in cross. In the third term, witness handling continues to dominate with two full trials, one civil and one criminal. Each of the two sections has performance criteria, one for addressing the court and one for each of the types of witness handling.

Thus the ICSL's approach to advocacy education can be characterised as twofold: first, it seeks to introduce students to the tasks that they can expect

1 See Shapland & Sorsby, **Starting practice: work and training at the junior Bar** (digested in 5 *Legal Education Digest* 3 pp 14-15) for the results of a long-term research project designed to evaluate vocational training at the UK Bar.

to perform and observe in the early years of practice; second, it coaches students in the performance and mental skills that will assist them in the execution of those transactions.

It is during the tutorial that all of the elements that are designed to make the skill clear to the student come together. Not surprisingly for a course that is based on experiential learning, students are helped to scale the sharp learning curve by being given numerous opportunities to perform. After each performance they receive feedback from the tutor and there is often time for peer appraisal as well.

The how-to-do-it guides that appear in the Advocacy Manual mix skills and tasks to provide the student with a practical outline of the transactions a junior barrister can expect to have to perform. The danger of mere mimicking and bland repetitive performance is alleviated in two ways: first, the guides are deliberately general rather than prescriptive; and second, students are encouraged to remain imaginative and experimental and to adapt or even depart from the guides.

In many tutorials the same or similar errors occur. One common mistake is that the student fails to detect the qualitative difference between the evidence stages and the submission stages. So, for example, a performance for the plaintiff will concentrate on the mere facts that have led to the application without any reasons in favour of the merits of the application and very little if any answer to the defendant's evidence. This will be the case, despite a clear indication by the judge that he or she has read the papers and is familiar with the evidence in the case.

In contrast, what appears to be a strength of the simple outline approach is that the majority of students can apply the guide to the PTX that contains the problem. The very fact that only a bare outline is given forces the student to use his or her critical and cognitive faculties to apply and adapt it to the case at hand.

Students in a practicum, such as the ICSL's BVC, experience the paradox of learning. They must take a leap in the dark that is no doubt intimidating. BVC students initially are hungry to put into practice what they are learning, but they fear that there is a right way and a wrong way. These apprehensions and preconceptions can lead to stilted or superficial performances or even an unwillingness to participate until the model has been given. Students frequently demand model answers and how-to-do-it guides. Although these are easy enough to produce, they tend to give rise to a culture of dependency. There have been various attempts over the years to find a happy balance between providing students with the level of support they clearly want and maintaining a spirit of experimentation and freedom.

A question remains: whether courses such as the ICLS's BVC could be more successfully taught if the theories were pulled together into a more coherent and consistent basis. Educational institutions that teach legal skills benefit from explicitly identifying their educational theories and articulating them to the outside world. Staff and students alike will gain if the theoretical basis of a course is articulated, not only explicitly but also in a practical way. A more theoretical and methodical outlook assists strategic planning. Knowing precisely what we are doing now helps us make sense of what we have done in the past and to plan for what we hope to achieve in the future.

Re/writing skills training in law schools — legal literacy revisited
D Bell & P Pether
9 *Legal Educ Rev* 2, 1998, pp 113–141

The so-called 'third wave' of legal education in Australia holds that differentiating between skills and knowledge is trite and misleading. The issue of whether any skill should be taught necessarily raises questions about the mission and role of a law school as part of a university. Unfortunately, attempts to define that mission too often rest upon a dichotomy postulated between the university as a scholarly institution with intellectual educational goals and as an institution the purpose of which is to equip students with skills for the workplace.

There are ways in which legal writing, as it is currently practised in law schools, is not meeting the needs of legal graduates or their potential employers. Nor is it adequately theorised to account for its role in university education. To be a lawyer is to write. To participate meaningfully within a legal community requires legal literacy. Expertise in law is not just knowledge of the law — it requires competence in the norms, conventions and contexts of writing that constitute legal literacy. Literacy in law entails learning the particular conventions and mores that distinguish legal writing. Writing cannot be divorced from the knowledge it expresses. Law is not reducible to written authorities, although this is often how it is taught in law schools.

To learn the language of the law and of the legal cultures in which the law exists requires a teaching environment that is critical and reflective, as well as instrumental. The model of legal writing advocated here is consistent both with models of contemporary best practice in legal education found in places such as the MacCrate Report and with the educational mission statements typical of the handbooks of law schools in Australia and North America.

The challenge of facilitating student critique of legal discourse — whilst equipping those same students to be competent practitioners within the generic and discursive practices of the law — is a very real one. However, developing instrumental and critical forms of knowledge need not be inconsistent objectives. Indeed, recent research suggests that disciplinary expertise in is fact