

W A L T R

THE WESTERN AUSTRALIAN LAW TEACHERS' REVIEW



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Western Australian Law Teachers' Review

Volume Four

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Editors' Foreword

Welcome to the fourth volume of WALTR — the *Western Australian Law Teachers' Review*. Each volume offers a window into the innovation and reflection that legal educators in Western Australia (and beyond) bring to their work, and this year's volume is no exception. Volume Four contains the work of seventeen authors across five articles and three teaching notes.

Several of this year's contributions turn a careful eye to assessment and the integration of theory and practice. Christina Do, Peta-Jane Secrett, Anna Bunn, Narrelle Morris and Katrina Williams introduce a 'Situational Legal Analysis' assessment — a simulation-based model for assessing the ethical reasoning and soft skills that are valued by the legal profession yet so rarely assessed in law schools. Rob Lilley, Caitlin Cameron and Eleanor Morley reflect on a clinical-hybrid succession law unit that embeds supervised drafting of a will for a real client in an undergraduate doctrinal subject, showing how experiential learning can be woven into curriculum. Bronwyn Arnold takes up the often-overlooked 'hidden curriculum' of legal citation, reporting on an action-research project that uses thoughtful assessment and curriculum design to build students' competence and confidence with the AGLC. These themes return, in a more personal register, in Julie Falck's candid teaching note on law school exam design, which invites us to rebuild the inherited examination from first principles around validity, reliability and fairness.

A second thread running through the volume is inclusive and accessible teaching. Kate Offer and Raul Madden reflect on informal accommodations in the law classroom, drawing on both pedagogy and their own experiences as law teachers with ADHD to offer practical strategies for supporting students with ADHD. Nyssa Bull's teaching note then describes how parenting neurodivergent children reshaped her teaching philosophy, and the 'neurodivergent-adapted' practices that have made her classrooms more inclusive for every student.

Finally, several contributions focus on the shape of the curriculum and the profession our students might enter. Phil Evans, Rebecca Pierluigi and Christina Do examine the 1992 academic requirements for admission 'with 2026 spectacles', arguing that the Priestley 11 no longer adequately reflects contemporary practice. And Jessica Kerr and Chantelle Hanna reflect on the early experience of rebooting a university law review, and on the distinctive contribution that law review units can make to self-regulated learning, collegiality and practice readiness.

Our thanks go to everyone who helped bring this volume into being — the authors, naturally, but also the anonymous reviewers who generously contributed their time and expertise. WALTR's double-anonymous review process is central to the quality and credibility of what we publish.

Aidan Ricciardo
- **Editor in Chief**

Christina Do
Kate Offer
Anna Bunn
Julie Falck
- **Editors**



ARTICLES

Contributions published as **articles** are scholarly works that advance knowledge in legal education and related fields. Articles published in WALTR are expected to demonstrate academic rigour, engage with existing scholarship, and make an original contribution. All articles are subject to a formal double-anonymous peer review process.

REBOOTING A UNIVERSITY LAW REVIEW

REFLECTIONS ON EARLY EXPERIENCE

JESSICA KERR & CHANTELE HANNA *

I INTRODUCTION

Editing a scholarly journal like a university law review is a unique form of academic service.¹ Coordinating a law review unit is a unique mode of teaching. Combining the two is a daunting experience at the best of times, and one for which there are few established guideposts. Attempting a comprehensive 'reboot' of these combined roles in real time, under the gaze of a student cohort, is more daunting still. However, early experience from an ongoing period of transition for the University of Western Australia Law Review ('UWALR') attests to the value of the attempt. This article offers some shared reflections on that early experience from a teaching and learning perspective. It highlights the potential contribution of law review units to supporting self-regulated learning, collegiality, and practice readiness, but also the level of personal and institutional investment required for their successful design and delivery.

The UWALR is the oldest continuously published university law journal in Australia. It is fully peer-reviewed and, while benefiting from a long-standing agreement with the international publisher HeinOnline, fully open-access. The standard annual publishing schedule is one general and one thematic issue, often reflecting a conference or other initiative affiliated with the UWA Law School. The journal receives both short and long-form submissions from academics, practitioners, judges, and postgraduate students, both within and beyond Australia, but does not publish undergraduate student work.

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Chantelle Hanna is a UWA Law School graduate and former student editor (2025) of the UWA Law Review.

¹ See Hamid R Jamali and Simon Wakeling, 'Roles, Challenges, and Sustainability of Australian Journals: A Survey of Editors' (2025) 9(1) *Open Information Science* 1, 9–15.

The UWALR has always been faculty-led, distinguishing it from the student-led model which dominates in the US.² Students only became involved with the work of the UWALR in 1987, at the suggestion of one North American colleague and in the face of some 'resistance' from other members of faculty.³ Within the Law School, stewardship of the UWALR is now a partially workloaded teaching and service role for a single faculty member.⁴ The faculty editor is, in principle, supported by a cohort of postgraduate student editors, who earn academic credit via a linked pair of elective units in the Juris Doctor degree ('JD'); by the essential, voluntary labour of external academic peer reviewers;⁵ and by an independent high-level Advisory Board. But the technical production of the journal is the editor's responsibility – as is both the learning experience of the students under their supervision, and the integrity and quality of the journal's content. Added to these responsibilities is the complexity of positioning a journal within broader school and university structures, from academic to technical to financial; the reputational implications of the journal's performance for the host school and university (and alumni), which are never far from an editor's mind; and, of course, a host of independent teaching and research obligations, reflecting the implacable expansion of modern academic workloads.⁶

When the first author of this article assumed the faculty editor role in late 2024, it transpired that an external Editorial Advisory Board had existed in name only for some time.⁷ There were no training resources for the editorial role, no teaching materials, and almost no unit structure; nor was there an established community of practice for editorships within the university or at state level. And there was no dedicated budget for professional or technical support. While Law School colleagues had been offering (and continue to offer) invaluable moral support, and periodic editorial advice and assistance, the outgoing editor had pronounced the journal and, in particular, the associated unit, to be 'in crisis'. That is the point at which the 'reboot' began.

While the broader question of editorial roles in academia is a fascinating one, our focus for present purposes is on teaching and learning. We therefore begin with a necessarily brief introduction to Australian university law reviews and the concept of a law review unit, before

² Michael Blakeney, 'The University of Western Australia Law Review: The First Seventy Years' (2018) 43(1) *University of Western Australia Law Review* 1. As noted by David Yuratich, in 2025, 18 of the 20 most-cited law journals based in the US were student-led: 'Student Law Reviews, Belonging and Community in the UK Law School' (2025) 59(2) *The Law Teacher* 259, 264.

³ Blakeney (n 2) 5.

⁴ The workload allocation is not to be taken for granted, as demonstrated by Jamali and Wakeling's recent survey: see Jamali and Wakeling (n 1).

⁵ See Shannon Mason and Sin Wang Chong, 'Bringing Light to a Hidden Genre: The Peer Review Report' (2023) 42(3) *Higher Education Research & Development* 664; Hamid Jamali, Edward Luca and Simon Wakeling, 'The peer review system is breaking down. Here's how we can fix it', *The Conversation* online, 16 February 2026) <<https://theconversation.com/the-peer-review-system-is-breaking-down-heres-how-we-can-fix-it-275317>>.

⁶ See generally John Kenny and Andrew Edward Fluck, 'Life at the Academic Coalface: Validation of a Holistic Academic Workload Estimation Tool' (2023) 86(3) *Higher Education* 507.

⁷ This is not an uncommon phenomenon in law journals, as noted by Justice Michael Kirby, 'Welcome to Law Reviews' (2002) 26(1) *Melbourne University Law Review* 1.

outlining the first author's approach to 'rebooting' the UWA offering in 2025, which prioritised both practical and metacognitive⁸ skill development within a collegial environment. We then draw on the second author's experience as a student in that inaugural cohort to offer some shared reflections on the complexities of this process, and why it deserves continuing investment.

II LAW REVIEWS IN AUSTRALIAN UNIVERSITIES

Academic journals do not have to be hosted within universities, and external publishers play an increasingly important role in the Australian legal journal landscape.⁹ However, all Group of Eight schools and many others have, or have had, their 'own' law reviews.¹⁰ Aside from some involvement of local faculty in the editorial and peer-review process, it is difficult to draw generalisations about the form or structure of university law reviews. They may be generalist or specialist, prolific or infrequent, conventional or more adventurous in structure and scope. Many, such as the Melbourne University Law Review,¹¹ the UNSW Law Journal, the ANU Journal of Law and Technology, and (to take a New Zealand example) the Auckland University Law Review,¹² are explicitly student-led. (In contrast with the general position in the UK,¹³ however, student-led law journals in Australia do not necessarily centre undergraduate student work.) Others, such as the now-defunct QUT Law Review, have no externally visible student involvement.

There is another essential distinction between a university law review as a scholarly publication, and 'Law Review' as a credit-bearing subject in the law school curriculum. Student involvement in a university law review does not have to be channelled, or rewarded, through a law review unit. ANU, Bond, and Victoria University, for example, all appear to have (or have had) reviews involving student editors on a wholly extra-curricular basis.¹⁴ However, roughly half of all university law reviews in Australia have opted to embed the

⁸ Barry J Zimmerman, 'Becoming a Self-Regulated Learner: An Overview' (2002) 41(2) *Theory Into Practice* 64, 65; Simon Cassidy, 'Self-Regulated Learning in Higher Education: Identifying Key Component Processes' (2011) 36(8) *Studies in Higher Education* 989, 993–4.

⁹ Generalist examples in Australia include the Australian Law Journal (Thomson Reuters), and the Federal Law Review (formerly ANU, now Cambridge University Press). Across the Tasman, the New Zealand Law Review is published by the Legal Research Foundation, a non-profit organisation affiliated with the University of Auckland.

¹⁰ See generally Kirby (n 7); Blakeney (n 2).

¹¹ See Justice KM Hayne, 'Foreword to the 50th Anniversary Edition of the Melbourne University Law Review' (2007) 31(1) *Melbourne University Law Review* 1.

¹² Chief Justice Helen Winkelmann, 'Auckland University Law Review Alumni Dinner Speech' (2015) 21 *Te Mata Koi: Auckland University Law Review* 10, 12, describing this arrangement as 'unique in New Zealand'.

¹³ See Yuratich (n 2) 263.

¹⁴ There are also student-run law journals which are not institutionally affiliated. A WA example is the Perth International Law Journal, formerly affiliated with a Guild-registered student society, which is currently being informally supported by the Law School and UWALR.

journal's production within an assessable subject, implying more structured academic supervision and pedagogical objectives.¹⁵

Several contrasting models serve to illustrate the lack of national uniformity in how the relationship between a journal and its associated unit is conceptualised. At the University of Newcastle, for example, the Law Review unit is open to students in the Bachelor of Laws (Honours) programme. While the unit includes an 'overview of contemporary issues' in publishing and research integrity, the assessment structure is dominated by independent written work (a case note and book review), with only 20% of the grade allocated to editorial 'practical tasks'.¹⁶ As will be seen, this is close to, although more structured than, the model at UWA prior to 2025. At UNSW, by contrast, recruitment to the UNSW Law Journal Editorial Board occurs through a competitive three-stage process, requiring substantial extra-curricular commitment in the first instance. Only those students ultimately selected for senior editorial positions are permitted to enrol in the credit-bearing law review units, which appear to respond wholly to the students' performance in those editorial positions.¹⁷ Along similar lines, at Monash University, senior JD students who are selected as Student Editors enrol in an ungraded (pass/fail) unit, with competency assessment based solely on production of a journal issue and, interestingly, training other student editors.¹⁸ Occupying the middle ground, the unit attached to the Adelaide Law Review suggests a significantly more structured approach to teaching legal publishing and editing skills, involving weekly seminars, peer critique, and organised groupwork.¹⁹ The assessment structure for this unit is divided evenly between 'editorial activities' and written assessments in the form of case notes and comments.²⁰

To the authors' knowledge, there is no published literature on curriculum or assessment design in law review units in Australasia. However, one 'student view' piece (from former editors of the Adelaide Law Review) usefully emphasises the distinction between law review participation as a 'purely co-curricular activity' and as a '*subject* undertaken by students who are actively assessed on their editing, writing and publication management skills'.²¹ This distinction not only serves to distinguish the voluminous literature on student-led law

¹⁵ This estimate is based on a desktop review conducted by Jed Francis and Tayla Mitchell, members of the 2025 UWALR Student Editorial Board, which identified 25 currently published university law reviews in Australia.

¹⁶ 'LAWS5106 – Law Review', *University of Newcastle Handbook* (Web Page, 2025) <<https://handbook.newcastle.edu.au/course/2025/LAWS5016>>.

¹⁷ 'UNSW Law Journal (Issue Editor)', *UNSW Sydney Handbook* (Web Page, 2025) <<https://www.handbook.unsw.edu.au/postgraduate/courses/2025/jurd7441>>; 'UNSW Law Journal (Executive Editor)', *UNSW Sydney Handbook* (Web Page, 2025) <<https://www.handbook.unsw.edu.au/undergraduate/courses/2025/LAWS3064>>.

¹⁸ 'LAW5053 – Law Review editorship 1', *Monash University Handbook* (Web Page, 2025) <<https://handbook.monash.edu/2025/units/LAW5053>>.

¹⁹ See Isabella Dunning, Irene Nikoloudakis and Caitlyn Georgeson, 'The Value of the Adelaide Law Review from a Student Editor Perspective' (2019) 40 *Adelaide Law Review* 125, 126–7.

²⁰ 'LAW 3506A – Adelaide Law Review Part A', *University of Adelaide Handbook* (Web Page, 2025) <<https://www.adelaide.edu.au/course-outlines/105113/1/sem-1/>>. From 2026 this unit will run under the auspices of the new Adelaide University.

²¹ Dunning, Nikoloudakis and Georgeson (n 19) 126 (emphasis added).

journals, especially in the United States, much of which is of marginal relevance from a teaching and learning perspective.²² It also captures the sense of possibility, and responsibility, with which the first author approached the task of reinvigorating the unit attached to the UWALR.

III WHAT A DIFFERENCE A YEAR MAKES

In 2024, only two students had enrolled in the paired Law Review units at UWA. These two students (one in the final year of the JD, and one in the Masters programme) completed a full-length independent research paper on a topic of their choice, accounting for 80% of their grade, and two mock peer review reports of submitted manuscripts, accounting for the remaining 20%. As had been the case in recent years, there were occasional editorial board meetings and email exchanges with the faculty editor, but no taught seminars, no structured supervision or feedback on the students' writing process, no prescribed resources, and no online learning environment. The students had very little direct involvement in the production of the journal and any involvement was not assessed.

The immediate concern of the incoming editor was to attract a sustainable student cohort. This however proved to be the least challenging aspect of the role, with 13 enthusiastic, high-achieving JD students on board within the first few weeks of semester 1. In the authors' view, this suggests that law review units do not face any inherent challenges for recruitment. While the first author did have pre-existing teaching relationships with several students, the majority were attracted through a simple email inviting expressions of interest. Upon receiving that email, the second author was drawn to the unit as an opportunity to develop practical skills such as proofreading, editing, and evaluating legal scholarship, in preference to learning new substantive legal content. The self-directed structure of the unit, and the prospect of working with a greater degree of independence, offered an attractive contrast to the more structured format of other law electives (often in the form of weekly lectures and tutorials).²³ At the same time, the unit was advertised as an opportunity to partake in 'shaping the future of both the journal and the unit'. Approaching this opportunity without prior understanding of how a law review operates, or experience in formal academic research aside from the usual coursework, created some uncertainty about what the work would

²² For classic examples of the US literature on student-led law journals, see Richard A Posner, 'The Future of the Student-Edited Law Review' (1995) 47 *Stanford Law Review* 1131; Barry Friedman, 'Fixing Law Reviews' (2018) 67(7) *Duke Law Journal* 1297.

²³ The student handbook at the time indicated the contact hours as '[a]pproximately 12 hours of meetings per semester ... flexible and will fluctuate according to production schedule and other unit-related activities': see 'Law Review Part 1 [LAWS5160]' *The University of Western Australia Handbook 2025* (Web Page, 2025) <<https://www.handbooks.uwa.edu.au/year2025/unitdetails?code=LAWS5160>>.

involve and what would be expected in producing a research piece to a 'publishable standard'.

Recruitment was certainly facilitated by attention to the interaction of Law Review with Advanced Legal Research ('ALR'), the invitation-only supervised research unit taken in the final year of the JD. With the support of the ALR coordinator and JD directors, the first structural innovation in Law Review was to create two assessment streams, removing the research paper component for any student enrolled in a thesis-based unit like ALR, and reallocating those marks to editorial work. This was explained in a special presentation to the incoming ALR cohort. For the other stream, the research paper component was significantly reduced (from 80% to 50%) and restructured (much shorter and publication-targeted), making space for an assessed participation component. This may have independently boosted recruitment, since the cohort ended up being evenly divided between the two streams.

The next priority from a unit coordination perspective was to create a sense of 'belonging'²⁴ in the cohort. Since there were no regular classes, no group assessments, and no dedicated physical workspace, this was a real source of concern. The concern was compounded by the fact that a number of students were working off campus and had little sense of their broader student cohort to begin with. This raised challenges associated with loss of 'control' over the learning environment, as well as designing a cohesive experience across in-person and online modalities.²⁵ The pragmatic approach adopted for 2025 was to schedule all Student Editorial Board meetings outside working hours, on a monthly schedule agreed by consensus for each semester, but also to accommodate remote attendance by Teams where necessary. Over the course of the year, we made increasing use of Teams to stay connected between meetings, including by creating channels for different workstreams and encouraging informal check-ins. This reflected the imperative of sustained engagement over a full academic year,²⁶ which proved difficult to support or monitor within the default online learning management system. It also reflected deliberate openness to student involvement in decisions concerning the adoption and use of digital technologies, promoting self-determination and agency from the beginning.²⁷ Lessons learned from this process have been embedded in a significantly more sophisticated Teams structure for the 2026 iteration of the unit.

From a pedagogical perspective, the nature and timing of the unit lent itself naturally to a self-regulated learning framework, understood as emphasising learners' autonomy and their

²⁴ See Yuratich (n 2) 266–7.

²⁵ Virna Rossi, *Inclusive Learning Design in Higher Education: A Practical Guide to Creating Equitable Learning Experiences* (Routledge, 2023) 72.

²⁶ See *ibid* 109–11.

²⁷ See *ibid* 77.

capacity to direct and evaluate their own learning processes and outcomes.²⁸ The early experiments with Teams reflected a foundational concern with developing a properly structured learning environment, incorporating both direct instruction and 'visible learning',²⁹ within which students could understand and reflect on the process of skill development in which they were supposed to be engaged. From an assessment design perspective, an immediate set of adjustments suggested themselves. The peer review assessment was restructured to incorporate a reflective component: having drafted and submitted their own peer review report on a manuscript submitted to the UWALR, students would have the opportunity to read the 'real' reports from external expert reviewers, then submit a further graded reflection in light of those reports. A general 'participation' grade was introduced, primarily in recognition of the core editorial work of citation-checking and proofreading to which, in principle, all student editors should contribute. More experimentally, an 'advanced peer review' grade was introduced for those students *not* writing a supervised research paper within Law Review, in contemplation of more substantial and self-directed contributions to the editorial process.

The absence of teaching materials was confronting, and not immediately remediable. It was relatively straightforward to create detailed assessment information and marking rubrics, and to upload meeting agendas, notes, and the limited existing internal editorial guidance. Beyond that, it was an open question as to what extent this unit could or should be 'taught'. The first author's student experience on law journals internationally offered little insight in this regard. There was no relevant subject-specific national standard, and, as noted, nothing published on Law Review as a teaching activity in Australia. What was clear was that skills in independent research and writing (the dominant mode of Law Review assessment at UWA historically) were comprehensively taught in other units, particularly ALR. To avoid repetition, skill development in Law Review should logically focus on the editorial and publishing side. But the first author was still in the process of mapping the editorial role themselves. In the circumstances, the question of skill development had to be approached iteratively and collaboratively,³⁰ relying significantly on observing the students' capabilities and progress, while recognising the time constraints under which everyone was operating. This required a distinctly process-oriented teaching focus, with students engaged in understanding the *how* of learning as much as the *what*.³¹

Another core concern in initiating the unit 'reboot' was to connect the students directly with the production process of the journal, in part to support their development as 'assessment-

²⁸ See Zimmerman (n 8) 64; Joanne M Russell et al, 'Fostering Self-Regulated Learning in Higher Education: Making Self-Regulation Visible' (2022) 23(2) *Active Learning in Higher Education* 97.

²⁹ See Dawn Young, 'Visible Learning: Adapting Primary and Secondary Pedagogical Approaches to Legal Education' (2024) 73(3) *Journal of Legal Education* 817.

³⁰ Consistently with the approach advocated in Karen Thornton, 'Using the Student-Edited Law Review to Teach Critical Professional Skills' (2016) 40 *Journal of the Legal Profession* 163, 165.

³¹ See Cassidy (n 8) 996.

capable learners',³² in part to increase their sense of investment in a real-world professional process. Since that process had been managed wholly through staff email and personal document folders, its opacity was also not immediately remediable. What could realistically be done as a starting point was (1) to explain the process in an introductory seminar, (2) to create participatory shared indexes for upcoming issues, to give students as much insight as possible into how an issue was put together over time, and (3) to introduce a system of shared folders where manuscripts could be directly accessed and edited by students under the editor's supervision. As the year progressed, several students (including the second author) received direct access to the journal's institutional email account and began to assist with correspondence, with the first author developing templates and guidance in real time.

A more risky focus for the editor in this year of transition, which was communicated to students during the recruitment phase, was involving the students directly *in the reboot*: that is, giving them the opportunity to select 'special projects' through which they could contribute to the broader strategic development of the UWALR, as both a unit and a journal. This approach was consistent with the self-regulation objective by which students are afforded meaningful choice regarding the tasks they undertake, the methods they use to complete them, the timeframe for progress checks, and the peers with whom they collaborate.³³ It was motivated partly by consciousness that the formal learning environment would still be in development, and partly by genuine curiosity as to the interests and skills which students would bring to the table. It committed the editor to early-stage diagnostic work to anticipate likely student interest, followed by more systematic analysis of what would be most relevant and meaningful for this cohort while also contributing meaningfully to the needs of the UWALR.³⁴ What became clearer in hindsight, as discussed below, was that it also implied a substantial initial 'needs analysis and orientation' phase,³⁵ to ensure that students were ready for the projects they had selected.

While the 'reboot' of the journal itself had many dimensions beyond the scope of this article, one initiative with immediate significance for the students was the decision to tie the annual thematic issue to the launch of a new research centre within the Law School. This brought the students into direct engagement with (and peer review of!) the work of many of their teachers, and involved them in the organisation of a sponsored launch event and associated physical print run, the first of their kind in many years. It also created an opportunity to appoint the second author of this article as student lead of that thematic issue, in collaboration with two senior faculty leads.

³² Young (n 29) 826.

³³ See Zimmerman (n 8) 69.

³⁴ Rossi (n 25) 92.

³⁵ *Ibid* 91–3.

IV LEARNING THROUGH EXPERIENCE

A Expectations and Reality

Both authors of this piece approached the 2025 Law Review units with expectations which proved misplaced, but also with optimism which was amply rewarded.

From a faculty perspective, there had been concern about the appetite within the current student body for this kind of non-doctrinal, collaborative, skill-focused offering. There was however also concern that a more actively marketed unit could be perceived by students as an easy ride from a grading perspective, or, possibly worse, as primarily a prestige marker to 'secure them better jobs on graduation'.³⁶ Both concerns were quickly allayed, not only by the number of applicants for the unit³⁷ but by the collegiality and commitment which they demonstrated from the first meeting. However, the first author had other, unconscious, expectations of the students which required recalibration as the year progressed, particularly as regards on-campus availability and technical proficiency in academic writing. Perhaps the clearest demonstration of the latter was the mid-year realisation that few students were comfortable using word processing features such as templates, styles, automatic cross-references, and even basic paragraph formatting.

From a student perspective, the first expectation, or assumption, challenged was that the work would be *primarily* technical: proofreading the work of time-poor academics by ensuring compliance with AGLC4, correcting grammar, and standardising formatting. It quickly became apparent that peer review and editorial tasks for Law Review extended far beyond technical correction. They demanded evaluative judgment in assessing whether arguments presented were coherent, whether the author's chosen structure supported substance, and whether students' suggested revisions strengthened or diluted an author's voice. Even in later stages of the editorial process, it became clear that responsibilities such as citation checking were not limited to mechanical confirmation or correction, but required critical engagement with the subject matter of a manuscript to assess whether the cited sources genuinely supported the propositions for which they were relied upon.

For the second author, their appointment as student lead of the special issue in semester 2 took them far beyond the delegated administrative functions they had contemplated. The responsibilities of this role evolved to include substantive evaluation of submissions, coordination of the external peer review and student editorial processes, and detailed engagement with authors throughout revision stages. This level of responsibility was initially

³⁶ Michael Tilbury, 'Address: Why Law Reviews?' (2003) 25(1) *The Sydney Law Review* 21, 23–4.

³⁷ The unexpected level of demand, which increased again in the 2026 selection round, has raised the different challenge of developing a fair selection process. For a particularly scathing critique of the risks inherent in a competitive selection model for law review units see Barbara H Cane, 'Role of Law Review in Legal Education' (1981) 31 *Journal of Legal Education* 215.

confronting, not only because it revealed the significance of individual editorial decision-making, but because it involved triaging (and sometimes gently nudging) submissions from UWA faculty members. For the rest of the cohort, the 'special projects' dimension of the initial reboot proved unwieldy or intimidating for some students, lacking the directory structure to which they were accustomed, and relying heavily on their own initiative in seeking and obtaining feedback. This said, because participation was largely independent and students could choose where to focus their time and energy, the structure worked well for others who had sufficiently advanced metacognitive skills to thrive with that flexibility. Observing these differences within the cohort was extremely valuable for the first author in planning the next iteration of the unit, in particular because it confirmed the importance of the initial 'needs analysis and orientation' phase.³⁸ In 2026, this component of the unit has been more carefully structured and introduced, with more explicit guidance and modelling at the outset, a deliberate reorientation from individual to group projects, and more active intervention when students begin to lose momentum.

Perhaps the most significant unexpected benefit of the unit for students was collegiality (which had been a central hope, if not an expectation, for the first author). Producing a journal together required trust, coordination, and a shared commitment within a cohort who had not even necessarily met before. From a constructivist perspective, it provided an ideal opportunity to centre the active and collaborative construction of knowledge, with a clearly defined goal.³⁹ Importantly, there was little incentive to demonstrate that one had done a 'better job' than another: students were 'free to focus on the task, not on watching their backs'.⁴⁰ Although participation was a substantive component of the unit grade, the assessment criteria were not concerned with demonstrating exactly what each student had corrected or contributed. By the final proofing stage, individual contributions were largely indistinguishable. Instead, students submitted timesheets indicating how their hours had been spent across the various stages of editing and progressing their 'special projects'. Students also heavily relied on one another when it came to time management; a message in the Teams chat would fluidly shift the work between students who had capacity and those who needed to step away for other commitments. Combined with the largely self-directed nature of the unit, any 'feelings of individualism and competitiveness ... became muted'.⁴¹ In contrast to the dynamics of many law tutorials (where participation marks prioritise the relative frequency and quality of individual contributions), the Law Review model placed the emphasis squarely on collective responsibility for the final publication.

³⁸ Rossi (n 25) 91–3.

³⁹ John Biggs and Catherine Tang, 'Teaching According to How Students Learn' in *Teaching for Quality Learning at University: What the Student Does* (McGraw-Hill Education, 3rd edn, 2007) 15, 21.

⁴⁰ Ibid.

⁴¹ Participants in student-led law journals in the UK have reported the same experience: see Yuratich (n 2) 270.

B Assessment Strategy

From the students' perspective, the initial rebalancing of assessment across peer review, participation, and independent research achieved the first author's immediate objectives of more closely mirroring the lifecycle of academic publishing and providing more opportunities for skill development. Over the course of the year, however, it became apparent that all three assessment components presented complexities of timing and scaffolded skill progression, which require further attention as Law Review continues to develop. In the space available, several of these are highlighted below.

The most immediately rewarding innovation, which had not to the first author's knowledge been trialled in other Australian law review units, was introducing a reflective component within the peer review assessment. The students effectively received three sets of feedback on their initial reviews: direct feedback from the editor, and indirect feedback in the form of two expert responses to the same task prompt. From a self-determination theory perspective, this design supported the core psychological needs of competence, autonomy, and relatedness.⁴² It enabled students to evaluate their own learning by calibrating their work against expert standards, while preserving educator co-regulation to support that process of calibration.⁴³ The requirement for students to 'visibly'⁴⁴ integrate and respond to all these inputs through a subsequent reflection could have been demoralising; but instead, with reassurance and the opportunity to repeat the task later in the year, the students rapidly developed confidence in identifying the subjectivity inherent in peer review and the strengths and weaknesses of different modes of critique.⁴⁵ While there was an attempt to identify and share resources on the peer review process, it was evident with the benefit of hindsight that students would have benefited from an explicitly taught introduction to the 'hidden genre' of peer review;⁴⁶ this has been implemented for 2026.

The peer review task really came to life in semester 2, when some students were able to sync their reports and reflections with the journal's publication cycle, creating opportunities for their views to be taken into account in editorial decision-making. Students who had the opportunity to contribute in this way described it as a highlight of the year, and the special issue faculty editors, for their part, genuinely benefited from the student contributions. But for most students in semester 2, as for all students in semester 1, the manuscript which they

⁴² Johnmarshall Reeve, 'A Self-Determination Theory Perspective on Student Engagement' in Sandra Christenson, Amy Reschly and Cathy Wylie (eds), *Handbook of Research on Student Engagement* (Springer, 2012) 149.

⁴³ Russell et al (n 28) 99; Cassidy (n 8) 996.

⁴⁴ See Young (n 29); John Hattie, 'The Applicability of Visible Learning to Higher Education' (2015) 1(1) *Scholarship of Teaching and Learning in Psychology* 79.

⁴⁵ This embodies, or at least has the potential to embody, the 'interactive apprenticeship modeling' approach recommended in Young (n 29) 839.

⁴⁶ Mason and Chong (n 5).

were reviewing had already been accepted (or rejected) for publication. There was no way to incentivise them with the prospect of 'impact'.

The challenge here, which is also relevant to the participation component of assessment, is fundamentally one of timing. Historically, the publication schedule of the UWALR has reflected the lifecycle of the Law Review unit in a very general sense (that is, two issues per year, roughly coinciding with the end of semester). This may need to change. As authentic as a peer review assessment task may be, if students are completing that task independently of the editorial decision-making cycle, it risks becoming perceived as 'busy work', or at the least, as lessening students' sense of investment in an 'apprenticeship in professionalism'.⁴⁷ On a more practical editorial note, in 2025, it turned out that the periods when citation checking and proofreading work was ready for students tended to coincide either with intense periods of assessment in other units, or with the periods in which students were taking a rare opportunity to travel, complete an external clerkship, or simply relax. This is difficult for an editor to navigate, particularly in circumstances where flexibility in self-pacing has been advertised as a key benefit of enrolment. The need to spread the student editorial workload more broadly throughout the year was one motivator for the late 2025 decision to create an 'advance' publication option, through which time-sensitive pieces are published in advance of the issue in which they will ultimately appear.⁴⁸

Another tension inherent in the unit-journal relationship is the place of original, research-driven student writing. This tension arises both from the self-identification of a journal like the UWALR as producing academic rather than student content (although postgraduate student theses are sometimes accepted with substantial revision), and from the distinct skill set involved in substantive research supervision. A Law Review unit has an obvious role to play in 'creating a culture of research that connects students and staff',⁴⁹ and developing students' own research skills was among the motivations for creating the UWA unit in the first place.⁵⁰ But the 2025 reboot was designed, in part, to avoid reducing Law Review at UWA to a less effective version of the dedicated research units. If the distinctive value of Law Review lies in the development of editorial and broader publishing skills, should students be doing their 'own' research in the unit at all? Here the authors hold slightly different instincts.

From a learning perspective, independent writing anchored the Law Review experience. For the second author, the habit of scrutiny developed through engaging with others' arguments in both peer review and editing tasks meant that she was able to approach her own thesis drafting with a newly internalised editorial lens, primed to identify redundancy, ambiguity and inconsistency. It was one thing to critique another's manuscript, but another thing to

⁴⁷ Thornton (n 30) 163.

⁴⁸ The first such piece published in the UWALR is Allison Silink, 'The Scope of the Non-delegable Duty of Care in "A Coherent Law of Negligence" Under Australian Law' (2026) 54(1) *UWA Law Review* (advance).

⁴⁹ Alex McKenzie et al, 'The Myth of the Teaching-Research Nexus' (2018) 28(1) *Legal Education Review* 1, 5.

⁵⁰ Blakeney (n 2) 5.

recognise those same weaknesses in one's own writing.⁵¹ Producing a substantial written piece (albeit in a concurrent unit) in the second semester sharpened her empathy for authors and exposed the vulnerability of submitting work for review. It made the editorial role less abstract,⁵² and significantly reinforced the insights gained through the other assessment. This was key to the second author's realisation that Law Review offered something far more substantial than prestige (or proofreading skills). It had the potential to reshape the way legal scholarship was read, evaluated, and ultimately produced.⁵³

From a teaching and structural perspective, the workload implications of adding a research supervision layer to the faculty editor's multi-faceted role are not currently sufficiently accounted for. If students can write under another faculty member's supervision in a concurrent (or later) unit, as the second author did, then in principle – and with clear lines of communication between all faculty involved – most of the same transferable benefits should be achievable, while securing for the student the specialist subject matter expertise that a faculty editor may lack. This said, workload aside, the timing is again complicated. Law Review has been unofficially reserved for final year JD students at UWA, largely because of the level of maturity and professionalism it demands. Students engage critically with senior academics (including their own teachers), handle confidential and sensitive material, and perhaps most significantly, are expected to lead their own learning experience. However, the critical and technical skills learned in Law Review are arguably conducive to success in *all* other law units, a fact which was not lost on the 2025 student cohort. Further, thesis-based units at UWA are also generally reserved for the final year of the JD (whether running all year via ALR, or for a single semester for shorter supervised research projects). This means that a Law Review unit designed to progressively develop the 'internalised editorial lens' risks coming too late to give the full benefit of that skill development to students undertaking independent research in other units.

Both authors agree that the year-long structure of Law Review is essential to the unit's success. It allows time for introductory seminars, a critical mass of cohort-building editorial meetings, two full rounds of peer review assessment (with space for reflection between), and the opportunity to participate in the production of two journal issues, including at least one complete cycle of submission, review, revision and publication. In 2025, those students who submitted a short research paper *within* Law Review, or who (like the second author) took a concurrent supervised research unit in the second semester, did have the sense that their skill development in Law Review was sufficiently advanced to positively impact their own written work. However, it is questionable whether confining enrolment in Law Review to

⁵¹ See also Dunning, Nikoloudakis and Georgeson (n 19) 129.

⁵² See also Lawrence J Trautman, 'The Value of Legal Writing, Law Review, and Publications' (2018) 51(3) *Indiana Law Review* 693, 734–8.

⁵³ For reporting of similar student experiences, see, eg, Friedman (n 22) 1334–6; Yuratich (n 2) 270–1.

students' final year of law school, and in particular to the same academic year as ALR, is defensible from a broader learning perspective.

Allowing or requiring mid-year commencement in Law Review, slightly earlier in the JD, would have the potential to offer a better synchronised learning cycle, with greater benefits for student performance in ALR and other advanced units, as well as a smoother handover between outgoing and incoming cohorts.⁵⁴ It might also substantially mitigate the problem noted above of mis-alignment between the student work cycle and the journal publication schedule. The principal downsides from a learning perspective would be the possible dilution of the tight-knit cohort and altering the group dynamic, compounded by a long break over summer. Leaving aside potential downsides from a teaching perspective as regards student maturity and self-direction, the administrative obstacles to mid-year commencement may unfortunately be more foundational. Spreading a single elective unit across two academic years would be unprecedented from a course design perspective. The second year of the professional JD is also already notoriously crowded, not least because of the aggressive recruitment drives run by law firms during the second semester. Further, if students wanted to remain involved in Law Review for three semesters (or longer), if the faculty-led model were to be maintained, there would need to be consideration of a new 'advanced' unit offering to accommodate this. There are simply not sufficient resources at present to contemplate multi-year, hierarchical, extra-curricular student supervision of the kind embedded in a larger school like UNSW.

C Practice Readiness

As Karen Thornton has observed, 'even the critics agree editorial board service is excellent training for practice'.⁵⁵ This observation has particular resonance for Australian law schools in 2026 given the Legal Services Council's current review of Practical Legal Training ('PLT'),⁵⁶ which is considering issues of cost, quality, and the competencies required for law graduates to transition effectively into supervised practice. The Legal Services Council has proposed that a number of these competencies be (more) explicitly introduced to students at university before being 'developed and reinforced' in PLT.⁵⁷ Of the 10 new proposed 'skill categories', at least half — professional communication, collaboration, record-keeping and management, legal research, and responsible use of technology — are naturally, and substantially, embedded within a well-designed law review unit. Seen in this light, arguments for investment in such units (whether new or existing) may well carry increased weight with school and university leadership. But even leaving aside the impetus of an institutional

⁵⁴ See Thornton (n 30) 178–9.

⁵⁵ Ibid 164.

⁵⁶ Legal Services Council, *Review of Practical Legal Training* (Consultation Paper, April 2026).

⁵⁷ See ibid 37–40.

reform of this potential magnitude, it is worth briefly considering the value of the experience from the perspective of the second author as a recent graduate.

First, the assumption of responsibility. From the outset, students were invited to take responsibility for their work by assigning themselves tasks through the working index, an approach that required initiative and coordination with others. They were responsible for managing their workflow and progress toward a more distant objective – publication – which was scheduled ‘around July’ and ‘around November’. Learning to break down that distant endpoint into manageable stages reflected the constantly evolving workload of professional practice more closely than the rigid due dates typical of other units. The practical skills learned within this framework, from autonomy and initiative, to time management, discipline, role definition, and strategic planning, are essential for developing professional identity. Equally important is the capacity for reflection. When students integrated the lessons learned from the first round of peer review and editing into the second, their ability to manage people, processes and responsibilities improved markedly.⁵⁸

Secondly, evaluative judgment. Legal work demands meticulous attention to detail: a skill honed through hours spent refining grammar, punctuation, word choice, and referencing in the course of citation-checking and proofreading.⁵⁹ However, the Law Review assessments also highlighted the more substantive components of effective legal communication: assessing whether arguments are clear, logical, and persuasive, and whether claims are supported by authority. As Hon Michael Kirby has observed, this kind of student work provides ‘fine training for good legal writing *and* editing’.⁶⁰ Identifying technical issues in a document is only the first step; addressing them effectively requires an additional layer of understanding and making judgment calls,⁶¹ which, over time, become an instinctive part of a student’s own writing process. These are skills that can only be strengthened through practice,⁶² making early engagement in such work invaluable for legal professional development.

Thirdly, collaboration. The editorial process mirrored the collaborative relationship-building required in professional settings. Manuscripts moved through multiple stages of review in shared documents, meaning that each editor’s work formed part of a collective effort to produce a polished piece for publication. Collaboration requires mutual and self-respect,⁶³ which can only be achieved by clear communication, trust, and a willingness to

⁵⁸ Thornton (n 30) 173.

⁵⁹ See Dunning, Nikoloudakis and Georgeson (n 19) 127.

⁶⁰ See Kirby (n 7) (emphasis added).

⁶¹ See Margaret Wilson, ‘The Role of the Law Review in a Performance-Based Research Environment’ (2020) 26 *Te Mata Koi: Auckland University Law Review* 54, 60.

⁶² See Thornton (n 30) 169–70.

⁶³ *Ibid* 170.

build on the work of others. These define the interpersonal skills that underpin effective teamwork in legal practice, but are rarely rewarded in other units.

Finally, practical technical literacy. Lawyers and academics share a common challenge of producing clear, accurate written work, while managing multiple drafts and revisions under time pressure. There remains considerable untapped potential for Law Review to prepare students for this aspect of practice (even leaving to one side the elephant in the room of literacy for generative AI). As outlined above, only a few students came into the 2025 cohort with more than basic competence in word processing. A single short session on Word functionality, improvised by the first author in the second semester, proved extremely valuable in reducing student error and improving workflow. The authors agree that more systematic training in collaborative document management, version control, professional correspondence, and publication workflows could significantly strengthen the unit's practice-readiness dimension. These skills may appear mundane, but as highlighted in the current review of PLT, they constitute the invisible infrastructure of both legal practice and academic life. With the exception of students who undertake clerkships, JD candidates receive little exposure to this form of practical literacy, and Law Review is unusually well-placed to fill that gap. The first author has been collaborating with professional education support staff to this end in 2026, and is now in discussions about extending the benefits of these sessions to a broader cross-section of the JD.

V CONCLUDING REFLECTIONS

The foreword to the first edition of the UWA Law Review in 1948 highlighted the role of a university law journal in 'show[ing] the needs and point[ing] the way'.⁶⁴ Rebooting the Law Review unit at UWA began with a daunting list of needs, and an openness to finding the way. The early experience of editor and students alike, as canvassed in this article, has expanded and complicated the list of needs. It has also reinforced the uniqueness of this teaching and learning experience, and the value of making the effort.

A well-functioning Law Review unit offers students an unparalleled opportunity to engage in a collegial real-world enterprise, prioritising professional skills and experiential learning opportunities which may be increasingly sidelined in the hectic climate of the qualifying law degree.⁶⁵ It offers a faculty editor unparalleled depth of engagement with high-achieving, motivated students,⁶⁶ and precious freedom to innovate and experiment in curriculum and assessment design within a framework which lends itself to self-regulated learning. And it

⁶⁴ Quoted in Blakeney (n 2) 1.

⁶⁵ See Thornton (n 30) 164.

⁶⁶ See Yuratich (n 2) 270–1.

does all this while serving (through its host journal) the broader purpose of 'pointing the way' for the development of the law, to the benefit of its institution and the broader community. But the challenges in balancing the interests and needs of students with the broader imperatives of journal publication are complex, and the resourcing challenges inherent in a faculty-led model intensify this complexity – even in a faculty as supportive as the UWA Law School.

In the final 'special project' for the 2025 Law Review cohort at UWA, two students took the initiative of presenting 21 recommendations for the unit (and broader journal) going forward. The recommendations are considered, thoroughly researched, and in parts, hopelessly optimistic – a characteristic they share with all good law reform reports. They range from internal editorial processes, to profile-raising, to funding, to community outreach, to increasing opportunities for student participation and scaffolded skill development. They reflect a keen appreciation of the diverse benefits of the unit and the scope for creativity in its continuing evolution.

If a Law Review unit on the UWA model is to flourish in the long term, it needs to be generously workloaded, administratively supported, and thoughtfully integrated into the broader course structure of the JD. Lofty ambitions perhaps, but as a single year of experience to date suggests, the evidence base for greater institutional investment is not likely to be difficult to build.

IMPROVING AGLC COMPETENCE THROUGH THOUGHTFUL ASSESSMENT AND CURRICULUM DESIGN

BRONWYN ARNOLD *

I INTRODUCTION

For most students, regardless of background, studying law represents an entirely new way of thinking and writing,¹ and many find it difficult to smoothly transition into their new identities as law students because of the unique challenges that studying law presents. Students must quickly learn complex skills such as the ability to locate, read and extract information from court cases and how to reference correctly.² Judges are bound by previous authority when deciding cases, and lawyers must be able to assist the court in providing relevant authorities for their submissions.³ All of these skills should be introduced to students at the very beginning of the law degree.

This paper argues that law educators should incorporate instruction and opportunities to learn referencing conventions because referencing operates as part of the 'hidden' curriculum of the legal discipline. Universities must consider how they are supporting students' transition into university and adapt their pedagogy so that all students, no matter their background, can experience success in their first and subsequent years of study.

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¹ See, eg, Kate Galloway et al, 'Working the Nexus: Teaching Students to Think, Read and Problem-Solve Like a Lawyer' (2016) 26(1) *Legal Education Review* 95, 99–101; Louise Hague, 'The Transition to Law School: A Case Study' in Emma Jones and Caroline Strevens (eds), *Wellbeing and Transitions in Law: Legal Education and the Legal Profession* (Palgrave Macmillan, 2023) 43, 45–6.

² Galloway et al (n 1) 99–106; Hague (n 1) 43; David Weisbrot, 'What Lawyers Need to Know, What Lawyers Need to Be Able to Do: An Australian Experience' (2002) 1 *Journal of the Association of Legal Writing Directors* 21, 37.

³ See, eg, Galloway et al (n 1) 100; Molly Townes O'Brien and John Littrich, 'Using Assessment Practice to Evaluate the Legal Skills Curriculum' (2008) 5(1) *Journal of University Teaching & Learning Practice* 62, 62.

Buckley writes that referencing as a mechanistic process 'is not difficult in itself';⁴ however, I would argue from personal experience that the opposite is true for law students. The complexity and length of the style guide utilised in Australian law schools, the Australian Guide to Legal Citation ('AGLC'), means that it is often difficult for students to navigate when first introduced to it. Early familiarity with its rules is essential for producing accurately cited assessment tasks,⁵ but the importance of referencing extends beyond law school. Graduates who enter the profession as lawyers must be able to support their arguments with accurately cited legal authority.⁶

As a former law student, I found navigating and learning the conventions in the AGLC to be difficult and time-consuming. As an academic integrity officer, a course coordinator and lecturer in law, I have frequently observed students consistently struggle with referencing, regardless of whether the student is in their first or final year of study. In first year courses, I have spent considerable time meeting with students and providing guidance on how to navigate and use the AGLC, and during seminars, students often give voice to feelings of stress when trying to apply the AGLC conventions to their work. In my role as an academic integrity officer, I educate students who are referred for suspected academic misconduct on the importance of accurate referencing. In my experience, it is clear to me that learning how to accurately apply the AGLC is a challenging task for students, and '[t]he sooner a law student becomes familiar with its requirements, and is comfortable using it, the better'.⁷ In response to these observations and experiences with my students, I initiated this action research project to improve student outcomes, reduce referencing anxiety and ease the transition into university studies. This paper demonstrates how careful scaffolding of formative tasks and providing opportunities for students to build their referencing knowledge over a period of time led to increased confidence and improved student assessment outcomes.

This paper reports on the outcome of a small-scale action research project I conducted in a first-year law course at a South Australian university, as I attempted to better support these students to overcome the challenges of learning the conventions of referencing as required within academia and the legal profession. Part one of the paper reviews the literature into scaffolding and transition pedagogies which informed the intervention, the importance of formative assessment and the need for tailored feedback. Part two explains the methodology for the intervention, the course and student context, and the aim of the intervention. Part three sets out the results and a discussion of the intervention with a comparison of the 2023 and 2024 cohorts. Finally, some concluding remarks are offered.

⁴ Carina Buckley, 'Conceptualising Plagiarism: Using Lego to Construct Students' Understanding of Authorship and Citation' (2015) 20(3) *Teaching in Higher Education* 352, 352.

⁵ Anita Mackay and Lola Akin Ojelabi, 'A Beginner's Guide to Academic Integrity and Legal Referencing Using the AGLC' (2022) 47(1) *Alternative Law Journal* 74, 76.

⁶ Ibid 74, 76; Nikolas James, Rachael Field and Jackson Walkden-Brown, *The New Lawyer* (John Wiley & Sons, 3rd ed, 2024) 252; David Hamer et al, *Laying Down the Law* (LexisNexis, 12th ed, 2023) 586 [20.37].

⁷ Mackay and Ojelabi (n 5) 76.

II LITERATURE REVIEW

The issue I had identified in my teaching connects with Kift and Nelson's seminal work in transition pedagogy.⁸ The authors point out that commencing university is a very challenging time for most students, and they face many challenges in adjusting to their new identities as university students. These challenges can impact engagement and retention and impede their ability to cope and interfere with learning, and as such, universities have an obligation to ease this transition as much as possible. As stated by Kift, 'a transition pedagogy seeks to mediate the diversity in preparedness and cultural capital of entering students, now so endemic in our mass system'.⁹ The 'cultural capital' is particularly pertinent for students studying law. Bourdieu warns that the education system, rather than levelling the playing field, can perpetuate the privilege of the dominant social classes.¹⁰ Typically, students studying law have achieved a high ATAR, come from higher socioeconomic backgrounds, and/or have family members who also have tertiary qualifications.¹¹ Indigenous students and students from lower socio-economic backgrounds or histories of disadvantage are underrepresented in law degrees and the profession generally, with numbers remaining persistently low, thus perpetuating the cultural capital.¹²

Snyder argues that all faculties have two curricula: the 'formal' curriculum, which are the expectations made known to students, and the 'hidden' curriculum, which are the informal rules and expectations expected of students.¹³ The 'hidden curriculum' of legal education adds an additional barrier to students' successful transition into university studies, but as Weresh writes, the 'typical' law student finds it easier to negotiate the hidden curriculum of legal education than students from historically underrepresented groups.¹⁴ Because the portrait of the 'typical' law student lends itself to unspoken expectations and assumptions about what these students can and cannot do upon entering university, it is possible that these assumptions can result in some aspects of the legal curriculum being hidden to some extent. It is difficult to obtain specific data on the demographic makeup of students studying law at the South Australian university where this research took place, but in 2023 the university was ranked in the top 25 universities worldwide for social equity, 'with the highest proportion of students from a disadvantaged background in the state, and the highest

⁸ Sally Kift and Karen Nelson, 'Beyond Curriculum Reform: Embedding the Transition Experience' (Conference Paper, Higher Education Research and Development Society of Australasia Conference, 3–6 July 2005).

⁹ Sally Kift, *Articulating a Transition Pedagogy to Scaffold and to Enhance the First Year Student Learning Experience in Australian Higher Education: Final Report for ALTC Senior Fellowship Program* (Report, August 2009) 9 [4.2.2].

¹⁰ Pierre Bourdieu, *Outline of a Theory of Practice* (Cambridge University Press, 1977) 188–9.

¹¹ Angela Melville, 'Barriers to Entry into Law School: An Examination of Socio-Economic and Indigenous Disadvantage' (2014) 24(1) *Legal Education Review* 45, 47–50.

¹² *Ibid* 50–2, 54–7.

¹³ Benson R Snyder, *The Hidden Curriculum* (Alfred A Knopf, 1971).

¹⁴ Melissa H Weresh, 'Hidden Lessons, Unforeseen Consequences: Interrogating the Hidden Curriculum in Legal Education and its Impact on Students from Historically Underrepresented Groups' (2024) 75(3) *Alabama Law Review* 655, 657, 666, 671.

number of first-in-family students'.¹⁵ Recently, the Australian Government has called for an increase in representation for those who have been historically underrepresented in higher education to levels proportionate to the general population.¹⁶ As pointed out by Hague, it can never be assumed that students enrol in their degree fully equipped with the skills they need to succeed.¹⁷ To level the playing field as much as possible, Weresh states that legal educators should critically explore the hidden curriculum and unveil it so that all students, no matter their background, can benefit.¹⁸ Catering for a diverse population in assessment design will also contribute to promoting the goals of the Australian Government, which is our responsibility as educators.¹⁹

Referencing could be considered part of the hidden curriculum in law courses because although it is not directly taught in later courses, the importance of referencing is still emphasised to students by allocating weight to referencing in assessment pieces.²⁰ Accurate legal referencing holds particular importance for law students. Not only does it provide evidence for a proposition stated and allow for a source to be located, but it also acknowledges and attributes the source of an idea to its original author.²¹ Failure to cite sources correctly can have serious ramifications, because if a law student wishes to be admitted into legal practice, they must be a 'fit and proper person'.²² If a student is found to have breached the university's academic integrity policy as a result, this could hinder admission into legal practice.²³ Gravett and Kinchin's study found that students were anxious about developing academic referencing skills and recommended that institutions should find ways to implement support for students' learning in this area.²⁴ Students in the study wanted more feedback in their assignments explaining how and why they had made mistakes in their referencing. The authors also found that students wanted more support and scaffolding at the early stages of their studies in developing referencing skills.²⁵ The authors caution that 'as students become more focused on the need for correctness in their work they show an increasing resistance to becoming self-motivated, independent, learners and seemingly

¹⁵ David Lloyd, 'Universities Accord: What's the Big Idea Here?' (Press Release, University of South Australia, June 2023).

¹⁶ Australian Government, *Australian Universities Accord* (Final Report, 28 December 2023) 2, 11, 21, ch 3.

¹⁷ Hague (n 1) 60.

¹⁸ Weresh (n 14) 657.

¹⁹ Australian Government (n 16) chs 2, 3, 4.

²⁰ Townes O'Brien and Littrich (n 3) 63.

²¹ Melissa Castan and Kate Galloway, 'Re-Evaluating Legal Citation in a Digital Landscape' (2017) 17 *Legal Information Management* 190, 191–3.

²² *Legal Profession Act 2006* (ACT) s 26(2)(b); *Legal Profession Uniform Law 2014* (NSW) s 17(1)(c); *Legal Profession Act 2006* (NT) s 25(2)(b); *Legal Profession Act 2007* (Qld) s 35(2)(a)(ii); *Legal Practitioners Act 1981* (SA) s 15(1)(a); *Legal Profession Act 2007* (Tas) s 31(6)(b); *Legal Profession Uniform Law Application Act 2014* (Vic) sch 1 s 17(1)(c); *Legal Profession Uniform Law 2014* (WA) s 17(1)(c).

²³ See, eg, *Re AJG* [2004] QCA 88; *Re Liveri* [2006] QCA 152.

²⁴ Karen Gravett and Ian M Kinchin, 'Referencing and Empowerment: Exploring Barriers to Agency in the Higher Education Student Experience' (2020) 25(1) *Teaching in Higher Education* 84, 89, 91 ('Referencing and Empowerment').

²⁵ *Ibid* 92–4.

move further and further away from this ideal of higher education learning'.²⁶ In a later study interviewing academic staff, Gravett and Kinchin wrote that academic referencing could be 'conceptualised as a "threshold practice" in the construction of student identity',²⁷ and if not taught properly, could be a blocker to successful transition to their new identity as university students.²⁸ Providing early feedback may also play an important role in alleviating student anxiety surrounding accurate referencing, giving them the ability to learn from their mistakes and prepare for summative assessment, hopefully easing their transition into their new identities as law students.²⁹

When an educator identifies an opportunity for change or improvement, they may seek to explore this opportunity through an action research project.³⁰ The aim of action research is to 'accomplish [a] useful change'³¹ in the educator's practice. After the change is implemented, the educator will critically reflect on the process and produce evidence to show how or why they believe their practice has improved.³² In my action research project, I interrogated the difficulties I had observed students were having successfully implementing the AGLC referencing conventions and considered different methods for scaffolding these skills into the course. Scaffolding pedagogies can be used in conjunction with transition pedagogies in helping students adjust to university studies. Scaffolded formative assessment can bridge the gap between students' current abilities and the 'anticipated future state':³³ that of being able to successfully complete assessment by demonstrating an understanding and application of key concepts.³⁴ Williams states that it is important to ensure that 'students have been exposed to scaffolded formative assessment'³⁵ before attempting the summative assessment. Studies by Allen and Marden et al found that exposure to early formative assessment improved student outcomes in course modules.³⁶ Furthermore, students felt that formative assessments enhanced their understanding of the course materials. Specifically,

²⁶ Ibid 93.

²⁷ Karen Gravett and Ian M Kinchin, 'The Role of Academic Referencing within Students' Identity Development' (2021) 45(3) *Journal of Further and Higher Education* 377, 377 ('Students' Identity Development').

²⁸ Ibid 379.

²⁹ Susan van Schalkwyk, 'Early Assessment: Using a University-Wide Student Support Initiative to Effect Real Change' (2010) 15(3) *Teaching in Higher Education* 299, 301.

³⁰ Patrick JM Costello, *Action Research* (Bloomsbury Publishing, 2003) 5–6.

³¹ Nita Cherry, 'Action Research and the Transformation of Practice: The Contribution of Reflective Practice' in John A Bowden (ed), *Action Research: A Pathway to Action, Knowledge and Learning* (RMIT University Press, 1999) 31, 31.

³² Costello (n 30) 41.

³³ Anna Shvarts and Arthur Bakker, 'The Early History of the Scaffolding Metaphor: Bernstein, Luria, Vygotsky, and Before' (2019) 26(1) *Mind, Culture, and Activity* 4, 19.

³⁴ Cassandra Star and Jacquelin McDonald, 'Embedding Successful Pedagogical Practices: Assessment Strategies for a Large, Diverse, First Year Student Cohort' (2007) 3(2) *International Journal of Pedagogies and Learning* 18, 20.

³⁵ Kevin Williams, 'Lecturer and First Year Student (Mis)Understandings of Assessment Task Verbs: "Mind the Gap"' (2005) 10(2) *Teaching in Higher Education* 157, 171.

³⁶ Greg Allen, 'The Use of Multiple-Choice Questions as a Form of Formative Assessment on an Undergraduate Law Module' (2008) 42(2) *The Law Teacher* 180; Nicole Y Marden et al, 'Online Feedback Assessments in Physiology: Effects on Students' Learning Experiences and Outcomes' (2013) 37 *Advances in Physiology Education* 192.

Marden et al found that students' performance in a formative quiz which was low stakes (not marked), non-threatening (no time limit), and allowed for multiple attempts was correlated with better performance in the summative assessment.³⁷ Grothérus, Jeppsson and Samuelsson write that the ability to 'redo' attempts serves as intrinsic motivation for students to spend more time and effort in learning.³⁸ Kift and Moody note that assessments must be both formative and summative so that they are taken seriously by students. To fully engage students with assessment, it is essential to give explicit and consistent advice regarding referencing expectations.³⁹

One way to assist students in engaging with assessment is through feedback. Students place equal value on general and specific feedback because they feel it helps them learn and improve.⁴⁰ Students benefit from immediate feedback in formative assessment because it gives them the opportunity to revise course materials in preparation for the summative assessment.⁴¹ Immediate, intentionally designed feedback also helps to keep students motivated as they progress through their coursework and may help to alleviate student distress to an extent.⁴² To ensure maximum benefit for students, formative assessment and feedback should be constructively aligned with the teaching and the intended learning outcomes for the course.⁴³ This in turn creates 'positive backwash', because 'in preparing for the assessments, students will be learning the intended outcomes'.⁴⁴

III METHODS

Adopting Kemmis et al, my study uses a critical participatory action research methodology.⁴⁵ Kemmis et al explain that 'critical participatory action research aims to help people to

³⁷ Marden et al (n 36) 197–9.

³⁸ Annika Grothérus, Fredrik Jeppsson and Joakim Samuelsson, 'Formative Scaffolding: How to Alter the Level and Strength of Self-Efficacy and Foster Self-Regulation in a Mathematics Test Situation' (2019) 27(5) *Educational Action Research* 667, 684.

³⁹ Sally Kift and Kim Moody, 'Harnessing Assessment and Feedback in the First Year to Support Learning Success, Engagement and Retention' in C Hall et al (eds), *ATN Assessment Conference 2009: Assessment in Different Dimensions* (RMIT University, 2009) 1, 7.

⁴⁰ Graham D Hendry, Nikki Bromberger and Susan Armstrong, 'Constructive Guidance and Feedback for Learning: The Usefulness of Exemplars, Marking Sheets and Different Types of Feedback in a First Year Law Subject' (2011) 36(1) *Assessment & Evaluation in Higher Education* 1, 5.

⁴¹ Marden et al (n 36) 195–6.

⁴² Rachel Field and Sally Kift, 'Addressing the High Levels of Psychological Distress in Law Students through Intentional Assessment and Feedback Design in the First Year Law Curriculum' (2010) 1(1) *International Journal of the First Year in Higher Education* 65, 66, 68, 72; Ding Ding Tee and Pervaiz K Ahmed, '360 Degree Feedback: An Integrative Framework for Learning and Assessment' (2014) 19(6) *Teaching in Higher Education* 579, 582.

⁴³ John B Biggs and Catherine So-kum Tang, *Teaching for Quality Learning at University: What the Student Does* (Open University Press, 4th ed, 2011) 197, 224.

⁴⁴ *Ibid* 198.

⁴⁵ Stephen Kemmis, Robin McTaggart and Rhonda Nixon, *The Action Research Planner: Doing Critical Participatory Action Research* (Springer, 2014).

understand and to transform “the way we do things around here”⁴⁶ to create more productive, just and inclusive outcomes.⁴⁷ Considering this, the study incorporated a combination of quantitative data and my own reflections and observations (as set out above). Reflective practice is a key component of critical participatory action research because it encourages educators to carefully analyse their data and inform their teaching practices.⁴⁸

The central research question guiding the project is:

How can students' transition into a university law program be supported through explicit instruction, scaffolding and careful feedback of referencing conventions, exposing the hidden curriculum of academia and improving students' performance and confidence in their assessment tasks?

The study was granted ethics approval from the university's Human Research Ethics Committee.⁴⁹

The following section outlines my teaching and student contexts that shaped the teaching intervention I implemented to support improved learning outcomes.

IV COURSE AND STUDENT CONTEXT

Common Law in Context ('CLIC') was a compulsory subject for all students enrolled in the Bachelor of Laws Program. Students took this course in their first semester, either in their first year of study (if enrolled in a single degree) or in their second year (if enrolled in a double degree). CLIC was a foundational subject and was one of two substantive law subjects (along with Torts) taken in the first semester which introduced students to the study of law, with a particular focus on common law. The course aimed to develop skills in interpretation and analysis of legal cases, identification of judicial methods and approaches to legal reasoning, and how precedent and interpretive methods affect the legal resolution of disputes. Students who were enrolled in CLIC came from a range of backgrounds and life experiences. Most students were domestic school-leavers enrolled in a double degree, with other students coming from culturally and linguistically diverse backgrounds and alternative entry pathways. CLIC had three assessments: a summative quiz (worth 25% of the total grade), a case analysis (50%), and a video presentation (25%). The present study focuses on the first assessment.

⁴⁶ Ibid 67.

⁴⁷ See further Robin McTaggart, 'Participatory Action Research: Issues in Theory and Practice' (1994) 2(3) *Educational Action Research* 313.

⁴⁸ Sarah Hattam et al, 'Working on Enabling Pedagogies at UniSA College' in Sarah Hattam et al (eds), *Enabling Pedagogy and Action Research in Higher Education* (US DOI Press, 2024) 1, 12–14.

⁴⁹ University of South Australia Human Research Ethics, Project ID: 206209.

V FIRST ITERATION OF CLIC: ASSESSMENT DETAILS

In the first iteration of the course (2023), the summative quiz was comprised of a multiple-choice and one short answer component. The multiple-choice component contained 10 questions (worth one mark each), requiring students to identify from four choices a correctly referenced source based on the question stem. The quiz was online and non-invigilated, opening at the end of week four, remaining open until the end of week five so that students could choose a time within that week that best suited them to commence their attempt. Once started, students had 48 hours to complete their attempt. This time limit was chosen to allow students ample time to check the accuracy of their answers, locate the case they had been allocated and to answer the accompanying short answer questions. It is acknowledged that the online, non-invigilated format of the quiz means that it is not possible to know whether some students relied on generative AI for the multiple-choice component, but students were also required to accurately cite pinpoint references in the short answer component, with marks awarded for AGLC compliance. The multiple-choice component focused solely on identifying correctly cited cases that complied with rule two of the AGLC. I felt that covering more than one area of the AGLC might be overwhelming for students because of its length and complexity. Before attempting the quiz, students were introduced to the AGLC in prerecorded materials and in the seminars, with referencing being incorporated into all parts of the seminar work. The quiz was considered a success: approximately 65% of students who attempted it achieved a grade in either the distinction or high distinction grade bands, with students achieving an average score of 83.5%.

While pleased with the results of the quiz, I felt that there was room for improvement. Reflecting on the referencing skills of the more advanced students which I had observed, I wanted to come up with an intervention that would improve and broaden students' referencing abilities. I was hopeful that a successful intervention may go some way in alleviating the stress associated with assessments, especially given that referencing skills are weighted more heavily in the second and third years of study. I wanted to bring all aspects of referencing out of the hidden curriculum. I therefore decided to expand the summative quiz in 2024 to test knowledge on rules 1–6 of the AGLC. Compliance with these rules would be needed for all future assessment pieces in CLIC and the remainder of their studies. To preserve the integrity of the assessment, the quiz bank was randomised, allocating each student five questions from each category/rule, giving a total of 20 multiple-choice questions and one short answer question. There was no increase to the time limit for the summative quiz, because I considered that 48 hours would be sufficient to complete the questions. Although this would potentially reduce students' familiarity with referencing case law, this had to be balanced with the aims of the summative quiz and what could reasonably be achieved by students in the set time limit. I was mindful that I would need to scaffold

understanding of these rules into the course as early as possible and to clarify what was expected, so that students would feel prepared for the assessment and not be overwhelmed.

A Intervention: Overview and Aim of Practice Quiz

To minimise the risk of students being daunted by the fact that they were to be tested on multiple aspects of the AGLC (and perhaps becoming demotivated), I created a formative practice quiz with 19 multiple choice questions which mimicked the questions that would appear in the summative quiz. The aim of the practice quiz was to enhance student confidence going into the summative assessment by providing them with lots of feedback at an early stage and to point students in the right direction for more information if they were still unsure.⁵⁰ The summative quiz was designed to assess students' core knowledge of the referencing requirements under the AGLC, as well as their ability to locate, summarise and explain the key aspects of a legal case. The formative quiz was therefore planned with 'positive backwash' in mind because students must perform what the assessment learning outcome specifically required.⁵¹

The questions in the practice quiz were divided into four categories in which students were to be tested: cases; legislation; journals; and books. Although the general rules relating to punctuation, use of italics, where to footnote, how to quote sources, authorship of works etc⁵² were not directly tested with standalone questions, knowledge of these rules was necessary because they interact with all other aspects of referencing. As recommended by Allen,⁵³ the multiple-choice questions contained options with mistakes that are commonly made by students (particularly in pinpoint referencing), so that students were aware of these potential pitfalls as early as possible. I ensured that the questions in each category contained the same variations as those that would appear in the summative quiz, so that students would not be 'surprised' by any of the questions.

When creating the practice quiz, the possibility that there would be 'throw-away' attempts was borne in mind: it was expected that on a first attempt, some students might not make a genuine attempt to answer all the questions correctly or to use the quiz to test their knowledge, but rather, would use an initial attempt to allow them to get a 'feel' for what to expect in the summative quiz.⁵⁴ The practice quiz was not timed, and attempts were unlimited. The practice quiz was available to all students from the date the course opened until one hour before the summative assessment opened. Students could not start a new

⁵⁰ See, eg, Hague (n 1) 46.

⁵¹ Biggs and Tang (n 43) 197, 224.

⁵² Melbourne University Law Review Association, *Australian Guide to Legal Citation: Fourth Edition* (Melbourne University Press, 2018) rr 1, 4.

⁵³ Allen (n 36) 185.

⁵⁴ Emily Faulconer, JC Griffith and H Frank, 'If at First You Do Not Succeed: Student Behavior when Provided Feedforward with Multiple Trials for Online Summative Assessments' (2021) 26(4) *Teaching in Higher Education* 586, 598–9.

attempt on the practice quiz after the summative quiz was opened. The practice quiz contained general and specific feedback which was viewable after the student had submitted their attempt. General feedback stated which rule(s) of the AGLC applied to a particular question and provided the correct answer. Specific feedback was created for each of the incorrect answers which would be visible if selected. The specific feedback explained why an answer was incorrect, the general rule which applied, and where students should look in the AGLC for further assistance in identifying all aspects of the correct answer (often, multiple rules could apply to an answer). As an additional incentive, students who had attempted the practice quiz could revisit this feedback at any time during their summative quiz attempt.

Students were informed about the practice quiz in three ways: during the in-person seminars, on the course page, and a course announcement (received via email). In all formats, students were notified that the questions in the practice quiz would be very similar to those that would appear in the summative quiz and that the quiz was designed to help them with the summative quiz assessment.

B Student Artefacts

The student artefacts comprising this study were the practice quiz attempts and the multiple-choice component of the summative quiz. These artefacts were collected to explore any possible correlations between the use of the practice quiz and the summative quiz results (multiple choice component only). All potentially identifying information was removed from student artefacts.

C Practice and Summative Quizzes

Both the practice and summative quiz attempts and results were downloaded from the course page into an Excel spreadsheet and stored securely. Because the practice quiz did not contain a short answer component, the short answer component was removed from the summative quiz results for the purposes of the analysis. It should be noted that not all students enrolled in the course attempted the practice quiz, which necessarily places some limitations on the study.

D Survey

At the end of the study period, all students enrolled in the course were invited to take a short survey by a staff member who was not involved in the teaching of the course. The survey was entirely voluntary and anonymous, and students were assured that they could not be identified from their responses, and their participation or otherwise in the survey would have no impact on their grades. Study data were collected and managed using the Research

Electronic Data Capture electronic data capture tool.⁵⁵ There were 14 responses to the survey and responses were transferred into an Excel spreadsheet and stored securely. Because the survey responses were anonymous, they could not be linked with quiz attempts or outcomes.

VI RESULTS AND DISCUSSION

A Quizzes: Student Outcomes

Of the 208 students then enrolled in the course, 140 students attempted the practice quiz a total of 241 times.

As shown in Table 1, there was a diverse level of engagement with the practice quiz. Table 1 also sets out the results achieved by students in the multiple-choice component of the summative quiz alongside the number of times they attempted the practice quiz. For example, of the four students who attempted the practice quiz five times, three achieved a high distinction in the summative quiz and one student received a credit.

Table 1: Practice Quiz Attempts and Summative Quiz Results

Practice Quiz: Number of Attempts	Students Attempting this Number	Summative Quiz Score (Multiple-Choice Component Only)				
		High Distinction (85–100%)	Distinction (75–84%)	Credit (65–74%)	Pass (50–64%)	Fail (0–49%)
6	1	1	0	0	0	0
5	4	3	0	1	0	0
4	5	5	0	0	0	0
3	11	9	0	1	1	0
2	36	35	0	1	0	0
1	82	69	8	2	1	2
0	61	48	8	2	0	3

The data show that attempting the practice quiz multiple times did not necessarily increase a student's chances of receiving a distinction or high distinction in the multiple-choice component of the summative quiz. However, attempting the quiz at least once halved a student's chances of failing the summative quiz. Five percent of students (n=3) who did not attempt the practice quiz failed the summative quiz, and 2% of students (n=2) who attempted the quiz once failed. No student who attempted the practice quiz more than once failed the

⁵⁵ Paul A Harris et al, 'Research Electronic Data Capture (REDCap): A Metadata-Driven Methodology and Workflow Process for Providing Translational Research Informatics Support' (2009) 42(2) *Journal of Biomedical Informatics* 377; Paul A Harris et al, 'The REDCap Consortium: Building an International Community of Software Platform Partners' (2019) 95 *Journal of Biomedical Informatics* 103208.

summative quiz, although caution is required here because of the small number of students who failed the summative quiz.

Implementing the practice quiz was a success: when compared with the average results for the 2023 summative quiz (multiple choice component), there was a noticeable improvement in the average score for the summative quiz in 2024, as shown in Table 2. In 2023, the average score for the summative multiple-choice quiz was 83.5%; and in 2024, the average score was 90.5%; an overall improvement of 7%. The 7% grade increase should be viewed with the differences between the 2023 and 2024 iterations of CLIC in mind; but this result is very encouraging and indicates that the practice quiz intervention has achieved its aim of bringing referencing out of the hidden curriculum and improving student outcomes in the summative assessment.

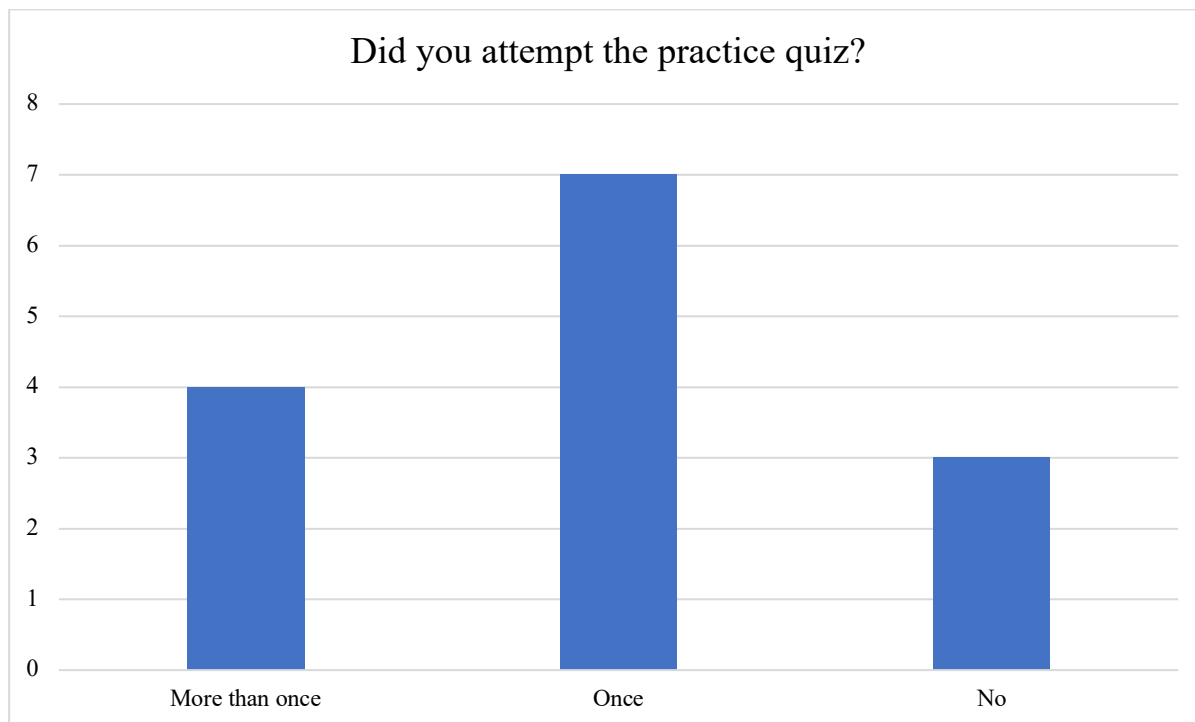
Table 2: 2023 v 2024 CLIC Cohorts

2023		2024	
Students	139	Students	200
Number of Quiz Questions (MC)	10	Number of Quiz Questions (MC)	20
Rules Tested	2	Rules Tested	1–6
Average Score (MC)	83.5%	Average Score (MC)	90.5%

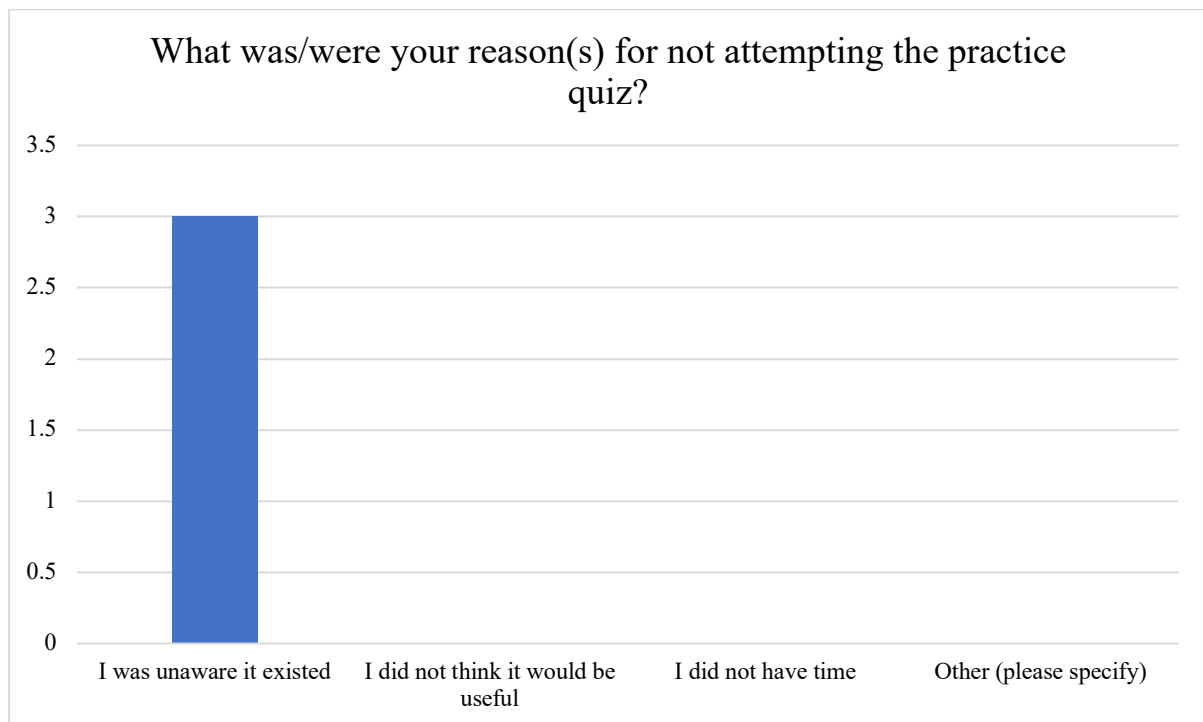
B Survey: Practice Quiz — Students' Views on the Quiz

The survey asked students to reflect on their use of the quiz and its usefulness in supporting their preparation for the assessment. There were 14 responses to the survey (6.9% response rate). Seven respondents attempted the quiz once, four attempted the quiz more than once, and three respondents did not attempt the practice quiz. All 11 respondents who did attempt the practice quiz said that they made a genuine attempt to work out the correct answers, which is encouraging. Unfortunately, none of the respondents answered the open-ended question which asked for more information on their reasons for making a genuine attempt to work out the correct answers. It is possible that if the respondents believed that the practice quiz would help them prepare for the summative quiz, throwaway attempts would be counterproductive to this end.⁵⁶ The lack of responses to the open-ended questions means that there are necessarily limitations that must be placed on interpreting the persuasiveness of the findings below.

⁵⁶ Faulconer, Griffith and Frank (n 54).

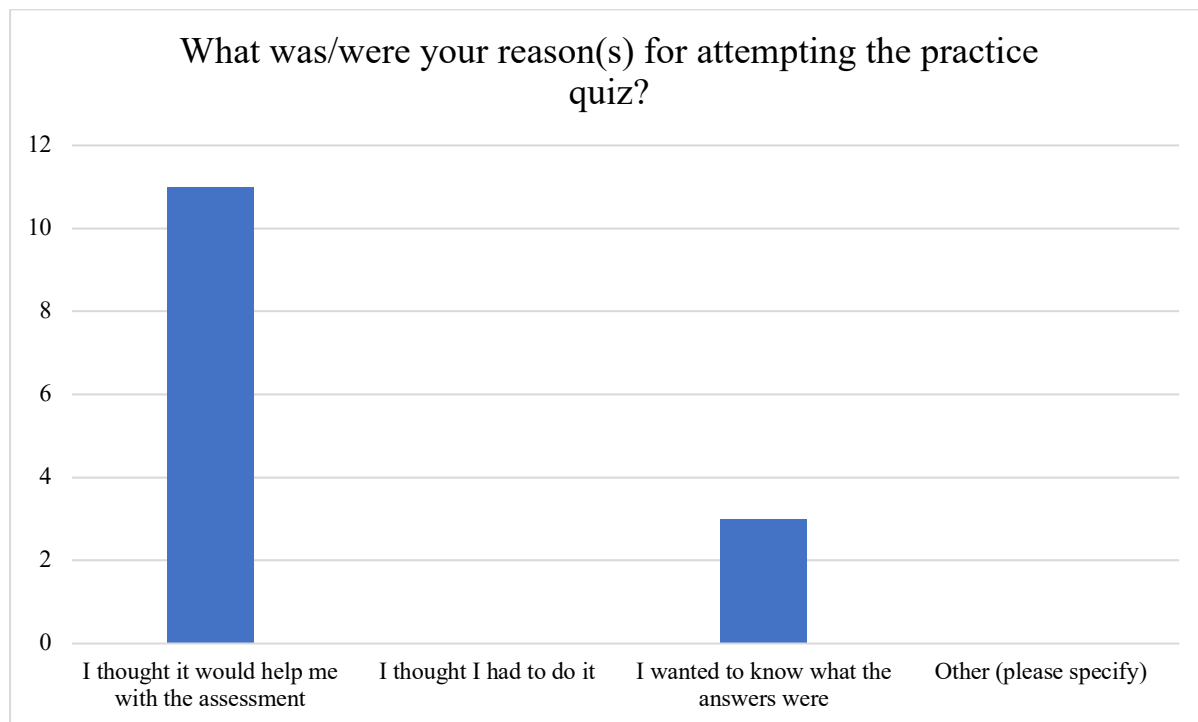
Figure 1: Practice Quiz Attempts

The only response reported by those who did not attempt the practice quiz was 'I was unaware it existed'. This response was somewhat unexpected and troubling, given that students were notified across multiple platforms and formats about the practice quiz. It could be that those three respondents did not attend in-person seminars, did not engage with the course materials, and/or did not read the emails distributed about the practice quiz, but it is not possible to know exactly why these students did not know about the practice quiz without further information.

Figure 2: Reasons for not Attempting the Practice Quiz

All 11 respondents who attempted the practice quiz said that they did so because they thought it would help them with their assessment. A further three respondents also reported that they attempted the practice quiz because they wanted to know what the answers were. It was expected that at least some respondents would give this as a reason for attempting the practice quiz. Many law students, especially when transitioning to university, feel anxious about assessment and what is expected of them.⁵⁷ Future iterations of this research should ask students whether they did in fact find knowing the answers to the practice quiz helpful for the summative assessment, and how (or if) those answers were used in the summative assessment.

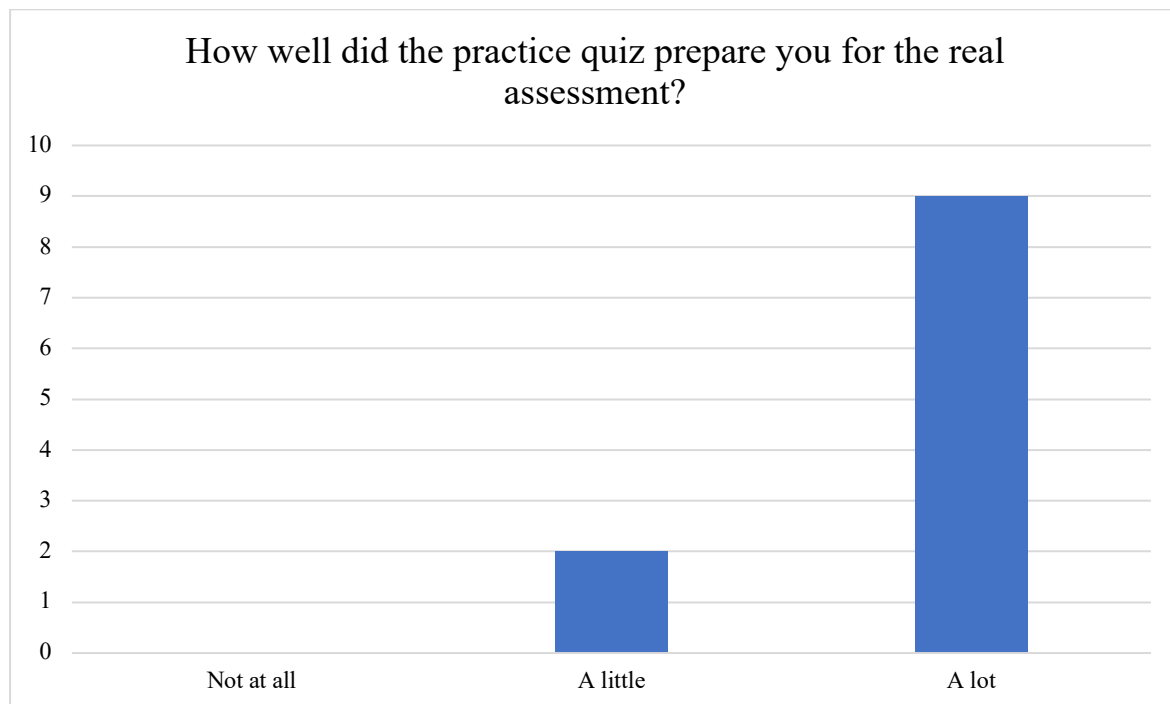
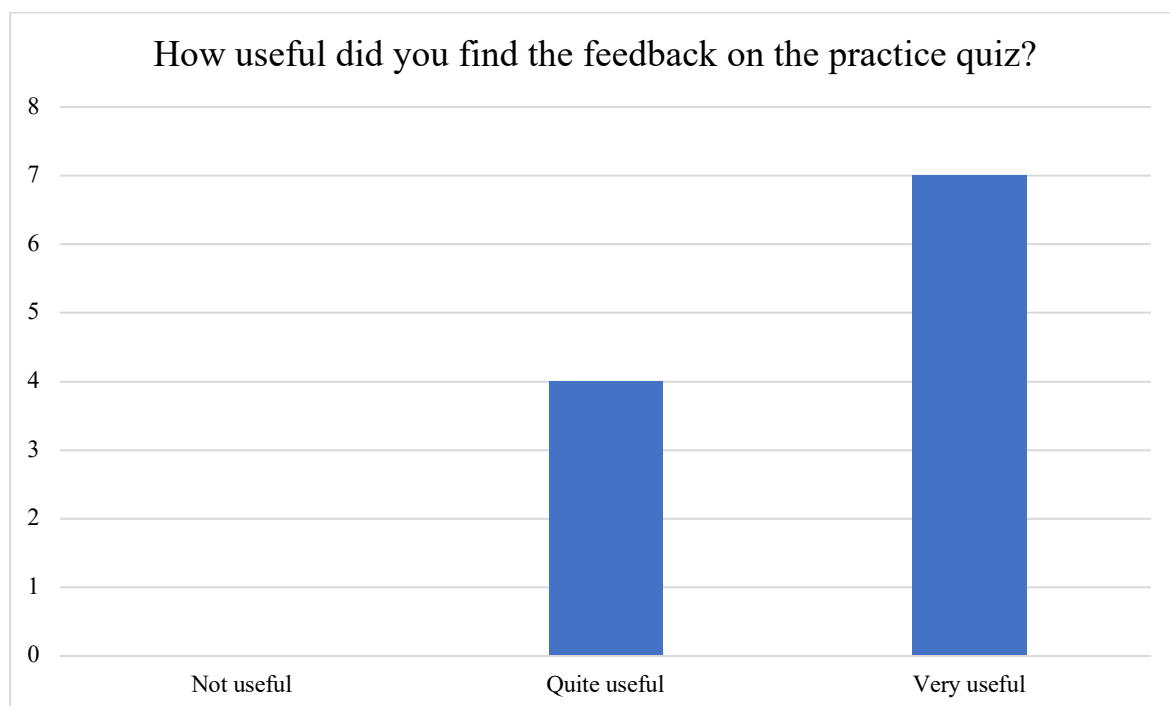
⁵⁷ Elena Marchetti, 'The Influence of Assessment in a Law Program on the Adoption of a Deep Approach to Learning' (1997) 15(2) *Journal of Professional Legal Education* 203, 215–16.

Figure 3: Reasons for Attempting the Practice Quiz

Marden et al found that students valued formative assessment because it enhanced their understanding of course materials,⁵⁸ and this was the case here. The majority of respondents (n=9) said that the practice quiz prepared them ‘a lot’ for the summative quiz, and two said that it prepared them ‘a little’. None of the respondents said that the practice quiz did not prepare them for the summative quiz. This is extremely encouraging because it shows that the respondents’ expectations about the help that the practice quiz would provide were largely met. This alignment provides strong evidence for continuing the practice quiz in the next iteration of the course. Furthermore, seven respondents found the feedback provided in the practice quiz ‘very useful’, and four found the feedback ‘quite useful’, which aligns with previous research on the value that students place on immediate feedback.⁵⁹

⁵⁸ Marden et al (n 36) 195, 199.

⁵⁹ See, eg, Kift (n 9); Marden et al (n 36).

Figure 4: Preparation for the Summative Quiz**Figure 5: Usefulness of Feedback**

C Other Positive Outcomes

Unfortunately, because the respondents elected not to expand on their responses to the survey in the short answer questions, I do not have any qualitative data on the practice quiz. However, when reviewing the referencing in the second assessment for the course (the case analysis), I noticed that there were aspects in the students' work where the referencing skills

tested in the quiz had not fully transferred to their written work. For some students then, there remains a disconnect between being able to identify a correctly referenced source from a list of choices (where chance may be a factor) and applying those skills to their written work. Having said that, there were far fewer errors in the students' referencing in the case analysis across the board than the 2023 iteration of CLIC, and in some instances, were equal to, if not better than, the referencing seen in the work produced by students who were more advanced in their studies. However, this observation should be treated with caution because the fewer errors in the 2024 cohort's work may not be attributable to the practice quiz alone.

Another positive was that in 2024, I received far fewer requests for one-on-one assistance with referencing than I did in the 2023 iteration of CLIC, which may be potentially related to an increased confidence in the understanding of AGLC conventions. During an in-class formative mini-quiz on the AGLC in week four of the 2024 course, more students than I had ever seen before produced their own hard copy of the AGLC. This mini quiz also took place in 2023, but active engagement with the AGLC was lower. In 2024, students used the hardcopy of the AGLC to actively learn from, and help, one another to navigate the rules. During class, students took the time to ask questions to clarify their understanding of the rules. This was extremely encouraging because it indicates that students want to get referencing right as early as possible. Students are actively taking steps to improve their own knowledge, which will provide a solid foundation for the remainder of their studies.

VII CONCLUSION

By carefully scaffolding the practice quiz, students knew what to expect in the summative quiz and respondents to the survey reported that the practice quiz did prepare them for the summative quiz. The intervention was successful in improving student outcomes, with a 7% increase in the summative assessment in 2024. It also increased students' confidence in referencing, as evidenced by the reduced requests for assistance and the referencing skills employed during later assessment.

This study contributes to the existing literature in scaffolding and transition pedagogies, with a specific focus on students studying law, by examining how a low-stakes, non-threatening formative multiple-choice quiz with tailored immediate feedback assisted with students' understanding of referencing requirements. This study sought to bring referencing out of the hidden curriculum and into the formal curriculum,⁶⁰ and it is hoped that it has gone some way in alleviating the stress that is commonly experienced by students studying law and eased their transition into university studies.⁶¹

⁶⁰ Townes O'Brien and Littrich (n 3); Snyder (n 13).

⁶¹ Field and Kift (n 42); Gravett and Kinchin, 'Referencing and Empowerment' (n 24); Gravett and Kinchin, 'Students' Identity Development' (n 27).

SITUATIONAL LEGAL ANALYSIS ASSESSMENT

A MODEL FOR ASSESSING ETHICAL REASONING AND SOFT SKILLS

CHRISTINA DO, PETA-JANE SECRETT,
ANNA BUNN, NARRELLE MORRIS
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I INTRODUCTION

Law at its core is a human profession. While it is critical that lawyers have a coherent understanding of the 'fundamental areas of legal knowledge',¹ and possess the necessary technical legal skills,² the legal academy and profession are increasingly recognising the significance of soft skills, and the need for lawyers to be better equipped with such skills.³ While there is no universally recognised definition of 'soft skills',⁴ the concept is often contrasted with 'hard skills' that encompass technical skills and discipline specific

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¹ Sally Kift, Mark Israel and Rachael Field, 'Bachelor of Laws Learning and Teaching Academic Standards Statement' (Standards, December 2010) <<https://cald.asn.au/wp-content/uploads/2024/04/LLB-TLOsKiftetalLTASStandardsStatement2010-TLOs-LLB2.pdf>> 10.

² Ibid. See, eg, TLO 3: Thinking skills; TLO 4: Research skills; and TLO 5: Communication and collaboration.

³ See, eg, Sophie Sparrow, 'Teaching and Assessing Soft Skills' (2018) 67(2) *Journal of Legal Education* 553; Justine Rogers, 'Teaching soft skills including online: A review and framework' (2020) 30 *Legal Education Review* 1; Aspasia Tsaoussi, 'Using soft skills courses to inspire law teachers: a new methodology for a more humanistic legal education' (2020) 54(1) *The Law Teacher* 1; Angela Tufvesson, 'Sharpening soft skills' (2021) 76 *Law Society Journal* 42; Katrina Williams and Christina Do, 'Teaching law students soft skills online' (2022) 1 *Western Australian Law Teachers' Review* 9.

⁴ See, eg, Tsaoussi (n 3) 4; Williams and Do (n 3) 9.

knowledge.⁵ We adopt Kiser's broad classification of soft skills, which is consistent with definitions of soft skills in academic literature generally, for the purpose of this article. Kiser describes 'soft skills' as:

intrapersonal and interpersonal competencies such as practical problem solving, stress management, self-confidence, initiative, optimism, interpersonal communication, the ability to convey empathy to another, the ability to see a situation from another's perspective, teamwork, collaboration, client relations, business development and the like.⁶

Despite the growing recognition of the importance of soft skills within the legal discipline,⁷ there is limited regulation of the extent to which law schools are required to teach and assess soft skills within their curriculum. As a result, law schools largely have discretion as to the method and regularity of teaching and assessment of soft skills within their curriculum.

While there is limited scholarship on how to best teach and assess soft skills in law schools,⁸ there is academic support for the proposition that clinical (experiential) teaching methods are effective for teaching soft skills in legal education. Adrian Evans and others argue that clinical education should ideally be integrated throughout the law curriculum using various models such as simulations, externships and clinical components to help students develop skills such as emotional intelligence and interpersonal awareness.⁹ These exercises allow students to experience emotional and relational aspects of legal practice, rather than merely studying or assessing them theoretically.¹⁰

Given that ethical judgments are often required in fast moving environments in legal practice, and frequently involve soft skills, we developed a simulation activity that took the form of a 'Situational Legal Analysis' assessment in a third-year undergraduate law unit ('Professional Responsibility') in Curtin Law School's Bachelor of Laws (LLB) course. Part II of this article describes the development and design of the assessment in more detail. Parts III and IV highlight the benefits and limitations of this assessment model. Finally, this article concludes with a summary of the reception of the assessment from students.

Designing and implementing new assessments is no small feat, especially in light of increasing student numbers and demanding academic workloads; the need to ensure sufficient assessment variation through a course to meet course and threshold learning outcomes; and the requirement for assessments to be secure from, or at least resilient to, academic integrity threats including, but not limited to, Artificial Intelligence (AI). We contend that the Situational Legal Analysis assessment model satisfies many of these

⁵ See, eg, Sparrow (n 3) 556; Rogers (n 3) 4; Tsaoussi (n 3) 2; Tufvesson (n 3) 43.

⁶ Randall Kiser, *Soft skills for the effective lawyer* (Cambridge University Press, 2017) 4.

⁷ See generally Rogers (n 3); Tsaoussi (n 3); Williams and Do (n 3); Kiser (n 6).

⁸ Rogers (n 3) 2.

⁹ Adrian Evans et al, *Australian Clinical Legal Education: Designing and Operating a Best Practice Clinical Program in an Australian Law School* (ANU Press, 2017).

¹⁰ *Ibid.*

assessment objectives and can be implemented with relative ease using existing university learning management systems and digital platforms.

II ASSESSMENT DEVELOPMENT AND DESIGN

Curtin Law School prides itself on producing industry-ready graduates by ensuring that its courses 'prepare students for a career in law, taxation or business, and aim to develop practical work-ready skills alongside deep discipline knowledge and analytical techniques'.¹¹ With this objective in mind, Curtin Law School academics regularly reflect on methods to incorporate professional knowledge and perspectives, as well as real-world skills, into the curriculum through effective collaborative relationships with the legal profession. In 2024, the drive to create authentic assessments resulted in the creation of the Situational Legal Analysis assessment – a timed, online, open-response situational judgment test inspired by the popular Computer-Based Assessment for Sampling Personal Characteristics ('Casper').¹² Casper is an assessment used by many universities as a part of their admission process to evaluate applicants' soft skills, particularly in the discipline of medicine.¹³

The Situational Legal Analysis assessment was designed for the purpose of assessing the soft skills of students enrolled in the Professional Responsibility unit in conjunction with their ability to demonstrate and apply legal knowledge in the area of ethics and professional responsibility. The assessment replaced a written report that students previously were required to complete over a period of approximately four weeks. To ensure that the assessment was authentic and reflected industry standards and practice, a Western Australian judicial officer was consulted to provide feedback on the assessment.

A Professional Responsibility Unit

The syllabus for Professional Responsibility unit is as follows:

This unit discusses the nature of professions and the legal profession in particular, with its attendant responsibilities. It emphasises the importance of ethical analysis in understanding those professional responsibilities, before discussing in detail the legal and ethical responsibilities which practising legal professionals need to reconcile, including both duties owed to the client and to the court. The unit also discusses the institutional framework and

¹¹ 'Curtin Law School', *Curtin University* (Webpage) <<https://www.curtin.edu.au/about/learning-teaching/business-and-law/curtin-law-school/>>.

¹² 'What is Casper?', *Casper* (Webpage) <<https://acuityinsights.app/casper/>>.

¹³ 'The Casper Test – What You Need to Know' (Webpage) <<https://www.medentry.edu.au/blog/casper-test-what-you-need-to-know>>.

disciplinary processes governing the legal profession, and a lawyer's duties in relation to the handling of client's funds and the maintenance of trust accounts.¹⁴

The unit learning outcomes for the Professional Responsibility unit are:

1. Describe, analyse and apply to real world fact situations the relevant rules of professional responsibility and ethics.
2. Identify ethical issues that may arise in practice as a legal professional and develop appropriate responses to those issues.
3. Reflect constructively on one's emerging understandings of a lawyer's ethical and professional responsibilities.¹⁵

The unit learning outcomes focus on students' ability to identify ethical issues that may arise in the legal profession and develop appropriate responses to those issues in light of the relevant professional responsibility rules, namely the *Legal Profession Uniform Law* and corresponding case law.¹⁶ As this unit is taught as a part of the Curtin University's LLB in Western Australia, the *Legal Profession Uniform Law* is the relevant professional responsibility framework that students need to engage with during this assessment.

Given the nature of the subject area, a time restricted open-response situational judgement assessment is apt – when ethical professional issues arise in the practice of law, it is critical that legal professionals are able to quickly identify and assess if the circumstances involve a professional issue that contravenes the *Legal Profession Uniform Law* and, if so, obtain professional or legal advice, and if necessary, report the incident.

In practice, many situations that prompt a person to seek legal advice (whether formally, as a client, or informally, as a friend, family member or colleague) involve heightened emotions and a lawyer needs to be able to demonstrate an appropriate level of professionalism and empathy. It is therefore important to develop law students' ability to respond to a range of situations in a timely, professional and empathetic manner. As such, methods of assessment that allow students to demonstrate soft skills are required across the curriculum and this assessment can, in our view, serve that purpose by being adapted to other law units.

B Assessment Description

The Situational Legal Analysis assessment required students to view three short video clips (each approximately 5-10 minutes in length) depicting a person seeking advice concerning

¹⁴ 'Professional Responsibility', *Curtin University* (Webpage, 1 July 2024)

<<https://handbook.curtin.edu.au/units/unit-ug-professional-responsibility--blaw3014v1>>.

¹⁵ 'Unit Outline: BLAW3014 (V.1) Professional Responsibility', *Curtin University* (Document, 2025)

<<https://curtin.outsystems.app/UnitOutlineBuilder/OutlineHub?GUID=3b7b5324-f7e3-4df8-b1fa-f3cafc49e94>>.

¹⁶ Under the *Legal Profession Uniform Law Application Act 2022* (WA), the *Legal Profession Uniform Law* (as enacted by the *Legal Profession Uniform Law Application Act 2014* (Vic), sch 1) is enforced in Western Australia pertaining to the regulation of the legal profession.

professional and ethical issues that have arisen in or in conjunction with legal practice ('situational videos'). The situations captured included those in which the person seeking advice was a client, a colleague, and a friend. After viewing each situational video, students were required to record their advice in response to the issues raised and substantiate it with reference to the *Legal Profession Uniform Law* and relevant case law.

Each situational video was released in 25-minute intervals from the start of the assessment time within the learning management system (Blackboard)¹⁷ site for the unit. Within each 25-minute timeframe, students were required to do the following:

- view the situational video;
- make a video recording of their response (between 3 and 5 minutes in length); and
- save their recorded response.

The assessment instructions advised students that the situational videos would become visible at the specified date and time through the Professional Responsibility Blackboard site. Students were instructed to record their responses using the digital learning platform, echo360.¹⁸ Instructions and guidance on how to make, save and share video recordings using echo360 was made available on the Professional Responsibility Blackboard site prior to the assessment. Before the assessment date, students were also given the opportunity to practice making and sharing an echo360 video recording.

In echo360, video recordings can take significant time to process; depending on user traffic, the process can take up to several hours. To accommodate processing time, students were advised that they were to share their recorded responses with the specified Professional Responsibility academic staff by close of business the following day. However, it was an assessment requirement that students' recorded responses had been finalised within the 25-minute timeframe of each situational video (with these matters being verifiable by markers using echo360 features).

In their recorded response to each situational video, students were required to identify and explain what professional and ethical issue was in question – for example, disclosure requirements for the purpose of admission to the Australian legal profession; a legal practitioner's duties to the court; or duties to the client. In their response students were expected to discuss the applicable provisions of the *Legal Profession Uniform Law* and corresponding case law, explain how the law applied to the person's circumstances, and provide legal advice (if appropriate) as to the best course of action. A substantial proportion

¹⁷ 'What is a learning management system (LMS)?', *Blackboard* (Webpage, 2026) <<https://www.blackboard.com/learning-management-system/what-is-an-lms/>>.

¹⁸ 'echovideo', *echo360* (Webpage) <<https://echo360.com/the-echosystem/echo-video/>>.

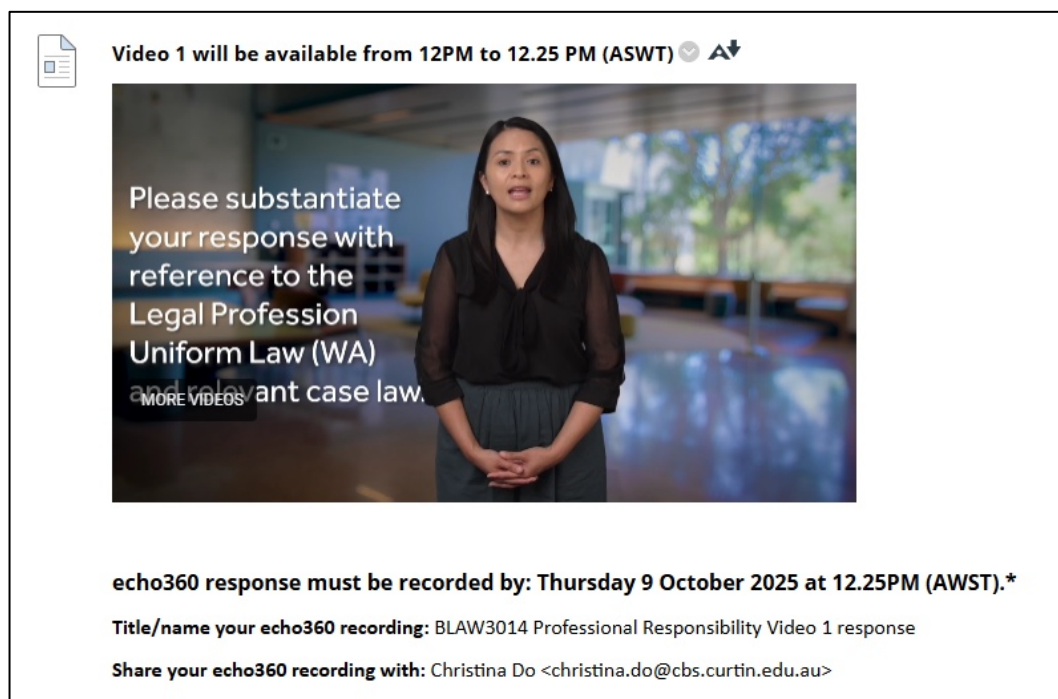
of the assessment marks were allocated to students' ability to identify and discuss the relevant law and apply it to the circumstances of the problem scenario presented in the video.

C Assessment Sample

To assist students to prepare for the assessment, an assessment sample was made available on the Professional Responsibility Blackboard site prior to the assessment date.

The situational video commenced with a moderator explaining the context of the video, namely the date and jurisdiction of the matter, the role that the student was to assume in the scenario and who the person seeking advice was, i.e. a client, colleague, or friend. Image 1 (below) is a screen shot of the moderator explaining the context of the video.

Image 1: Situational Legal Analysis assessment sample – assessment video opening with a moderator explaining the context of the video.



The moderator's script for the sample assessment was as follows:

In this video, you are an entry-level lawyer based in Perth, Western Australia. You are a Law Graduate working in a boutique law firm based in Perth, Western Australia.

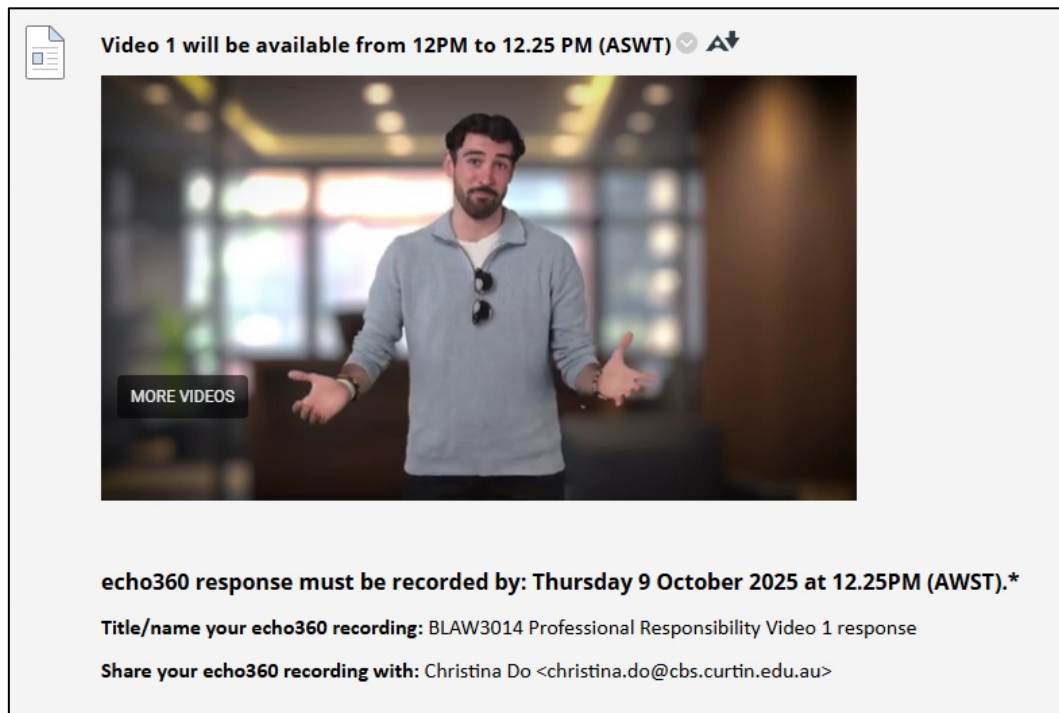
The year is 2025.

Ryan, your law school acquaintance, has come to see you for legal advice. Assume everything that is said by Ryan in this video is true and accurate.

Please substantiate your response with reference to the *Legal Profession Uniform Law* (WA) and relevant case law.

Following the moderator's contextual explanation of the scenario, the person seeking advice appears in the video and explains the nature of their professional and ethical issue that has arisen in or in conjunction with legal practice. Image 2 (below) is a screen shot of the person seeking advice explaining the nature of their problem.

Image 2: Situational Legal Analysis assessment sample – assessment video of an acquaintance seeking legal advice with respect to disclosure requirements for the purpose of admission to the Australian legal profession.



The script for the video of the sample assessment was as follows:

Thank you for making the time to see me, now that you are a big shot lawyer! [Laughs] No seriously, I know you are working around the clock, and I appreciate you making the time to see me. Given that you were only admitted a year ago, I need some legal advice from you.

I intend to make an application to the Supreme Court of Western Australia to be admitted to legal practice. There is so much paperwork, and I am not sure what I need to disclose and submit to the Legal Practice Board of Western Australia. In particular, I am not sure if I need to disclose a particular incident that occurred last year during my final year of law school. To be honest, I am a little embarrassed of my behaviour, and if I can avoid disclosing it, that would be my preference.

Ok, I suppose I should tell you what happened. During a final year mooting assessment, I got caught up in the moment and during cross-examination of a fellow student witness – I yelled at the witness and accused them of not being a ‘trustworthy person’ and a ‘liar’. The lecturer who acted as the presiding judge asked me to refrain from yelling and to act in a more professional manner.

My competitive side must have got the better of me because I continued to yell, and when I approached the witness stand, I threw my speaking notes at the direction of the witness. I got caught up in the moment and so desperately wanted to win. Yes, I got carried away, but it was completely out of line for the student witness to have submitted a complaint through the university Integrity and Standards Unit alleging that my conduct was aggressive and of a bullying nature.

The matter was ultimately investigated by the Dean and Head of the Law School, and an informal finding of general misconduct was found, and I was required to make a formal apology to the student witness and lecturer.

[Is visibly nervous] Given that it has been dealt with and there are no hard feelings between the student witness, lecturer and I, surely, I do not need to disclose it. Do I?

The other situational videos presented to the students during the assessment followed a similar structure, although each presented a discrete professional or ethical situation in relation to legal practice requiring advice.

D Assessment Weighting and Grading

The Situational Legal Analysis assessment weighting was 50% of the overall mark for the Professional Responsibility unit and was marked out of 50. The assessment criteria and mark breakdown for each criterion was as follows:

- Issue(s) identification (2 marks per video response – total 6 marks);
- Law (4 marks per video response – total 12 marks);
- Application (4 marks per video response – total 12 marks);
- Structure (2 marks per video response – total 6 marks);
- Communication (2 marks per video response – total 6 marks);
- Soft skills (2 marks per video response – total 6 marks); and
- Adherence to assessment instructions (total 2 marks).

Students were provided with a detailed assessment rubric which listed the assessment criteria, descriptors for each assessment criterion, and an explanation of the assessment criterion at each proficiency level, i.e. 'below expectation 0-49', 'meets expectations 50-59', 'above expectations 60-69', 'exceeds expectations 70-79', and 'significantly exceeds expectations 80-100'.

The remainder of the assessment marks were allocated to students' ability to demonstrate skills of structuring their response in a logical and compelling manner, communicating their

response clearly and succinctly, and conveying appropriate soft skills through demeanour, eye contact to the camera (rather than reading directly from notes), and body language to build connection and convey empathy professionally.

III BENEFITS OF THE ASSESSMENT

In higher education, soft skills are assessed using direct and indirect measures.¹⁹ Direct measures include class participation/observation, oral presentations, group assessments, client interviews, negotiations and mootings, whereas indirect measures include self-assessment and self-reflection. While direct assessments do lend themselves to assessing soft skills, increasing student enrolment numbers means these types of assessments are neither feasible nor sustainable as they can be extremely time consuming and expensive for academic staff to design and run. Similarly, when conducting marking moderation of these types of assessments, multiple markers are required to be present at the same student assessment presentations, which presents logistical difficulties. The Situational Legal Analysis assessment addresses some of these difficulties as students are required to record and share their response with the named academic staff using echo360 within the assessment timeframe specified, rather than the assessment occurring in-person during a designated time slot at a university venue. This means the assessment is significantly less burdensome administratively than an in-person assessment. In circumstances where there are high student enrolment numbers, it would be incredibly difficult to organise a large volume of in-person assessments. Furthermore, the ability for academics to access the students' video responses within their echo360 library at a time that is convenient for the purposes of marking offers significant flexibility. The same can be said about the moderation process, as student submissions can be moderated without the requirement that all academics be present during the assessment. Instead, the same student video response is able to be assessed for moderation purposes at different times to suit the markers' respective schedules.

When it was first introduced in 2024, the Situational Legal Analysis replaced a written report, which students had approximately four weeks to work on. While students were not permitted to use AI tools for that assessment, its design made it inherently vulnerable to the use of AI. By contrast, while the Situational Legal Analysis assessment is neither supervised nor invigilated, its design significantly constrains the opportunity for students to use AI tools. The timeframe for each assessment video window is 25 minutes. During that time students are required to watch a 5-10 minute video outlining the nature of the professional and ethical issue in respect of which the person is seeking advice, record their video response which must be 3-5 minutes in length, and save their video recording. Given these time constraints,

¹⁹ See, eg, Sparrow (n 3) 566; Loredana Manasia and Gabriel Dima (eds), 'Soft Skills Assessment Guide', *Skills 4 Employability*, (Project Report, 31 October 2021) <<https://skills4employability.eu>>.

students are effectively required to engage in immediate legal reasoning and application of legal knowledge in real time. The short time frame limits students' time to source, prompt and edit AI produced responses. Although the use of AI tools to complete the assessment is explicitly prohibited, the assessment is nevertheless an example of a structural change made to the assessment profile of the unit that has improved assessment validity.²⁰

Finally, it is important that students are exposed to different types of assessments during their law studies.²¹ In the legal discipline, take home written assessments and examinations are the most common method used to assess students' legal knowledge and skills.²² Given that learning outcomes for Curtin's LLB cover a range of skills,²³ assessment variation is important to ensure compliance with the *Higher Education Standards Framework (Threshold Standards) 2021* (Cth), which require that: 'On completion of a course of study, students have demonstrated the learning outcomes specified for the course of study, whether assessed at unit level, course level, or in combination.'²⁴ Assessment variation is also important to support different learning styles and reduce assessment bias.²⁵ The Situational Legal Analysis assessment presents an opportunity for students to demonstrate their knowledge and understanding orally, rather than through conventional written assessments.

IV LIMITATIONS

The Situational Legal Analysis assessment is not without its limitations. As previously discussed, while the design of the assessment constrains the use of AI tools, the lack of real-time supervision and invigilation means that the use of such tools cannot be entirely prevented. There is approximately 10 minutes within the assessment timeframe that is unaccounted for, i.e. when students are not viewing the assessment video or recording their video response. The unaccounted time was included to provide students with the opportunity to pause and take notes while watching the assessment video, consult their notes and plan their answer before recording their video response. This means the assessment is not considered 'secure' within the meaning of Curtin University's definition of a secure assessment (one which, among other things, entails supervision or invigilation).²⁶ Nevertheless, while students could seek to use AI tools during this short period, it would be difficult for them to prompt a meaningful answer that referenced the relevant Western

²⁰ Thomas Corbin, Phil Dawson, and Danny Liu, 'Talk is Cheap: Why Structural Assessment Changes are Needed for a Time of GenAI' (2025) 50(7) *Assessment & Evaluation in Higher Education* 1087.

²¹ Sparrow (n 3) 566.

²² Heather Roberts and Andrew Henderson, 'Designing Law School Assessment to Meet New Forms of Legal Practice: A Model from Australia' (2022) 28(2) *Clinical Law Review* 451, 453.

²³ Broadly reflective of the Threshold Learning Outcomes for Law. See Kift, Israel and Field (n 1).

²⁴ *Higher Education Standards Framework (Threshold Standards) 2021* (Cth), 1.4(4).

²⁵ Roberts and Henderson (n 22) 452-3.

²⁶ 'Assessment 2030', *Curtin University* (Webpage) <<https://www.curtin.edu.au/assessment2030/>>.

Australian law. Although the Situational Legal Analysis assessment is not considered a 'secure' assessment, it is significantly more resilient to AI use than the assessment it replaced. It should also be noted that the other assessment task in the Professional Responsibility unit is a remotely proctored exam and, as such, is considered 'secure' within Curtin's definition.²⁷

The assessment model relies for its administration on online learning management systems and digital learning platforms—in this case Blackboard Learn and echo360. Without these systems, the Situational Legal Analysis assessment would not be possible. However, reliance on online systems to administer assessments can be problematic as technological challenges and faults can arise. For example, a student may experience an unstable internet connection, software glitches and power outages which prevent them completing the assessments on time or submitting correctly. While measures can be put in place to mitigate the risk of technological failure, e.g. having students complete practice video recordings prior to the assessment date and time, the risk cannot be completely negated.

While existing Curtin University learning and teaching systems and frameworks were used to implement the Situational Legal Analysis assessment, it is acknowledged that the Faculty has a state-of-the-art media production studio and a dedicated Faculty Learning Experience (FLX) team, comprising of Learning Media Developers, who assist academics to create educational multimedia resources, such as video for assessments. While these resources are readily available at Curtin University, it is acknowledged that such resources may not be available at all universities and creating video recordings for assessments may not be possible.

Finally, given that the Situational Legal Analysis assessment requires students to submit video recordings of their response to the situational videos, the identity of the student is known to the assessor at the time of grading. Unlike written assessments, the Situational Legal Analysis assessment is not anonymous. Given that it is a student-identifiable assessment, it may introduce the potential for unconscious bias which can influence the marking process, despite assessors' intentions to grade consistently and objectively. While it is not possible to completely eliminate unconscious bias in the grading process, it can be minimised through a collaborative moderation process, use of multiple assessors, and detailed criterion assessment rubric.

V RECEPTION AND FEEDBACK FROM STUDENTS

The Situational Legal Analysis assessment was administered in 2024 and 2025 in the unit Professional Responsibility. It received a largely positive reception from students, as

²⁷ Ibid. Acknowledging, however, that even secure assessments are not entirely AI-proof.

evidenced by the end of study period unit evaluation instrument, 'Insight'.²⁸ Since the implementation of the Situational Legal Analysis assessment, the quantitative and qualitative data in the Insight reports have improved, which reflects that students find the assessment helped them demonstrate their learning.²⁹ Table 1 (below) outlines the quantitative percentage data extracted from the Professional Responsibility Insight reports for agreement with the statement: 'In the unit Professional Responsibility ... [the] assessments helped to demonstrate my learning'. In 2023, prior to the implementation of the Situational Legal Analysis assessment, 71.4% of the student responses agreed that the assessments helped them demonstrate their learning. However, in 2024 and 2025, since the implementation of the Situational Legal Analysis assessment, the percentage of student responses increased to 83.3% and 85.7% in agreement respectively. While the problem scenarios of the situational videos changed between 2024 and 2025 for assurance of learning and assessment purposes, the assessment structure remained unchanged.

Table 1: Quantitative data outlining percentage in agreement extracted from unit Insight reports.

	2023*	2024	2025
Number of responses (response rate %)	7 (8.5%)	12 (10.4%)	15 (11.9%)
Assessments helped me to demonstrate my learning	71.4%	83.3%	85.7%

*Unit Insight report prior to the implementation of the Situational Legal Analysis.

Below is a sample of the qualitative Insight report responses of the students who had a positive experience with assessment:

Assessment One was a positive experience on reflection, please don't reduce the students time in the future!

The assessments were also great to demonstrate learning.

I enjoyed the Situational Legal Analysis as it was something different from the usual essays of legal advice which we complete a thousand times

However, not all students have had a positive experience with the assessment. Below is a sample of the qualitative Insight report responses of the students who did not have a positive

²⁸ 'Insight', *Curtin University* (Webpage) <<https://www.curtin.edu.au/students/essentials/insight/>>. Insight is Curtin University feedback system which collates and anonymises student qualitative and quantitative feedback in aggregated format.

²⁹ Human research ethics exemption was obtained from Curtin University's Human Research Ethics Office to include the 2023 to 2025 Professional Responsibility Insight unit report quantitative and qualitative data in this article for the purposes of publication (EX83830). Human research ethics exemption was granted on grounds that the research is low risk and only involved previously collected de-identified data when sourced.

experience with the assessment largely because they did not feel the assessment allowed them to fully demonstrate the extent of their knowledge:

Would have preferred an essay as opposed to the Situational Legal Analysis as I didn't feel as though I could demonstrate my learning fully in the assessment.

I felt like Assignment 1 is where I could not demonstrate my learning as effectively as i would have liked. Assessment 1 was done using Echo 360, where we had to record ourselves answering the 3 video questions with only 25 mins per question before the next question was released. I encountered technical difficulties when testing out Echo 360 prior to the exam, some of my test recordings were fine, but some were glitching and had no audio, some had audio which cut out midway and so on. Therefore, I was quite worried if everything would go smoothly during the exam. I did of course email the staff about this, and they responded promptly, but I did not want to be deferred and so this was a huge stress in the back of my mind during the exam. Moreover, because of the small 25 mins time frame to record and answer the question, i was in a rush and due to this, it was difficult to think clearly and properly articulate my understanding. While the content itself was interesting, the Assessment 1 format i believe limited my ability to properly demonstrate my learning.

Overall, the Insight reports suggest that the Situational Legal Analysis assessment was well received by a large majority of students, who felt it helped them demonstrate their learning in the unit.

VI CONCLUSION

This article describes a Situational Legal Analysis assessment developed for the third-year Professional Responsibility unit in an undergraduate Bachelor of Laws course at Curtin University. The assessment was developed to allow students to demonstrate the learning outcomes of the unit: communicating ethical judgments and drawing on their understanding of professional rules, while using empathy and effective communication skills. Coupled with the time-constrained nature of the assessment, its design mirrors real-world practice where lawyers are often required to consider professional and ethical requirements when providing advice, in fast moving environments. We have noted a number of the benefits and some of the limitations of the assessment which, on balance, is considered by students as an assessment that does allow them to demonstrate their learning. In addition to the student comments already provided, the following comment provided in the end of semester Insight unit evaluation of the Professional Responsibility unit sums up our own view as to the benefits of this type of assessment:

The situational legal analysis assessment was brilliant. We need these assessments in every unit. From Donald A. Schon, *Reflective practitioner; how professionals think in action* (Routledge, 1st ed, 2017), pg 42, Edgar Schein, who was a psychologist and professor, stated

that there are three components to professional knowledge, with the third component being “[a] skills and attitudinal component that concerns the actual performance of services to the client, using the underlying basic and applied knowledge”. In the legal profession, it is expected that all practitioners understand the law and are competent. However, this is not all that is required. Being able to deliver the services to clients or those in need is essential. Especially with AI transforming the world, lawyers and other professionals need to hone in on their soft skills to communicate their knowledge/solutions/ideas. If students can't do this at uni in an assessment, it will be very hard for them to do it in practice.

The authors acknowledge that the assessment described in this article was designed for the purpose of assessing the Professional Responsibility syllabus. Nevertheless, we believe that the assessment model is appropriate and transferable to other law units delivered as a part of the Bachelor of Laws and Juris Doctor, and that it offers an efficient and effective way to assess ethical reasoning, oral communication and soft skills.

BRINGING DOCTRINE TO LIFE

BUILDING CAPABILITY IN SUCCESSION LAW STUDENTS THROUGH CLINICAL ASSESSMENT

ROB LILLEY, CAITLIN CAMERON
& ELEANOR MORLEY *

I INTRODUCTION

In 2025, McMillan and Lilley posed the question, 'Why isn't all legal education practical?'¹ In that article, they argued that the prevailing separation between foundational or 'academic' legal studies² (FLS) and PLT in Australia is conceptually artificial and pedagogically inefficient. If the objective is to produce entry-level lawyers who are genuinely 'practice-ready', reform must look beyond incremental adjustments to postgraduate PLT and reconsider the continuum of legal education from the commencement of FLS through to admission to practice.³ Figure 1 represents that continuum.⁴

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¹ James McMillan and Rob Lilley, 'Why Isn't All Legal Education Practical?' (2025) 3 *Western Australian Law Teachers' Review* 49.

² Most commonly a Bachelor of Laws degree ('LLB'). Some universities (such as the University of Western Australia and the University of Melbourne) offer their foundational legal degree only as a postgraduate Juris Doctor ('JD'). In NSW, it remains possible to gain entry to the legal profession through a Diploma in Law, which is 'a four-year part-time law course that fulfils the educational requirements to be admitted as a lawyer in NSW...[and] is available to a wider range of students who may not have taken a traditional path towards studying law': see 'Diploma in Law', *University of Sydney* (Web Page) <<https://lec.sydney.edu.au/>>.

³ McMillan and Lilley (n 1) 52–53. As to the 'continuum of legal education', see Rob Lilley and Christina Do, 'What Should an "Entry-Level Lawyer" Look Like in a Post-COVID World?' (2023) 1 *Western Australian Law Teachers' Review* 19, 20–22; see also Legal Services Council and Law Admissions Consultative Committee, *Review of Practical Legal Training* (Consultation Paper, April 2026) 17 <<https://legalservicescouncil.org.au/documents/highlights/consultation-paper-review-of-plt-april-2026.pdf>>.

⁴ Current at the time of writing, but under review so this may change. The figure is adapted from Legal Services Council and Law Admissions Consultative Committee (n 3) 17.

Figure 1: Continuum of Legal Education

McMillan and Lilley's article was conceptual. It did not show how integration might operate within an existing law school curriculum or examine what students might gain from such an approach. This article begins to address that gap through a descriptive and reflective case study of a clinical-hybrid succession law unit introduced at Curtin Law School in 2025. The unit rests on a simple premise: a doctrinal subject can integrate theoretical instruction, skills development and supervised real-client work within a single coherent learning experience.

Succession law provides a useful site for testing that premise. It is doctrinally rich, yet the practical task of drafting a simple will can be sufficiently bounded to support supervised learning in interviewing, ethical sensitivity, cultural awareness and professional judgment.

The unit was structured in two overlapping phases. Students first studied the core principles of succession law. In the second half of the unit, each student took instructions from a real client, drafted a simple will and explained and witnessed the signing of the will under the direct supervision of an experienced practitioner in the John Curtin Law Clinic.⁵ The central question explored in this article is how supervised real-client work can be embedded within a doctrinal law subject in a way that reinforces doctrinal learning while developing professional skills, ethical awareness and emerging professional identity.

⁵ The John Curtin Law Clinic is a teaching clinic attached to the Curtin Law School. More information may be found here: <<https://www.curtin.edu.au/engage/partnerships/fbl-industry-community-hub/for-community/john-curtin-law-clinic/>>.

The article developed from a presentation at the 2025 Western Australian Teachers of Law Forum, whose theme was 'Building capability in others'. We adopt Stephenson's definition of capability as the integration of knowledge, skills, personal qualities and understanding used appropriately and effectively in both familiar and changing circumstances.⁶ In that sense, bringing doctrine to life is a means of building the capability that future lawyers need: the capacity to use knowledge, skill and judgment appropriately when real consequences are at stake.

This article does not purport to provide generalisable empirical evidence of improved competence. Rather, it offers a descriptive and reflective case study of one clinical-hybrid unit, arguing that carefully supervised real-client work can be integrated into doctrinal legal education in a way that supports doctrinal learning, professional capability and emerging professional identity.

The article proceeds in five parts. Part II explains the pedagogical context and rationale for the clinical-hybrid design. Part III describes the unit's structure, supervision and assessment. Part IV draws on reflections from two students in the inaugural cohort. Part V considers the case study's contribution to debates about legal education reform in Australia.

II WHY THIS? WHY NOW?

This Part explains the pedagogical and regulatory context in which the clinical-hybrid model was developed. It argues that current debates about PLT reform should not be treated as a discrete problem about postgraduate training alone. Rather, they expose a deeper question about how doctrinal knowledge, practical skills, workplace experience, and professional identity formation are sequenced across legal education. The discussion that follows brings together recent reform proposals, experiential learning theory, work-integrated learning scholarship, and clinical legal education to explain why succession law provides a useful site for testing a more integrated approach.

A Practical Legal Training: Pedagogical Whipping Boy?

PLT has become the visible target for broader concerns about graduate readiness in Australian legal education. In that sense, it risks functioning as a pedagogical whipping boy: blamed for deficiencies that may instead reflect a deeper structural separation between FLS and preparation for practice.⁷ At the time of writing this article, the Australian PLT model is

⁶ John Stephenson, 'The Concept of Capability and Its Importance in Higher Education' in John Stephenson and Mantz Yorke (eds), *Capability and Quality in Higher Education* (Routledge, 1998) 1, 2.

⁷ *Macquarie Dictionary* (online at 10 March 2026) 'whipping boy' (def 2). Interestingly, this may be no more than a myth: see Leanda de Lisle, 'Truthiness, Fake History and the Story of the Whipping Boy', *Aspects of History* (Blog Post, 16 December 2020) <<https://aspectsofhistory.com/the-whipping-boy/>>.

under increasing scrutiny following a speech delivered in February 2025 by the Chief Justice of New South Wales (NSW), the Honourable Andrew Bell, who initially raised concerns about the 'extremely high fees' charged for PLT.⁸ His Honour's concerns prompted a survey of legal practitioners in NSW to assess their views on the value of the PLT program. The survey was limited to NSW and reported high degrees of dissatisfaction with the PLT program amongst graduates and supervisors.⁹

After a period of consultation, the Legal Profession Admission Board of NSW ('LPAB') released a *Discussion Paper on PLT Reform*.¹⁰ This was followed by a period of consultation (again, only in NSW) and the publication of an *Interim Report on PLT Reform* in March 2026.¹¹ In the background, the Legal Services Council ('LSC') and the Law Admissions Consultative Committee ('LACC') had commissioned a wider survey to assess the views of Australian practitioners who were excluded from the initial survey. The results of that survey were released in March 2026, followed closely by the LSC/LACC's own consultation paper.¹²

The proposals for reform set out in these papers are wide-ranging and have significant potential ramifications for the future of legal education in Australia. A comprehensive analysis of all these proposals and the potential issues is beyond the scope of this article. However, a key part of the reforms proposed by both the LPAB and LSC/LACC is to push a substantial amount of practical skills training and assessment into FLS. For instance, the LSC/LACC suggests that:

The Priestley 11 subjects address areas of knowledge and do not include practical skills. The Accreditation Standards for Australian Law Courses do not currently include requirements around practical skills delivery as part of a law course. The extent to which law schools emphasise practical skills in their law courses differs...

The proposal is that the skills should be introduced to students in law degrees before being developed and re-enforced in the pre-admission PLT course. To do this in a coordinated way, law courses and PLT need to be working to an identified set of skills that students must obtain.¹³

⁸ Andrew Bell, 'Present and Future Challenges to the Rule of Law and for the Legal Profession' (Speech at the Law Society of New South Wales Opening of Law Term Dinner Address, Sydney, 6 February 2025). His Honour's remarks at this time were primarily concerned with the cost of PLT in light of the College of Law (a not-for-profit entity) having reported 'an average "surplus" of almost \$16 million per annum over the past decade and accumulated "retained earnings" of just under \$180 million.'

⁹ Urbis, *The Legal Profession's Experience of Practical Legal Training* (Final Report No P0057309, 9 April 2025) 5–7 <https://lpab.nsw.gov.au/documents/news-archive/LPAB_Urbis_Experience_of_Practical_Legal_Training_Research_Report_Final.pdf>.

¹⁰ Legal Profession Admission Board of New South Wales, *Discussion Paper on PLT Reform* (30 September 2025) <https://lpab.nsw.gov.au/documents/policy-documents/PLT_Discussion_Paper.pdf>.

¹¹ Legal Profession Admission Board of New South Wales, *Interim Report on PLT Reform* (13 March 2026) <https://lpab.nsw.gov.au/documents/policy-documents/Interim_Report_on_PLT_Reform.pdf>.

¹² Urbis, *National Practical Legal Training Research: Survey Research Report* (Final Report No P60898, March 2026) <<https://legalservicescouncil.org.au/documents/highlights/national-plt-research-report-march-2026.pdf>>; Legal Services Council and Law Admissions Consultative Committee (n 3).

¹³ Legal Services Council and Law Admissions Consultative Committee (n 3) 36–37.

The LSC/LACC adopted a table prepared by the LPAB that mapped the practical skills that could be taught and assessed within the existing prescribed academic areas of knowledge (colloquially referred to as the 'Priestley 11').¹⁴ Again, it is beyond the scope of this article to delve into this in great depth; however, there are legitimate concerns with this approach that bear mentioning:

- First, the curriculum is already extremely crowded and fitting new material in is 'a big challenge'.¹⁵
- Second, as has previously been observed, the lack of experienced legal practitioners on law school faculties is a constraint on the embedding of practical skills in FLS.¹⁶ Legal academics conducting high-level research are an important part of any law school's operations. However, if the goal is to teach practical legal skills effectively in FLS, law schools will need to balance research expertise with current or recent professional experience in areas where practice-oriented skills are being taught.
- The third issue relates to the scaffolding of learning, which will be discussed in greater detail later in the paper. The LSC/LACC propose that 'the [practical] skills should be introduced to students in law degrees before being developed and re-enforced [sic] in the pre-admission PLT course'.¹⁷ However, the time between introducing the practical skill in FLS and revisiting it in PLT may be several years.¹⁸ After that period, the student may not be reinforcing the concept so much as reconstructing or relearning it.¹⁹

If practical skills are to be introduced earlier in the legal education continuum, they must be embedded in a way that connects doctrine, supervised experience, reflection, and professional development. The next section, therefore, turns to the pedagogical frameworks that informed the design of the clinical-hybrid succession law unit.

B Pedagogical Considerations and Key Themes

This section outlines the key pedagogical theories and approaches that informed the unit's design: experiential learning theory, work-integrated learning, and clinical legal education. These frameworks explain why the unit was designed to integrate doctrinal knowledge,

¹⁴ Named after former NSW Supreme Court Justice, the Hon Lancelot John Priestley, who chaired the LACC when the foundational law subjects were mandated for all accredited law degrees in Australia. The Priestley 11 are: Administrative Law, Civil Procedure, Company Law, Constitutional Law, Contracts, Criminal Law and Procedure, Equity (including Trusts), Evidence, Professional Conduct, Property, and Torts.

¹⁵ Grace Ormsby, 'Priestley 11 "Not Keeping up" with Reality', *LawyersWeekly* (Web Page, 27 May 2019) <<https://www.lawyersweekly.com.au/biglaw/25707-priestley-11-not-keeping-up-with-reality>>.

¹⁶ McMillan and Lilley (n 1) 56.

¹⁷ Legal Services Council and Law Admissions Consultative Committee (n 3) 37.

¹⁸ McMillan and Lilley (n 1) 55–56.

¹⁹ See, eg, Christopher D Smith and Damian Scarf, 'Spacing Repetitions Over Long Timescales: A Review and a Reconsolidation Explanation' (2017) 8 *Frontiers in Psychology* 962:1–17, 10.

supervised client work, reflection, and professional identity formation within a single learning experience.

1 *Experiential learning theory*

Most prominently articulated by David Kolb, experiential learning theory conceptualises learning as a cyclical process involving four stages: concrete experience, reflective observation, abstract conceptualisation and active experimentation.²⁰ Legal education has traditionally been strong in abstract conceptualisation. Doctrinal teaching, case analysis and problem-based hypotheticals invite students to identify principles and apply them to constructed scenarios. However, the experiential component of Kolb's cycle is frequently postponed until postgraduate PLT or the early years of supervised practice.

This separation of theory from practice disrupts the learning cycle. Students may acquire doctrinal knowledge during their law degree, but without timely opportunities to retrieve and apply it in authentic contexts, they may appear to understand come exam time, yet the usable knowledge needed for practice decays over time.²¹

The clinical-hybrid model seeks to complete the experiential cycle within a single unit. Students first engage in foundational doctrinal study of succession law, including testamentary capacity, formal validity, family provision, and intestacy. This provides the conceptual foundation. The subsequent clinical phase includes interviewing a client, assessing capacity in real time, and translating legal principles into taking instructions, drafting a will, and facilitating proper execution.

The model also draws on the concept of scaffolding associated with Vygotsky's zone of proximal development ('ZPD').²² Scaffolding is the structured support provided to learners as they undertake tasks slightly beyond their independent capabilities, thereby extending their ZPD. In legal education, doctrinal mastery does not automatically translate into competent practice. For example, students may understand the legal test for testamentary capacity but not know the 'red flags' to look for during a real client interview.

2 *Work-integrated learning*

Work-integrated learning (WIL) scholarship emphasises the pedagogical value of embedding authentic workplace experiences within academic programs.²³ In the Australian context, the

²⁰ David A Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (Prentice-Hall, 1984).

²¹ See Shana K Carpenter, Steven C Pan and Andrew C Butler, 'The Science of Effective Learning with Spacing and Retrieval Practice' (2022) 1(9) *Nature Reviews Psychology* 496, 496–7; Smith and Scarf (n 19).

²² LS Vygotsky, *Mind in Society: The Development of Higher Psychological Processes*, ed Michael Cole et al (Harvard University Press, 1978) 86–9.

²³ See, eg, Stephen Billett, 'Realising the Educational Worth of Integrating Work Experiences in Higher Education' (2009) 34(7) *Studies in Higher Education* 827; Sonia J Ferns et al, 'Defining and Designing Work-Integrated Learning Curriculum' (2025) 44(2) *Higher Education Research & Development* 371.

Higher Education Standards Framework (Threshold Standards) 2021 (Cth) requires universities to demonstrate engagement with industry and the professions, and law school standards encourage experiential learning opportunities.²⁴ WIL is often justified on employability grounds as exposure to workplace norms and expectations enhances graduate readiness.²⁵

However, WIL literature also cautions against superficial or tokenistic integration. The educational value of WIL depends not merely on workplace exposure, but on deliberate alignment between learning outcomes, assessment tasks, professional activity, guided reflection, and disciplinary knowledge.²⁶

The clinical-hybrid model differs from traditional externships or internships because the workplace experience is embedded within the curriculum rather than positioned outside it. Client work is not an ancillary placement experience or optional enrichment activity; it is part of the unit's core teaching, supervision, and assessment design. The will-drafting task, therefore, becomes the point at which doctrinal knowledge, professional skills, ethical judgment, and reflective learning are brought together in a single authentic assessment.

3 *Clinical legal education*

Clinical legal education has long been associated with social justice objectives, access to justice, and experiential skill development.²⁷ Clinics provide opportunities for students to engage with real clients under supervision, fostering responsibility and ethical awareness. However, in many law schools, the clinic remains an elective or co-curricular experience. Students who do not enrol in a clinic unit may complete their degrees without any direct client exposure.

Succession law, in particular, frequently involves elderly clients, questions of capacity, complex family relationships, and emotionally charged decisions about testamentary provision. In addition to technical drafting issues, students confront questions of autonomy, influence, fairness, and care. These encounters provide fertile ground for ethical development and reflection on the lawyer's role. The clinical-hybrid model thus situates

²⁴ *Higher Education Standards Framework (Threshold Standards) 2021* (Cth) s B1.3(12); *Australian Law School Standards* (Council of Australian Law Deans, 30 July 2020) 4 <<https://cald.asn.au/wp-content/uploads/2024/04/Australian-Law-School-Standards-v1.3-30-Jul-2020.pdf>>.

²⁵ See, eg, Denise Jackson and Bonnie Amelia Dean, 'The Contribution of Different Types of Work-Integrated Learning to Graduate Employability' (2023) 42(1) *Higher Education Research & Development* 93.

²⁶ Rola Ajjawi et al, 'Aligning Assessment with the Needs of Work-Integrated Learning: The Challenges of Authentic Assessment in a Complex Context' (2020) 45(2) *Assessment & Evaluation in Higher Education* 304, 309–13.

²⁷ See generally (for clinical legal education foundations and design): Frank S Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (Oxford University Press, 2011); Roy Stuckey et al, *Best Practices for Legal Education: A Vision and a Road Map* (Clinical Legal Education Association, 2007); William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass, 2007).

professional identity formation within the study of substantive law rather than deferring it to postgraduate training or the first years of a lawyer's career.

C From Reform Context to Unit Design

Taken together, these strands of scholarship support the design choice made in this unit. PLT reform provides the immediate policy context; experiential learning explains the need to connect doctrine with action; scaffolding grounds the sequencing of support and responsibility; WIL scholarship emphasises alignment between workplace activity and academic outcomes; and clinical legal education highlights the ethical and professional significance of real-client engagement. The clinical-hybrid succession law unit described in the next Part was designed to bring these elements together within a single doctrinal subject.

III DESIGNING A CLINICAL-HYBRID SUCCESSION LAW UNIT

This Part describes the institutional context, the unit's structure, its scaffolding and supervision model, and its assessment design. It also identifies the risk-management considerations that informed implementation.

A Institutional Context and Rationale

The unit was delivered as an upper-level elective within the Bachelor of Laws (LLB) program at Curtin Law School. The LLB at Curtin Law School is structured to be completed within 3 years of full-time study. The first year is taught in traditional semester-based teaching periods, but to enable students to complete the degree within 3 years, the second- and third-year subjects are taught in 13-week trimesters, with 10 weeks of teaching and 3 weeks for study and exams.

The decision to embed a clinical component within succession law was pedagogically intentional. The clinical work was limited to drafting and executing simple wills for clinic clients, which allowed for authentic practice without requiring adversarial representation, high litigation risk, or extended file carriage.

B Structural Design

Curtin did not offer a succession law unit at the time this unit was conceptualised, so it was designed from the ground up. This allowed some freedom to experiment with unit design without constraint from legacy content. The unit was structured in two interrelated phases: doctrinal foundation and supervised clinical practice. These phases were sequenced

deliberately to reflect scaffolding principles and to complete the experiential learning cycle within a single teaching period.

The approximate 10-week module schedule is reproduced below:

Module 1	Introduction to the history and purpose of succession law in Western Australia
Module 2	Validity of wills, including formal requirements, capacity, undue influence, duress, and revocation
Module 3	Intestacy and legislative distribution rules
Module 4	Testamentary freedom and its limits (especially family provision legislation)
Module 5	Client interviewing skills and clinical induction
Module 6	Drafting a simple will
Module 7	Probate and estate administration
Module 8	Powers of attorney and guardianship, and the role of the State Administrative Tribunal
Module 9	Estate litigation, specifically the unique aspects not covered in civil procedure, such as probate caveats, citations, construction of wills, and non-contentious proceedings
Module 10	Advanced topics, including international wills, digital assets, superannuation, and taxation of estates

1 *Doctrinal foundation (Phase one)*

The unit uses a flipped-classroom model: learning materials are provided a week before each tutorial, reserving class time for dialogue, problem-solving, and applied discussion. Learning materials include module notes, external readings (including case law, legislation, and other publications, such as Law Reform Commission reports), and short videos. From week 5, part of the tutorial time is also allocated for students to attend the clinic, contact clients, draft wills, and manage their files.

2 *Supervised clinical practice (Phase two)*

In the clinical phase, students engage in real client work through the John Curtin Law Clinic. Clients seeking simple will-drafting assistance were allocated to students under the direct supervision of an experienced legal practitioner. Students were required to sign a confidentiality agreement and undertake a mandatory induction session to familiarise themselves with the clinic systems and processes.

The clinical process typically involves:

1. Initial client interview (conducted by the student under supervision)
2. Preparing a detailed file note
3. Drafting a simple will
4. Supervisory review and revision
5. Execution meeting (again, under supervision)
6. File completion and record management

Students were not permitted to act independently. All advice and documents were reviewed and approved by the supervising practitioner prior to execution. The clinic retained professional responsibility for all client matters.

The work was limited to 'simple' wills to manage risk and ensure that matters were appropriate to student competence. In this context, a simple will is one in which the testator has no complex assets or structures, such as family trusts or closely held companies, and no complex gifting requirements (although this proved difficult to ascertain in advance). Complex estates, contentious family situations, or high-risk matters (including psychosocial risks) were excluded or referred externally.

The presence of real clients fundamentally altered the learning environment. Students encountered hesitation, emotional responses, uncertainty about asset ownership, and family complexities that could not be fully anticipated through simulation. These encounters required the (appropriately supervised) exercise of judgment, empathy, and adaptability, which are qualities central to professional identity formation.²⁸

C Assessment

Each module concludes with a short multiple-choice test ('MCT'), the aggregate of which comprises 20% of the student's overall mark. The second assessment consists of a letter of advice based on a mock scenario, worth 30%. The simple will is the final assessment and is worth 50%. Consistent with authentic assessment scholarship, the assessment design asks students to perform a task resembling professional practice, while still assessing learning outcomes in a structured academic setting.²⁹ The final assessment is conducted in three distinct stages:

1. Interviewing the client and taking comprehensive notes of the interview;
2. Drafting the will in accordance with the client's instructions; and
3. Explaining the final will to the client, obtaining approval and witnessing the signing of the will to ensure formal compliance with section 8 of the *Wills Act 1970* (WA).

The first assessment (MCTs) is ongoing throughout the unit. Assessment two (letter of advice) is typically assigned after the Module 3 tutorial and is due three weeks later. Students are assigned their client at the clinical induction (Module 5) and continue working on their client's matters for the rest of the trimester. Students were not penalised for delays due to client or supervisor availability.

²⁸ Jennifer L Whelan, 'Grounding inside/out Professional Identity Formation by Developing Wholehearted Lawyers with Therapeutic Intent' (2022) 29(1) *International Journal of Clinical Legal Education* 32, 37–40.

²⁹ See, generally, Toni Collins, 'Authentic Assessment - The Right Choice for Students Studying Law?' (2022) 32 *Legal Education Review* 1; Judith TM Gulikers, Theo J Bastiaens and Paul A Kirschner, 'A Five-Dimensional Framework for Authentic Assessment' (2004) 52(3) *Educational Technology Research and Development* 67; Sadie Whittam, 'Keep It Real: The Case for Introducing Authentic Tasks in a UK Undergraduate Law Degree' (2023) 33 *Legal Education Review* 127.

Detailed rubrics were made available for the letter of advice and simple will assessments. Because client circumstances varied, assessment three focused on process and professional performance rather than matter complexity. Students were assessed on their ability to obtain and record instructions, identify relevant legal and practical issues, draft a legally valid simple will reflecting those instructions, and explain the document to the client under supervision. This emphasis on process helped preserve fairness in an authentic assessment where the factual matrix could not be standardised.

In the first iteration of the unit, students were not given a template will. Instead, they were directed to a precedent available through an online database, although few students used it. As a result, students submitted wills in many different forms, which significantly increased the supervisory burden. In later iterations, students are provided with a template embedded in the clinic's practice management system, reflecting the kind of precedent-based drafting support they are likely to encounter in private practice.

D Supervision and Risk Management

Embedding live client work within a doctrinal unit required careful consideration of risk management, professional regulation and workload, particularly the intensive supervision involved in client interviews and settling draft wills. Bearing in mind Evans and colleagues' suggested ratio of up to 8 students per supervisor,³⁰ the student numbers in the unit were initially capped at 12 and later increased to 15 as supervision capacity grew.

Several further safeguards were implemented:

- All client work was conducted within the existing governance structure of the John Curtin Law Clinic.
- The supervising lawyer held a current practising certificate and retained ultimate responsibility for advice and drafting.
- Matters were screened to ensure suitability for student involvement.
- Students were required to complete confidentiality undertakings.
- All client communications were reviewed prior to transmission.
- Any advice required by the client during the process was the responsibility of the supervising lawyer.

This structure ensured compliance with professional obligations while preserving the authenticity of the learning experience. Students experienced responsibility without being exposed to unsupervised liability.

³⁰ Adrian Evans et al, *Australian Clinical Legal Education: Designing and Operating a Best Practice Clinical Program in an Australian Law School* (ANU Press, 2017) 212.

IV STUDENT REFLECTIONS

Students in the initial cohort (Trimester 1, January–April 2025) were invited to co-present at the 2025 Western Australian Teachers of Law Forum and co-author this article. By this time, the students had completed the unit and marks had been finalised. Three students initially volunteered to contribute to this article as authors, with one later opting out.

A Methodological Note

The reflections are presented here as part of a joint account of the unit's first iteration. In that sense, this article sits within a tradition of collaborative practitioner inquiry in higher education, in which teachers and students reflect jointly on educational experiments to document practice and contribute to pedagogical discussion.³¹ Reflection is central to clinical pedagogy because it helps students connect experience with judgment, ethics and professional responsibility.³²

This article does not report a human research study involving students as research participants. Rather, it is an account of the unit authored by the unit coordinator and two former students who participated in its inaugural offering. The reflective accounts reported in this article are not based on, or derived from, feedback or other information collected during the teaching period. The unit had concluded, and all marks had been finalised before the possibility of preparing this article arose. The article was developed from a presentation delivered at the 2025 Western Australian Teachers of Law Forum by the lead author and participating students. After the decision was made to prepare this written account, the two former students were invited to contribute retrospective reflections on their learning experiences for inclusion in the manuscript. Those reflections were written specifically for this article and are therefore there not pre-existing material or data collected from students for subsequent empirical analysis. The pedagogical analysis and discussion of the unit's design and implementation were prepared by the lead author. The student authors contributed the reflective accounts reproduced in this article, reviewed the manuscript in full, and approved the final version for publication.

³¹ See, eg, Ursula Green and Jenny Scoles, 'Pioneering a Peer Review Initiative: Students as Colleagues in the Review of Teaching Practices' (2016) 19(1) *Teaching and Learning Together in Higher Education* art 5:1–10; Mick Healy, Abbi Flint and Kathy Harrington, *Engagement Through Partnership: Students as Partners in Learning and Teaching in Higher Education* (Higher Education Academy, July 2014); Catherine Bovill, *Co-Creating Learning and Teaching: Towards Relational Pedagogy in Higher Education* (Routledge, 2025).

³² See, eg, Timothy Casey, 'Reflective Practice in Legal Education: The Stages of Reflection' (2014) 20(2) *Clinical Law Review* 317.

B The Reflections

1 *Expectations*

Student Author 1:

At the beginning of the succession law unit in the first trimester of 2025, I felt unsure about what to expect. Unlike any previous unit in my two years of law school, this one involved working directly with real clients as part of the assessment. I anticipated some uncertainty, as dealing with real clients often requires flexibility and doesn't follow the usual structure or strict deadlines found in other units. However, the chance to engage with actual clients and be involved in real legal processes brought feelings of excitement and anticipation as I felt that it would be a rewarding experience that would help me develop my practical legal skills.

Student Author 2:

I was very hopeful that we would explore issues of assessment of capacity to execute a will, and the legislation which governs the granting of probate and matters of intestacy and family provision. I was aware of the strong feelings people have about wills, and the potential for inter-personal conflict regarding bequests from peripheral exposure through my work and hearing family and friends' personal experiences. The unit exceeded my expectations, in particular through the practical experience that it offered in a core set of skills.

2 *Difference from other assessments at law school*

Student Author 1:

In most of my other law units, final assessments have usually involved either a detailed case study or an essay-style written response, completed under exam conditions or over several weeks. The clinic-based will-drafting experience was very different from that traditional format. Instead of focusing mainly on studying legal principles for an exam, this task placed a strong emphasis on developing interpersonal and professional skills. Good organisation and solid preparation were key, not just for doing well in the unit, but because our work had real consequences for actual clients. These clients depended on us to act professionally and competently to make sure their wills were accurate and legally valid. That added a unique level of responsibility that you don't often experience in standard assessments.

Student Author 2:

The real-world assessment task was the first legal assessment I have completed with real client interaction. It was also the first time for me to use practice software and to consider issues of time recording and billing.

3 *Specific skills or knowledge developed*

Student Author 1:

During the clinic-based will-drafting experience, I was able to develop and strengthen a range of practical skills that are essential in legal practice. Drafting was a key area of growth, as I learned how to prepare accurate and tailored wills that reflected each client's unique circumstances. I also became more confident in professional email communication, learning

how to write clearly and respectfully while maintaining a formal tone. Organisation and preparation were crucial, especially when managing client files, scheduling meetings, and ensuring that documents were completed on time. Communication skills were also central to the process. Conducting client interviews required not only clear verbal communication, but also active listening to fully understand clients' wishes and ensure they were accurately reflected in the final documents. Effective note-taking during these conversations played a major role in supporting the drafting process. Overall, this experience gave me a chance to apply what I've learned in a real-world setting and helped me build confidence in my professional abilities.

Student Author 2:

This task specifically developed four areas. Firstly, communication with real people about legal choices in an emotionally challenging field. Secondly, recognising what is and is not within the scope of instructions, and when the line is crossed into giving advice. Thirdly, using practice software to complete work and record tasks and time spent (and thinking about what could reasonably be charged for compared to the actual time spent). Fourthly (and possibly most importantly!) drafting unambiguous, concise and effective clauses to create an instrument which will achieve the client's intention.

4 Challenges working with a real client

Student Author 1:

One of the main challenges I encountered while working with a real client was balancing university deadlines with the availability of the clients themselves. This was a new experience for me, as no other unit in my degree so far has involved working directly with external clients. Although succession law is an academic unit with firm deadlines, real-world circumstances such as clients being unavailable for extended periods made it difficult to maintain strict timelines. Additionally, as a student managing multiple units and other commitments such as part-time work, my own availability was also constrained. Despite these challenges, I was fortunate to work with clients who were exceptionally accommodating and understanding. Our schedules aligned well overall, and although we submitted our final assessment a few weeks after the original deadline, we successfully completed it before the start of the new trimester.

Student Author 2:

As a mature-age student with a medical background, I was less daunted than some of my colleagues completing their first degree by talking to clients about their death. I was surprised, though, by how confronting it was for the clients and for me, when I had to take them through the alternative chronologies which involved them imagining their spouse and child pre-deceasing them. It was illuminating that my understanding of the client instructions (which did involve some complexity regarding alternate executors and guardians for minor children, and differential treatment of beneficiaries under residuary clauses) at times differed from the recollection of my supervisor. It was a useful reminder of the importance of taking exceptionally clear notes and checking back for mutual understanding with clients before concluding the interview. It also reinforced that follow-up communication to clarify

instructions is appropriate if needed. The clients asked about issues beyond the scope of drafting their wills (but which are quite likely to arise naturally in such a consultation, such as superannuation and enduring powers). Working out what was appropriate for me to discuss with them, and what needed to be kept separate was a challenge.

Even though I had clear instructions and various template clauses to consider, actually 'pinning it to paper' was more challenging than I expected. Some of the template wills on-line adopted an order for the clauses that was counter-intuitive, and some example clauses were over-complicated. Developing confidence in crafting concise, effective plain English clauses and a logical flow within the will that would make sense to the client was important.

5 *Confidence before and after the unit*

Student Author 1:

Having completed the unit, I feel significantly more confident in my ability to practise in the area of succession law under supervision, particularly in drafting and executing wills and communicating professionally with clients. At the start of the unit, I had a basic theoretical understanding of wills and estate planning but limited practical experience. Throughout the course, I gained hands-on experience in client interviewing, identifying legal issues, and preparing tailored documents. I believe that the practical engagement, combined with feedback and structured learning, has equipped me with the foundational skills needed to practise effectively and responsibly in this area under supervision.

Student Author 2:

I am in a much better position after completing the unit. I would be much quicker and more confident in drafting a simple will, having become familiar with some of the vocabulary, form and structure that may be most effective. The familiarisation with practice software and time recording was also something that took quite a lot of time. I am very grateful to have gained that experience in the context of a university unit. I think it would make learning to use similar software in an employed position much easier and quicker. The difference between this task and assessments used in other units was that the information-gathering responsibility for the factual scenario rested with us and had to be gathered from real clients. In other units when drafting submissions or a letter of advice, it is based on a factual scenario provided to us by the faculty. The unpredictability and complexity of the interpersonal communication is a very important variable to have experienced, and practised managing under supervision.

6 *Suggestions for improvement*

Student Author 1:

One suggestion to improve this type of authentic assessment would be to begin the process earlier in the trimester. This would better accommodate the variable availability of clients and allow more time to secure suitable clients. Other than that, I thoroughly enjoyed this unit and found the experience highly valuable.

Student Author 2:

I think it could be helpful to have a role play exercise in class prior to the interview where we take instructions from a classmate and rehearse asking the emotionally difficult questions. This will also allow us to practice establishing and maintaining rapport while simultaneously taking sufficiently clear notes to support drafting.³³

C Discussion

The reflections reveal several recurring themes:

- First, the presence of real clients changed the students' perception of the task. The assessment was not experienced as a hypothetical exercise completed for academic credit alone, but as work carrying consequences for another person. That sense of responsibility appears to have made the doctrinal content more immediate and professionally meaningful.
- Second, the reflections suggest that the clinical component helped students understand drafting as an exercise in judgment rather than form-filling. Students had to translate instructions into clear, legally effective clauses while remaining attentive to capacity, the scope of the retainer, family complexity, and client understanding.
- Third, both reflections emphasise the importance of communication. The students identified client interviewing, active listening, clear note-taking, follow-up clarification and plain English explanation as central to the task.
- Finally, the reflections also expose the logistical and emotional complexity of authentic assessment. Client availability, confronting conversations about death, uncertainty in instructions and the limits of the student role all created challenges that would be difficult to replicate in a purely hypothetical assessment.

Taken together, the reflections support the central claim of this article: that a clinical-hybrid model can help students connect legal knowledge, professional skill, ethical awareness and emerging professional identity within a single learning experience. That connection is consistent with clinical scholarship emphasising live-client work as a site for ethical development, responsibility and professional formation.³⁴ They also point to a practical design lesson. Authenticity alone is not enough; real-client assessment must be scaffolded, supervised and calibrated so that students experience responsibility without bearing professional risk.

³³ Both suggested changes have subsequently been implemented.

³⁴ See, eg, MA (Riette) Du Plessis, 'The Role of Clinical Legal Education in Developing Ethical Legal Professionals' (2021) 54(1) *De Jure* 1; Neil W Hamilton and Louis D Bilionis, *Law Student Professional Development and Formation: Bridging Law School, Student, and Employer Goals* (Cambridge University Press, 2022).

V CONCLUSION

We do not suggest that every doctrinal subject must become fully, or even partly, clinical. Nor do we suggest that a single unit can resolve the broader structural challenges now facing legal education in Australia. However, the experience of designing and delivering this clinical-hybrid succession law unit suggests that the binary distinction between 'academic' and 'practical' legal education is increasingly difficult to defend.

This case study shows that doctrinal learning need not be weakened by the introduction of authentic practice. Drafting a will for a real client required students to move beyond abstract knowledge of testamentary capacity, formal validity, and construction. It required them to listen, clarify instructions, exercise judgment, communicate professionally, and translate legal principles into a document that mattered to another person.

The student reflections, while necessarily limited, suggest that this form of assessment can make legal learning feel more immediate, responsible, and professionally meaningful. They point to growth in confidence, communication, drafting, organisation, ethical awareness, and appreciation of the human dimensions of succession law. They also reveal the productive discomfort of authentic learning: client availability, emotional conversations, uncertainty, imperfect instructions, and the challenge of knowing the limits of one's role. These are not distractions from legal education. They are part of what legal education must prepare students to navigate.

The model also responds constructively to current debates about PLT reform. If practical skills are to be introduced earlier in the legal education continuum, they should not simply be added as isolated tasks to an already crowded curriculum. They should be deliberately integrated into subjects where the connection between doctrine, skill, ethics, and professional judgment is natural and coherent. Succession law offers one such opportunity. Other areas of law may offer similar opportunities.

There are, of course, real constraints. Clinical-hybrid teaching requires supervisory capacity, suitable content, appropriate risk management, and staff with relevant, recent practice experience. Clinical programs are labour-intensive and depend on sustainable supervision, institutional support and governance arrangements.³⁵ It cannot be scaled indiscriminately or implemented without regard for professional obligations. Those constraints should not be minimised. Nor should they be treated as reasons to preserve an artificial separation between knowing the law and practising it. Rather, they are design questions to be addressed thoughtfully by law schools, regulators, clinics, and the profession working together.

³⁵ Jeff Giddings, 'Contemplating the Future of Clinical Legal Education' (2008) 17(1) *Griffith Law Review* 1.

The contribution of this article is therefore modest but positive. It offers one example of how a doctrinal law subject can bring theory and practice together without abandoning academic rigour. It shows that students can encounter real clients, assume supervised responsibility, and develop professional judgment within the structure of an undergraduate law unit. Most importantly, it suggests that making legal education more practical does not require choosing between doctrine and practice. It requires designing learning experiences in which each strengthens the other.

TEACHING WITH ADHD IN MIND

INFORMAL ACCOMMODATIONS IN THE LAW CLASSROOM

KATE OFFER & RAUL MADDEN *

I INTRODUCTION

Legal education typically prizes a student's ability to sustain attention, process information rapidly, and operate with high levels of independent organisation. For students with attention deficit hyperactivity disorder (ADHD),¹ these expectations can pose significant challenges.² Universities provide formal accommodations through their student service offices which may include giving a student extra time in exams or later deadlines for written assessments.³ Much of the learning in relation to the skills and material on which students are assessed, however, occurs within the classroom itself. The authors, Kate Offer and Raul Madden, are law lecturers who have combined (inattentive *and* hyperactive) type ADHD. This article reflects on informal teaching practices they have adopted to support students with ADHD, grounded both in pedagogy and in their own experiences as academic lawyers with ADHD.

This article aims to better equip law schools to support the learning of students with ADHD. It does so through the following structure. First, it outlines the need for consciousness about ADHD in the practice of legal education. Second, it explains that many struggles affecting

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¹ The American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (5th ed, American Psychiatric Association, 2013) (DSM-V) recognises ADHD as one of a number of neurodevelopmental disorders, which are 'characterized by developmental deficits that produce impairments of personal, social, academic, or occupational functioning' (31). See below n 5 concerning its defining symptoms.

² Katherine Silver Kelly, 'Be Curious, Not Judgmental: Neurodiversity in Legal Education' (2025) 78(2) *Arkansas Law Review* 245, 249.

³ See, eg, Disability and Dyslexia Service (Queen Mary University of London), 'Support for Students with ADHD' (Web Page) <<https://www.qmul.ac.uk/disability-and-dyslexia-service/our-support/adhd/support-for-students-with-adhd/>>.

students with ADHD concern executive function, and then suggests a number of informal accommodation techniques that the authors have found constructive in their efforts to support them. Many of these approaches, while especially beneficial for students with ADHD, can also help students who do not have ADHD. Third, it suggests that one highly beneficial kind of informal accommodation for students with ADHD is contributed by law teachers with ADHD who are open about and share their experiences. This article concludes that through a combination of approaches that the authors adopt, and the openness of law teachers with ADHD like themselves, law schools can better support the learning of students who struggle with symptoms of ADHD.

II THE NEED FOR CONSCIOUSNESS ABOUT ADHD IN LAW SCHOOL

Teaching approaches that implicitly assume a 'neurotypical' learner risk reinforcing exclusion of 'neurodivergent' learners in a discipline already structured around narrow expectations of focus, self-regulation and cognitive endurance.⁴ This is not surprising. In the DSM-V ADHD is:

defined by impairing levels of inattention, disorganization, and/or hyperactivity-impulsivity. Inattention and disorganization entail inability to stay on task, seeming not to listen, and losing materials, at levels that are inconsistent with age or developmental level. Hyperactivity-impulsivity entails overactivity, fidgeting, inability to stay seated, intruding into other people's activities, and inability to wait—symptoms that are excessive for age or developmental level ... ADHD often persists into adulthood, with resultant impairments of social, academic and occupational functioning.⁵

Given the nature of legal education, many students with ADHD will experience intensified and particularised struggles in law school, even though many of them will have attributes, such as 'real-world creativity' and 'injustice sensitivity',⁶ that may fuel them to make positive social contributions with their legal education. If the outcomes for law students with ADHD

⁴ The term 'neurodivergence' is a colloquial term which is generally accepted as referring to non-neurotypical people. According to Haley Moss in *Great Minds Think Differently: Neurodiversity for Lawyers and Other Professionals* (American Bar Association, 2022) xvii, people who have ADHD, autism, developmental disabilities, intellectual disabilities, learning disabilities, and mental health disabilities may all be considered to be neurodivergent. A recent study suggests that the term likely originated in the online autistic community. See Monique Botha et al, 'The Neurodiversity Concept Was Developed Collectively: An Overdue Correction on the Origins of Neurodiversity Theory' (2024) 28(6) *Autism* 1591, 1592.

⁵ American Psychiatric Association (n 1) 32.

⁶ Nathalie Boot et al, 'Creativity in ADHD: Goal-Directed Motivation and Domain Specificity' (2017) 24(13) *Journal of Attention Disorders* 1857, 1858; Thomas Schäfer and Thomas Kraneburg, 'The Kind Nature Behind the Unsocial Semblance: ADHD and Justice Sensitivity — A Pilot Study' (2015) 19(8) *Journal of Attention Disorders* 715.

and their futures as professionals matter, as the present authors believe they do, then their differentiated challenges in learning should be considered within legal education.

Consideration of those challenges means, however, more than simply adopting one single technique to help students with ADHD. The condition is recognised as 'a complex and heterogeneous disorder',⁷ and so the kinds, number, and severity of symptoms experienced by people with the condition can vary widely.⁸ Different means and approaches, therefore, can be more beneficial for some people with ADHD in helping them manage the condition than for others.

It might sound like the authors want to make more work for law teachers who already have a lot on their plate. Yet informally accommodating students with ADHD need not be difficult. One will appreciate this when the suggested approaches are traversed further down. Those same approaches will also help many students who do not have ADHD. Further, colleagues with ADHD are here to help their non-ADHD colleagues to support students with ADHD, including through resources like this article. Non-ADHD colleagues can take comfort in the presence of ADHD law teachers like the authors being there with the more immediate understanding of ADHD to support students. With particular focus on ADHD students, the article encourages law teachers to incorporate into their approaches to teaching, consciousness about different ways in which students might learn most effectively. In so doing, it advances the Universal Design for Learning principles which promote accommodation of various learning needs among students through multiple means of: engagement; representation; as well as action and expression.⁹

This is necessary because, though ADHD is often medicated,¹⁰ it is a lifelong condition. Medication can play a role in supporting students with ADHD, but its limitations are particularly important to acknowledge in the context of legal education.¹¹ Pharmacological treatment does not 'fix' ADHD.¹² It does not provide a complete solution for the sustained attention, organisational, and working-memory demands that law school routinely imposes

⁷ Jonathan Posner, Guilherme V Polanczyk, and Edmund Sonuga-Barke, 'Attention-Deficit Hyperactivity Disorder' (2020) 395(10222) *Lancet* 450, 458.

⁸ Ibid.

⁹ Center for Applied Special Technology (CAST), 'CAST Universal Design for Learning Guidelines version 3.0.' (Web Page, 2024) <<https://udlguidelines.cast.org>>. See also Thomas Tobin and Kirsten Behling, *Reach Everyone, Teach Everyone: Universal Design for Learning in Higher Education*. (West Virginia University Press, 2018).

¹⁰ In Australia, the most commonly prescribed medications are psychostimulants, such as Methylphenidate, Lisdexamfetamine, and Dexamfetamine. See Australian Institute of Health and Welfare, 'ADHD Medications Dispensed from 2004–05 to 2023–24' (Web Page, 20 May 2025) <<https://www.aihw.gov.au/mental-health/topic-areas/community-based-services/mental-health-prescriptions/adhd-medications-dispensed-overtime>>.

¹¹ Though this might be especially pronounced in legal education, studies have shown that it is true in higher education more generally. See, eg, Claire Advokat, Sean M Lane, and Chunquiao Luo, 'College Students With and Without ADHD: Comparison of Self-report of Medication Usage, Study Habits and Academic Achievement' (2011) 15(8) *Journal of Attention Disorders* 656.

¹² See, eg, Meredith Bergey, "'Pills Don't Teach Skills': ADHD Coaching, Identity Work, and the Push toward the Liminal Medicalization of ADHD' (2024) 65(2) *Journal of Health and Social Behavior* 256, 263–266.

on students. Additionally, some students may not yet recognise that the academic difficulties they experience are due to ADHD while others may be in the process of pursuing a diagnosis and navigating lengthy assessment and waiting periods.¹³ Even where an assessment has been completed and medication is prescribed, the effectiveness of the medication may be variable due to side effects, difficulties remembering to take medication, or disruptions in supply.¹⁴ One might agree or disagree with Gabor Mate's view that 'physicians and prescriptions for drugs have come to play a lopsided and exaggerated role in the treatment of ADD'. In Mate's case, it made him 'a more efficient workaholic'.¹⁵ Indeed, the authors are conscious that the relief that medication may provide will not solve all difficulties associated with ADHD. More particularly, they can attest, from experience with having taught ADHD students and from lived experience, that while medication helps some people with ADHD, it does not nullify all of the significant symptoms which make many aspects of the study of law especially challenging.

Formal accommodations are similarly no substitute for the support individual teachers can give through their approaches to teaching. Not all students with ADHD take up formal accommodations. Some do but may find them unhelpful or of limited value, particularly extended deadlines.¹⁶ Many say that the approaches of individual teachers are especially effective in facilitating their learning.¹⁷ The informal accommodations canvassed below can help law students with ADHD to make the most of their legal education additional to, or separately from, the formal accommodations that are available.

III THE D.R.A.F.T. APPROACHES: FACILITATING EXECUTIVE FUNCTION

For students with ADHD, executive functioning is often at the centre of their struggle.¹⁸ The late ADHD pioneer and psychologist, Thomas E Brown, contributed significantly to our knowledge about the condition. Prevailing understandings of ADHD used to cast it as a predominantly 'behavioural' disorder. The 'new understanding', to which Brown's research contributed, is of ADHD 'as a developmental impairment of the brain's self-management

¹³ See, eg, Independent Health Care Providers Network, 'The Truth About ADHD Waiting Times and the Independent Sector' (Blog, 15 January 2026) <<https://www.ihpn.org.uk/blog/the-truth-about-adhd-waiting-times-and-the-independent-sector/>>.

¹⁴ See Posner, Polanczyk, and Sonuga-Barke (n 7) 453–454.

¹⁵ Gabor Mate, *Scattered Minds: The Origins and Healing of Attention Deficit Disorder* (Penguin, 2012) 7–8.

¹⁶ Kathryn Gibbs et al, 'Exploring the Perspectives of Australian Neurodivergent University Students' (2025) 52 *The Australian Educational Researcher* 2665, 2677.

¹⁷ *Ibid* 2675.

¹⁸ Thomas E Brown, Philipp C Reichel, and Donald M Quinlan, 'Executive Function Impairments in High IQ Adults with ADHD' (2009) 13(2) *Journal of Attention Disorders* 161, 161.

system, *its executive functions*'.¹⁹ The symptoms quoted from the DSM-V above are indeed challenges that concern executive function. Executive functioning describes the mental processes that support planning, sustained attention, working memory, impulse control, and the ability to manage multiple tasks at once.²⁰ The cognitive load of studying can be immense for law students who experience difficulties in these areas. This burden can often be significantly reduced through thoughtful teaching and administrative techniques and adjustments. By minimising unnecessary mental effort, and facilitating engagement, such approaches allow students to direct more of their cognitive resources toward engaging with and understanding the subject matter itself and building important skills.²¹ The authors share some of those approaches below which can handily be grouped together under the acronym DRAFT and respectively concern Direction, Repetition, Attention, Fun, and Tangibleness.

(D) Direction: Through Guidance and Structure

The authors provide structured forms of guidance across each teaching week via online announcements for each module, and, in turn, reinforcement through clear direction in lectures. Students are given explicit information about what will occur in upcoming lectures and tutorials, which readings are required and which are optional, and the tutorial questions for which they should prepare. Skeletons for suggested structures for answering problem questions on particular kinds of topics are often displayed and discussed in lectures. The aim is to reduce the cognitive load associated with planning and organisation. Students with ADHD are then better able to direct their limited cognitive and energetic resources toward engaging with the law itself, and relevant skills, rather than expending them on logistics.²²

(R) Repetition: Of Important Information and Ideas

To that end, moreover, assessment dates and key milestones are regularly reiterated. The benefit of repetition extends to words and concepts, as well as key points of law and legal processes. One might interject here to say, 'are you not just boring everyone by saying the same thing over and over?'.

The repetition that both authors employ is deliberate and purposeful. It has long been acknowledged that repetition enhances memory, especially long-term memory.²³ Studies

¹⁹ Thomas E Brown, *A New Understanding of ADHD in Children and Adults: Executive Function Impairments* (Routledge, 2013) xiii.

²⁰ Paul Ibbotson, 'The Development of Executive Function: Mechanisms of Change and Functional Pressures' (2023) 24(2) *Journal of Cognition and Development* 172.

²¹ Anne-Laure Le Cunff, Vincent Giampietro and Eleanor Dommert, 'Neurodiversity and Cognitive Load in Online Learning: A Systematic Review with Narrative Synthesis' (2024) 43 *Educational Research Review* 1, 12.

²² P Chandler and J Sweller, 'Cognitive Load Theory and the Format of Instruction' (1991) 8(4) *Cognition and Instruction* 293, 294.

²³ See, eg, Lindsay Plater et al, 'Repetition Enhances the Effects of Activated Long-Term Memory' (2023) 76(3) *Quarterly Journal of Experimental Psychology* 621.

have found that this is particularly true for people with ADHD.²⁴ 'Spaced repetition' is a timeless technique for enhancing memory. This is recognised in the context of legal education.²⁵ It can only be even more effective for ADHD law students. Often this means returning to key points and underpinning principles at intervals throughout and across lectures, tutorials, and online announcements. Raul reminds his lecture groups that while he knows his repetition exceeds what some students need, it is necessary to make the learning experience as effective as possible for everyone. He jokes about sounding like a broken record and about tiring from hearing the sound of his own voice. To avoid 'droning', both authors 'spice up' their repetition of key concepts with variation through different phrases, contexts, and visual illustrations. Repetition is especially helpful when done in a way that keeps enough dopamine flowing to sustain focus for ADHD students.

(A) Attention: Lapses Can Be Accommodated

Indeed, repetition is one way to accommodate the inevitability of lapses in attention. Further, the authors design materials with potential attention lapses in mind. Kate emphasises the benefit of intentionally simple and uncluttered PowerPoints, with a consistent structure across lectures for recurring elements, such as discussion segments and questions to ponder, titled *T(h)orts on Torts*. Each slide also clearly indicates where the content sits within the broader "roadmap" of the lecture. This supports students whose minds may momentarily wander, a common experience among students with ADHD, by making it easy to re-orient themselves to the material under discussion. Rather than feeling lost, students can re-enter the lecture without losing the thread entirely. In addition, low-stakes check-ins, such as short polls, brief written prompts, or asking students to summarise a point in one sentence with a neighbour, help students consolidate learning before attention begins to drift.

(F) Fun: Humour and Gamification

Research suggests that judicious use of humour in the classroom can improve student learning for all students.²⁶ For a student with ADHD, humour can provide the dopamine stimulus that helps engage them, when they might otherwise struggle to sustain attention in a lecture-based environment.²⁷ For both authors, an advantage of having combined type (inattentive-hyperactive) ADHD is the energy, quick responsiveness and playful humour they bring into the classroom as a result of the hyperactivity. This might include moments of self-

²⁴ Franziska Koder, Cecillie Rummelhoff and Maria Garraffa, 'Learning and Using Multiple Languages: Experiences of Adults with ADHD' (2024) 13 *Ampersand* 1, 4.

²⁵ Gabriel H Teninbaum, 'Spaced Repetition: A Method for Learning More Law in Less Time' (2017) 17(2) *Journal of High Technology Law* 273.

²⁶ Kate Offer, Natalie Skead, and Angelyn Seen, "'You Must Be Joking': The Role of Humour in the Law Classroom' (2018) 52(2) *The Law Teacher* 135, 152.

²⁷ See, eg, Justin M Weinhardt, Ivy Mai, and Samantha Young, 'Attentional Control as a Dynamic Personal Resource: The Role of Daily ADHD Symptoms, Job Crafting, and Work Engagement' (2025) *Journal of Business Psychology* (forthcoming).

deprecating humour, an unexpected hypothetical, a prepared or improvised analogy drawn from popular culture (Raul often posits Doja Cat as a trustee for other celebrities in his lecture hypotheticals), or a spontaneous shift in tone when attention begins to wane. Moments of novelty re-engage students cognitively and emotionally. They help to reset attention and maintain momentum.²⁸ While these strategies can appear informal,²⁹ they function as deliberate pedagogical tools that enhance engagement for students with ADHD and simultaneously enrich the learning environment for the cohort as a whole.

On other occasions, the authors use in-class multiple choice quizzes which include a handful of ridiculous answers among the serious answers, as well as 'gamification' techniques, such as crosswords that incorporate the tutorial questions. Both find that these kinds of activities are especially helpful and popular for the subjects that are so deeply conceptual or highly technical that they demand more than problem questions to make the most out of tutorials. They help students develop research skills and engage with legal materials in class. The benefits of these kinds of activities, as well as allowing students to work on them together, have been observed generally, as well as in particular for neurodivergent students.³⁰

(T) Tangibleness: Harnessing Interest and Reality

It is equally important to recognise that attention for students with ADHD is more interest-dependent than for others.³¹ Students with ADHD often sustain deep focus when material is meaningful, contextualised, or novel, but are more likely to disengage when content feels abstract or disconnected from lived experience.³² This is due to differences in dopamine-regulated neural pathways.³³ Both authors, therefore, rely on concrete examples and explicitly explain why a topic matters in practice or everyday life. The interest-focused approach extends, where possible, to designing assessment that enables students to channel their interests and potentially hyperfocus. For instance, Raul advocates for designing assessments that allow students to explore legal doctrines in ways that engage their interest

²⁸ See, eg, Avner Ziv, "The Teacher's Sense of Humor and the Atmosphere in the Classroom" (1979) 1 *School Psychology International* 21.

²⁹ It has long been recognised in relation to ADHD that 'the informal learner does well in unstructured circumstances'. See Harold N Levinson, *Total Concentration* (Evans & Co, 1992) 208. The present authors do not advocate for abandoning structure but rather for loosening it to accommodate spontaneity.

³⁰ See Kate Fernandez, 'Utilising Game-Based Learning in First Year Undergraduate Contract Law' (2025) 59(4) *The Law Teacher* 795, 800.

³¹ Stephen V Faraone et al, 'The World Federation of ADHD International Consensus Statement: 208 Evidence-Based Conclusions about the Disorder' (2021) 128 *Neuroscience & Biobehavioral Reviews* 789.

³² See, eg, VI Douglas, 'The Response of ADD Children to Reinforcement: Theoretical and Clinical Implication' in L Bloomingdale (ed), *Attention Deficit Disorder: Identification, Course and Rationale* (Spectrum 1985) 49–66.

³³ See, eg, ND Volkow et al, 'Motivation Deficit in ADHD Is Associated with Dysfunction of the Dopamine Reward Pathway' (2011) 16(11) *Molecular Psychiatry* 1147, 1154. See also Anouk Scheres et al, 'Ventral Striatal Hyporesponsiveness During Reward Anticipation in Attention-Deficit/Hyperactivity Disorder' (2007) 61(5) *Biological Psychiatry* 720, 720.

in justice and encourage creative thinking about future legal developments.³⁴ These strategies support learning for all students but are particularly valuable for those whose attention tends to fluctuate.

Recall the introduction to Judge Judy: 'real people, real cases'. Raul says this is the essence that helps ADHD (and neurotypical) students to engage in learning. Few students today will remember her but what excited people about Judge Judy was the real and relatable drama that litigants brought into her courtroom and her humorous comments about their disputes. Raul often takes this approach to involving students in advising hypothetical clients. He has even facilitated for students to play the 'Judge Judy game' in which they switch out of the advisory role, and into the role of advocacy for clients in mini-mooting scenarios.

The authors usually focus on problem questions in tutorials in a manner that centres hypothetical clients as if they were real people that the students are professionally trying to help. Raul recently assumed the role of the University's Principal to seek his students' advice about recovering a secret commission that was taken by the University's agent in a real estate transaction. Each year, he tells his tutorial groups that he won the lottery and needs their help drafting some half-secret and secret trusts (in wholesome rather than nefarious contexts) for sympathetic characters he wants to help. The narratives, characters, contexts, and practicality enable students to more effectively focus, participate, and learn.

IV OPENNESS: THE VALUE OF ADHD LAW TEACHERS

Perhaps the most significant accommodation both authors have made is relational rather than pedagogical. They speak openly with students about their own experiences with ADHD. They do so when they introduce themselves and when ADHD symptoms manifest in real time. This often results in increased confidence for students with ADHD (and other neurodivergences) in their studies and career development as well as in terms of seeking the support that is available to them through the university.

Both authors went through their legal education and professional training without diagnosis or treatment. This naturally enables them to relate to and anticipate the challenges their students with ADHD encounter. Kate had been largely unfamiliar with how ADHD can present in adults, particularly women, and had never imagined that the diagnosis might apply to her. It took an unexpected but illuminating moment in her life with an unprescribed 10mg Ritalin pill to realise that the struggle was not a lack of discipline, but related to

³⁴ See Raul Madden, 'Revitalising Unconscionable Dealing in English Law through Interjurisdictional Teaching' (2025) 59(4) *The Law Teacher* 716.

neurochemistry.³⁵ Raul only received his diagnosis after completing his PhD and attaining his first permanent lecturing role, at which point he was able to afford to pursue an ADHD assessment privately after having spent years on an NHS waiting list. He often says that life is 'not half as hard' post-diagnosis and remembers vividly what it was like to deal with ADHD symptoms, especially as a law student, without understanding them.

Neurotypical and non-ADHD teachers can empathise, but can only do so much to help ADHD students because they lack the aforementioned kind of experiences. Teachers like the authors have the understanding that only comes with lived experience, which facilitates their support for their students, especially through openness about life with ADHD. They can relate in an immediate sense, offer ideas for managing the inattentiveness and hyperactivity, and help to tear down stigma around diagnosis and seeking professional support.

By naming their diagnoses, the authors challenge the implicit narrative that success in law requires a singular 'neurotypical' way of working or thinking. The research suggests that teachers with disabilities can play a decisive role in dismantling negative assumptions about disability, both by challenging deficit-based narratives around disabilities and serving as role models for students with disabilities.³⁶ Both authors frequently receive feedback from students with ADHD expressing gratitude for their openness, and who note that seeing an academic role model who manages their ADHD while thriving in legal education reframes their understanding of what is possible for them. Students with other forms of neurodivergence, including autism, have also remarked that this openness gives them a sense of emboldenment about their own conditions. This kind of openness can contribute to an understanding that there is no one typical or 'proper' legal mind.

At its core, the authors argue that difference should be embraced for the benefit of all. The authors remind neurodivergent students that they have a lot to gain from and give through their legal education. Their confidence and professional accomplishments remind neurotypical students that they can often surprise themselves and those who doubt them.

The authors first met at the Australasian Law Academics Association Conference in 2025, where Kate presented a paper entitled 'ADHD and Legal Education: Accommodating, Delivering and Harnessing (Neuro)Divergence in Students'.³⁷ The paper included a brief account of Kate's own late-in-life diagnosis. In the days leading up to the presentation, Kate began to feel somewhat apprehensive about this plan. She wondered whether speaking openly about ADHD in a room full of legal academics was professionally wise and second-

³⁵ See Volkow et al (n 33).

³⁶ Patrícia Neca, Maria Leonor Borges and Paula Campos Pinto, 'Teachers with Disabilities: A Literature Review' (2022) 26(12) *International Journal of Inclusive Education* 1192, 1192; Beth A Ferri, Charlotte Hendrick Keefe and Noel Gregg, 'Teachers with Learning Disabilities: A View from Both Sides of the Desk' (2001) 34(1) *Journal of Learning Disabilities* 22.

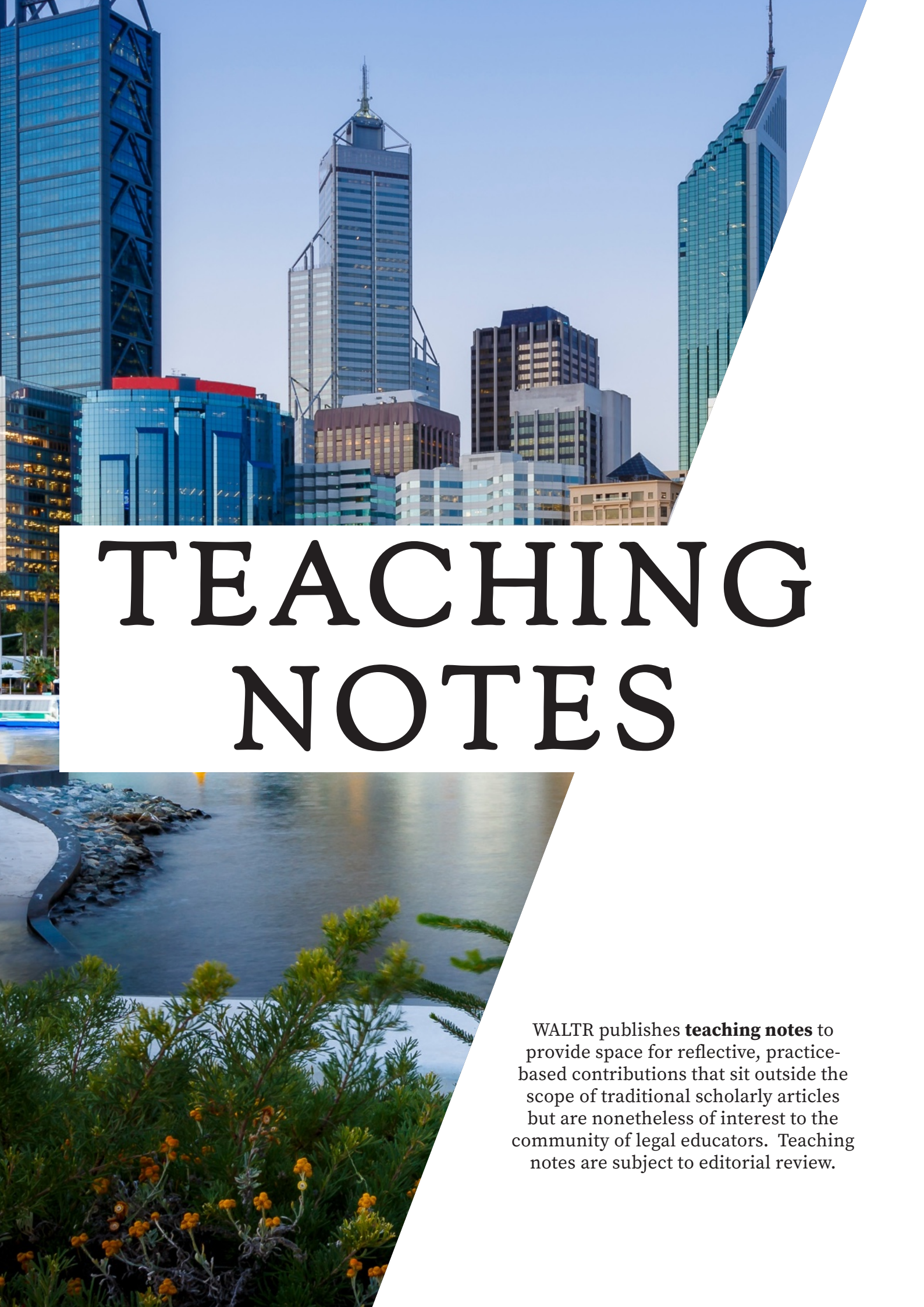
³⁷ Kate Offer, 'ADHD and Legal Education: Accommodating, Delivering and Harnessing (Neuro)Divergence in Students' (Conference Paper, Australasian Law Academics Association Conference, 3 July 2025).

guessed whether this candour would be understood as relevant to the scholarship. Ultimately, she decided that intellectual integrity required honesty. The response was overwhelmingly positive. Raul switched conference streams after his own presentation to attend the session. Many colleagues, including him, approached her afterwards to share their own experiences. Since then, the authors have been building a network of ADHD law teachers, working together to better support students, and each other, and to foster learning communities that are more facilitative for students with ADHD.

A significant benefit of openness is that it leads to better, and more available, support for students in communities of learning. When Raul began at Queen Mary, he planned to establish an ADHD support group, having benefited from joining one himself during the later months of his doctoral studies in Kent. During his first term, one of his students approached him to express appreciation of Raul's openness about his diagnosis and sought some guidance about managing the symptoms as a student with ADHD. The student asked if he could help Raul establish a support group, and the two went on to present their proposal to the university's Dyslexia and Disability Services (DDS). Over a period of time, DDS consulted Raul and his student and used their suggestions to establish the support group. At a time when university support services are underfunded and understaffed, the collaboration of ADHD law teachers and students can make a much-needed difference for our communities.

V CONCLUSION

The contributions discussed in this article are neither formal accommodations nor are they exclusively useful for students with ADHD. Law teachers with and without ADHD can incorporate approaches like those the authors note in part III which will especially help students with ADHD and simultaneously benefit others. They need not overhaul everything they do as educators to accommodate ADHD students. Additionally, law teachers with ADHD who are open about the condition can provide an additional layer of support. Of course, neither non-ADHD nor ADHD law teachers are able and qualified to provide the professional kinds of support that students may need in terms of diagnosis, treatment, and medical advice. All law teachers, however, can work together to improve teaching and learning for students with and without ADHD alike. By designing teaching with ADHD in mind, we aim to create learning environments that are clearer, kinder, and ultimately more effective, for everyone.



TEACHING NOTES

WALTR publishes **teaching notes** to provide space for reflective, practice-based contributions that sit outside the scope of traditional scholarly articles but are nonetheless of interest to the community of legal educators. Teaching notes are subject to editorial review.

HOW PARENTING NEURODIVERGENT KIDS REWROTE MY TEACHING PHILOSOPHY

NYSSA BULL *

This piece is published as a 'teaching note' rather than a scholarly article.

WALTR publishes teaching notes to provide space for reflective, practice-based contributions that sit outside the scope of traditional peer-reviewed articles but are nonetheless of value to the community of legal educators. They may include reflections on teaching and assessment, contextualised lesson plans (including for secondary legal studies), or opinion and commentary on broader issues in legal education.

I INTRODUCTION

As a parent of two neurodivergent kids, my parenting style is different to your average parent. Dealing with neurodiversity in our household means I am constantly aware of what I say and how I act, and that the house environment must maintain a certain level of noise and sensory harmony. Recently, I have realised that my 'neurodivergent-adapted' parenting style has shaped the way I teach law.

My pedagogical approaches discussed in this reflection did not emerge from formal training or deliberate design, but from lived experience. Only recently have I come to recognise that many of the strategies I use instinctively in the classroom reflect the adaptive parenting practices I developed while raising two neurodivergent children. This teaching reflection explains how my 'neurodivergent-adapted' parenting strategies have quietly (without me even realising) influenced my pedagogy and helped me create a more inclusive learning environment for my students. This more nurturing environment is important for helping students reach their full potential, particularly in law where psychological distress rates are high.¹

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II UNDERSTANDING NEURODIVERSITY

Before discussing how these strategies work in my teaching, it is important to clarify and explain what neurodivergence is. Neurodiversity is a term used to describe people with differences in brain function and behavioural traits compared to those who are neurotypical.² Australian sociologist Judith Singer created the term in the 1990s and found that neurodiverse people experience the world in different ways, and that these differences are not 'deficits' but 'natural human variations'.³ The term serves as an umbrella for a variety of conditions, most commonly including Autism Spectrum Disorder ('ASD'), Attention Deficit Hyperactivity Disorder ('ADHD'), Obsessive Compulsive Disorder, and Tourette's Syndrome.⁴ It is not a niche or rare occurrence; research indicates that approximately 15% to 20% of the population is neurodivergent.⁵

Neurodivergent parents will tell you that you need to employ a 'lens shift' when parenting a neurodivergent child. Parenting children who experience the world differently requires me to constantly balance structure and flexibility with support and autonomy. This can vary depending on your child's specific neurodivergence. For example, a child with ADHD may need a different lens shift than a child with dyslexia. However, what is common amongst neurodivergent children is that their brains do not operate in the same way as neurotypical children, and they require accommodations to function in a world designed for neurotypicals.

Between them, my children have ADHD, ASD and pathological demand avoidance.⁶ It is common for my children to experience emotional regulation difficulties, such as sudden or extreme mood swings and meltdowns. My kids need to feel they have choice and control as much as possible, or it brings on extreme anxiety. The flexibility of the present adults at these times is critical for regulating emotions.

¹ For a discussion on the high rates of distress in law students, see eg, Wendy Larcombe, Ian Malkin and Pip Nicholson, 'Law Students' Motivations, Expectations and Levels of Psychological Distress: Evidence of Connections' (2012) 22(1) *Legal Education Review* 71, 71–2 and Wendy Larcombe and Katherine Fethers, 'Schooling the Blues? An Investigation of Factors Associated with Psychological Distress among Law Students' (2013) 36(2) *University of New South Wales Law Journal* 390, 390–1.

² Katherine Silver Kelly, 'Building Scaffolding instead of Barriers: Accessibility for Neurodivergent Law Students' (2025) 49(2) *Southern Illinois University Law Journal* 149, 149 ('Building Scaffolding'); Katherine Silver Kelly, 'Be Curious, Not Judgmental: Neurodiversity in Legal Education' (2025) 78(2) *Arkansas Law Review* 245, 246 ('Be Curious'); Lorna G Hamilton and Stephanie Petty, 'Compassionate Pedagogy for Neurodiversity in Higher Education: A Conceptual Analysis' (2023) 14 *Frontiers in Psychology* 1093290, 1.

³ Kelly 'Building Scaffolding' (n 2) 149.

⁴ Ibid; Kelly 'Be Curious' (n 2) 246.

⁵ Kelly 'Building Scaffolding' (n 2) 151; Kelly 'Be Curious' (n 2) 251.

⁶ Pathological Demand Avoidance is described as 'behaviour exhibited by individuals (although the focus of interest is largely children) that is characterised as an extreme resistance to the ordinary demands of everyday life': Allison Moore, 'Pathological Demand Avoidance: What and Who Are Being Pathologised and in Whose Interests?' (2020) 10(1) *Global Studies of Childhood* 39, 40.

III STRATEGIES FOR PARENTING NEURODIVERSE CHILDREN

I have learned the hard way that parenting neurodiverse kids is less about 'laying down the law' and more about lowering the pressure so they have the room to breathe. The strategies that work for us at home are about preserving the kids' autonomy and making sure they feel safe enough to join in, rather than feeling forced into a corner. A huge part of this is just learning to move the goalposts. I cannot assume my kids have a fixed amount of patience or energy every day. Instead, I am constantly checking their 'battery level' in the moment and adjusting what I am asking of them.

I have also had to completely rephrase the way I speak. I used to be very directive, saying things like 'you need to do this' or 'do it this way,' but that can lead to a defensive 'no' or a complete meltdown because it strips the kids of their sense of control. Now, I try to use declarative language,⁷ and instead of a command I make an observation. For example, I say things such as, 'I can't quite work this out,' or 'I wonder why they did it that way.' Importantly, these are not tricks to try to get the kids to behave. Instead, they are genuine observations that give them the space to process the information and make their own decisions. This immediately eliminates any power struggle and creates space for the kids to join in voluntarily. Sometimes, the most powerful thing I can do is stop talking, because the silence gives the kids the processing time they need to get a thought started. I have also had to be honest about what does not work. If I raise my voice or try to force the kids to comply, it usually turns into a power struggle that ends up with no winners. If I stay regulated and keep a calm face and steady voice, the kids manage to stay calm as well.

I have also found that allowing choice and giving lots of time for transitions are important. I offer real choices, including the option not to participate. I have found that the kids are more likely to jump in when they feel invited rather than forced. I have had to learn that 'opting out' or just watching from the sidelines is a legitimate and productive way for them to be part of what is going on. When my kids are guided by their own interests, they can really focus on the task at hand.

I make sure they always have access to a safe, calm space and the simple, explicit option to step away for a moment without being judged. My kids need extra time to transition between tasks or to process a question. Sudden changes feel like a physical jolt to their systems, so I give them a heads-up before any big shift in routine.

⁷ Declarative language is defined as 'stating out loud what one knows or thinks, in the form of a comment': Linda Murphy, 'The Critical Importance of Declarative Language Input for Children with ASD' Winter 2010 *Autism Spectrum Quarterly* 8.

IV TEACHING IN A 'NEURODIVERGENT-ADAPTED' STYLE

I did not consciously adapt my neurodivergent parenting strategies as teaching tools. They have unconsciously become embedded in my pedagogy, shaping how I structure my teaching. This section provides examples of how these 'neurodivergent-adapted' parenting strategies manifest in my law teaching.

In my tutorials and workshops, I create a collaborative learning environment that suits all types of learners. For example, during group activities, if students are required to report their findings to the class, I let the students decide whether to speak for themselves or nominate a spokesperson. I also make it clear that contributing in small groups is just as important as speaking to the whole class. By easing public performance expectations, I can reduce pressure and stress on students, especially those whose brains are already working overtime to manage anxiety or other neurodivergent barriers.

I have removed directive language in my teaching. Instead, I have adopted a more collaborative approach and aim to frame things declaratively. For example, I say things like, 'I am not sure how this principle applies here, what do others think?' or 'I wonder why the court approached it this way?' I try not to call students out and keep my tone neutral. I find that when students don't feel they are under attack, they don't get defensive, and I can more easily earn their trust.

I have learned at home that you cannot expect a brain, especially a neurodiverse one, to stay focused during hours of dense, monotone delivery. I have brought that same mindset into my teaching by building in variety through short activities and real-world examples. I believe this helps fight off brain fog and lowers the high tension that naturally builds when students are learning hard legal concepts. In my experience, the result is that students seem to become more engaged in the material.

In my teaching, I also make sure students know it is okay to step out for a minute if they need a break. I also build natural pauses and breaks into every session. When my students can regulate themselves by taking a breather without being judged, they can show up with more focus.

I also deliberately look for ways to tie legal concepts to students' interests and the world they live in now. For example, I try to be flexible with presentation topics and let them have a say in the focus of their assessments. If my students can learn about a dry legal doctrine through something they are personally passionate about, their engagement becomes more authentic. I have found that when you give students the space to care, they are more likely to want to do

the heavy lifting of thinking like a lawyer. Their analytical work can become much stronger because they are fully invested in the 'why' behind the 'what'.

V WHAT DOES THE RESEARCH SAY?

These teaching strategies are also explained in pedagogical research regarding how the brain processes information. The research identifies that learning is 'a complex interaction between cognitive, conative, and emotional processes'.⁸ For a student to engage in high-level legal reasoning, the brain must be in a state of moderate arousal, which is the physiological optimal for neural plasticity and memory.⁹ When the law classroom relies on traditional high-stakes pressure or intimidation, it triggers a threat response that effectively takes the prefrontal cortex 'offline'.¹⁰ In this state, students are forced to use their limited cognitive energy on physiological coping mechanisms rather than on the analytical task they should be focused on.¹¹ Therefore, a 'nurturing teacher', who can create a climate of caring and trust, is also creating the necessary environment where the brain can do the hard work of thinking like a lawyer.¹²

Emotional regulation is particularly important for students with executive dysfunction, a behavioural symptom common in neurodiversity that disrupts the ability to manage thoughts, emotions, and actions.¹³ Neurodivergent students often lack the internal cue for task initiation and planning, making them feel as though they are carrying 'three-pound weights' while their peers carry 'one-pound weights'.¹⁴ Because legal education is process-oriented, requiring constant prioritising and judgment calls, standard, product-based accommodations like 'extra time' on a final exam often fail to lower the students' actual barriers.¹⁵ Without external mechanisms and proactive guidance to bridge these gaps, these students are often unfairly categorised as lazy, needy, or unprofessional when, in reality, they are struggling with the system's structure.¹⁶

⁸ Nikki Bromberger, 'Enhancing Law Student Learning: The Nurturing Teacher' (2010) 20(1) *Legal Education Review* 45, 47 citing Peter Op't Eynde, Erik De Corte and Lieven Verschaffel, 'Students' Emotions: A Key Component of Self-Regulated Learning?' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 185, 188; Colin Beard, Sue Clegg and Karen Smith, 'Acknowledging the Affective in Higher Education' (2007) 33(2) *British Educational Research Journal* 235; Colin Beard, *Pedagogic Research Project Report — Student Achievement: The Role of Emotions in Motivation to Learn* (2005) Higher Education Academy, 61 <http://www.heacademy.ac.uk/assets/hlst/documents/projects/round_4/r4_beard_complete.pdf>.

⁹ Bromberger (n 8) 48 citing Louis Cozolino and Susan Sprokay, 'Neuroscience and Adult Learning' (2006) 110 *New Directions in Adult Continuing Education* 11, 13–14; Barbara Glesner, 'Fear and Loathing in the Law Schools' (1991) 23 *Connecticut Law Review* 627, 635.

¹⁰ Kelly, 'Be Curious' (n 2) 249; Hamilton and Petty (n 2) 4.

¹¹ Bromberger (n 8) 48.

¹² *Ibid* 46.

¹³ Kelly, 'Building Scaffolding' (n 2) 156–7.

¹⁴ *Ibid* 159.

¹⁵ *Ibid* 150, 161.

¹⁶ *Ibid* 150.

This emotional and cognitive scaffolding is further supported by strategic silence. According to Cognitive Load Theory, a teacher can control the 'extraneous load' of a lesson – the complexity of the delivery itself – by providing clear structure and pauses.¹⁷ This 'verbal white space' prevents working memory overload, giving students the time they need to catch up and successfully transfer information into long-term memory.¹⁸

To move beyond individual 'bolt-on' accommodations, law schools can adopt Universal Design for Learning, which creates a 'curb-cut effect' in the classroom.¹⁹ Just as sidewalk ramps benefit people with strollers and luggage, design features like metacognitive wrappers (recapping and previewing class) and access to materials in advance benefit the entire student body.²⁰ Proactively designing for diversity dismantles the 'hidden curriculum'; those unwritten institutional expectations of how to behave and study that often exclude anyone who does not fit the neurotypical standard.²¹ When the learning process is transparent and flexible, students can stop exhausting themselves by masking and pretending to be neurotypical and focus on complex problem-solving.²²

The 'double empathy problem' is a mutual misunderstanding that occurs when educators interpret neurodivergent communication styles or sloppy mistakes as character flaws rather than structural barriers.²³ This problem can be addressed through a shift in the mindset of educators from a 'judgmental lens' to a 'curious lens'.²⁴ Rather than identifying a student's thinking as simply 'wrong,' we must explore why they are analysing the problem that way; in doing so, we often find that the answer provides a pedagogical insight that educates the educator as much as the student.

In summary, the literature underscores that a move toward a nurturing pedagogical framework dismantles the barriers of the traditional law school learning structure and validates that the same principles of empathy and proactive scaffolding used in the parenting of neurodiverse children are indeed what enable law students to achieve their full intellectual potential.

¹⁷ Natalie Brown, 'Transferable Skills from Teaching Primary Literacy and Numeracy: Using Silence as a Teaching Tool' (2025) 3 *Western Australian Law Teachers' Review* 112, 115.

¹⁸ *Ibid* 112, 115, 116.

¹⁹ Kelly 'Be Curious' (n 2) 275, 276; Hamilton and Petty (n 2) 6.

²⁰ Kelly 'Be Curious' (n 2) 275, 292–4; Kelly 'Building Scaffolding' (n 2) 171, 187.

²¹ Hamilton and Petty (n 2) 2.

²² Kelly 'Be Curious' (n 2) 260, 262, 276, 297.

²³ Hamilton and Petty (n 2) 3.

²⁴ Kelly 'Be Curious' (n 2) 245–6, 286.

VI CONCLUSION

In my teaching, I have come to realise that the tools I initially developed to support my own children are not just 'special accommodations' but are, in fact, universal tools for excellence. The traditional pressure of law school often demands that students exhaust themselves trying to navigate unspoken rules and perform to a rigid standard. My goal is to dismantle those barriers by prioritising autonomy and genuine student-teacher connection. This journey has taught me that a nurturing environment can lay the foundation students need to undertake even the most difficult of legal problems. I aim to create a space in my tutorials, workshops, and lectures where every student feels invited to participate and empowered to thrive, regardless of how their mind is wired. By weaving the lessons of neurodivergent-adapted parenting into my teaching, I have stopped trying to force compliance and started creating the 'breathing room' that allows every student to show up as their best self.

ROUGHLY 68-ISH, GIVE OR TAKE

AN HONEST ASSESSMENT OF LAW SCHOOL EXAM DESIGN

JULIE FALCK^{*}

This piece is published as a 'teaching note' rather than a scholarly article.

WALTR publishes teaching notes to provide space for reflective, practice-based contributions that sit outside the scope of traditional peer-reviewed articles but are nonetheless of value to the community of legal educators. They may include reflections on teaching and assessment, contextualised lesson plans (including for secondary legal studies), or opinion and commentary on broader issues in legal education.

I Critically analyse the proposition that a mark of 68 is a reliable indicator of a student's actual capability. (10 MARKS)

A mark is a small thing that makes some surprisingly large promises. When we hand back a script marked 68, we are claiming — whether we would put it this way or not — that the number reflects what the student can actually do; that another marker, on another afternoon, would have landed somewhere close; and that the student had a fair shot at earning it. The assessment literature calls these validity, reliability and fairness. Most of us signed up to teach law, not to design measurement instruments, and the conditions under which we set exam papers rarely allow for unhurried reflection. Yet exams decide the largest share of most students' grades.

Nobody taught me how to write an exam, and I suspect nobody taught you either. The standard induction is inheritance: you read the unit's past papers, absorb the house style, and produce another one like them. Past papers are a template, and a template is a wonderfully efficient answer to the wrong question: it tells you what an exam here looks like, and nothing about what your exam should do. So I set myself a thought experiment.

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Suppose you had to design a law school exam from scratch — from the literature and the evidence, inside the real institutional rules, but owing nothing to the filing cabinet. How different would it look from the exams we actually set? Picture every exam as a position in a triangle whose corners are validity, reliability and fairness, drawn inside a frame of feasibility: marking time, institutional rules, curriculum, cohort size. There is no ideal point; intentional design means choosing your position and knowing what it costs, rather than letting the frame choose for you. My answer, after a long while in the scholarship and a systematic trawl through our own past papers, is: not terribly different, but different in unexpected places. The inherited exam turns out to be broadly defensible in its architecture, but strangely careless in its small print.

II 'Assessing complex achievement is judgement, not measurement.' Discuss with reference to validity, reliability, and fairness. (20 MARKS)

Validity is an inference, not a property. The most useful idea I found is Peggy Maki's reframe: validity is not something an exam *has*; it is a question of how well the task prompts students to show the learning we care about.¹ Michael Kane turns that into a usable discipline.² Between two hours of writing and the claim 'this student can do legal analysis at a 68 standard' sit four distinct inferential steps:

1. Were the marks assigned consistently?
2. Would the score hold up across other questions, on other days?
3. Does performing well under these conditions tell us anything about the capability we care about?
4. Do the uses we make of the score follow from it?

The chain is only as strong as its weakest link. When I ran my own papers through it, what buckled first was the third: a two-hour handwritten sprint is a perfectly defensible test of some things, but the awkward question is whether the capability you would name as your unit's endpoint is among them. The two classic failure modes are familiar: the exam that tests only a sliver of what the unit taught; and the score that moves with things you never meant to assess (handwriting speed, panic management, fluency in the genre). Peter Knight completes the picture: assessing complex achievement is judgement, not measurement. Pretending otherwise does not make the judgement disappear; it only hides it.³

¹ Peggy L Maki, *Assessing for Learning: Building a Sustainable Commitment Across the Institution* (Stylus Publishing, 2nd ed, 2010) 163.

² Michael T Kane, 'Validating the Interpretations and Uses of Test Scores' (2013) 50(1) *Journal of Educational Measurement* 1.

³ Peter Knight, 'The Local Practices of Assessment' (2006) 31(4) *Assessment & Evaluation in Higher Education* 435.

Reliability is real, and the fix is not more rubric. Bloxham and colleagues gave experienced UK external examiners identical student work and watched them apply divergent, highly personal standards to the same scripts.⁴ You could run the experiment at your next staff meeting: same short answer, everyone marks it out of ten in silence, then compare in pairs. But then you would have to face what Bloxham's research predicts will be the result: differences of two or more marks, which compound across markers, questions and occasions into large differences in final awards.

The instinctive response to produce more detailed rubrics and more explicit criteria does not work on its own, because written criteria only acquire meaning through the personal frameworks of the people applying them.⁵ What really moves consistency is calibration: markers grading the same scripts, comparing, arguing, converging. Calibration beats codification.⁶ And before despair sets in, van der Vleuten and Schuwirth's synthesis from medical education relocates the problem: across a programme, the biggest reliability threat is not marker subjectivity but sampling — too few tasks, too few occasions.⁷ Their deeper point is the most liberating in the literature: quality is a property of the programme, not the paper. No single exam has to keep all three promises alone.

Fairness has layers, and consistency is only the thinnest. I find it useful to distinguish three layers of fairness. The first is procedural: anonymous scripts, criteria applied evenly. Danielle Tully argues that fairness-as-consistency is the thinnest available reading of the concept: necessary, but nowhere near sufficient.⁸ The second layer asks what the score actually measures. Henderson found the LSAT predicts law-school performance best precisely in time-constrained formats because speed itself, which nobody would list as a learning outcome, is doing a share of the ranking.⁹ The reading-rate evidence makes this concrete. Adults reading English non-fiction silently average 238 words a minute, when reading for ordinary comprehension.¹⁰ A student reading a fact pattern she must hold and apply is reading for recall, which the same synthesis puts nearer 100 words a minute.¹¹ Second-language readers are slower again: ten to seventeen per cent for highly proficient bilinguals, and well below that for readers who are not.¹² Thus a long, dense paper under time pressure

⁴ Susan Bloxham et al, 'External Peer Review of Assessment: An Effective Approach to Verifying Standards?' (2015) 34(6) *Higher Education Research & Development* 1069, 1074–7.

⁵ Pete Boyd and Jennifer Hill, 'Working with Rubrics' in Nicola Reimann, Ian Sadler and Jennifer Hill (eds), *Academic Standards in Higher Education* (Routledge, 2024) 169.

⁶ Ibid.

⁷ Cees P M van der Vleuten and Lambert W T Schuwirth, 'Assessing Professional Competence: From Methods to Programmes' (2005) 39(3) *Medical Education* 309.

⁸ L Danielle Tully, 'Behind the Curve: Rethinking Norm-Referenced Grading in First-Year Legal Writing Courses' (2025) 29 *Legal Writing* 1.

⁹ William D Henderson, 'The LSAT, Law School Exams, and Meritocracy: The Surprising and Undertheorized Role of Test-Taking Speed' (2004) 82 *Texas Law Review* 975. Henderson's data are American and from closed-book, heavily speeded contexts; transfer to the Australian open-book norm is a fair question. The reading-rate evidence (n 10) is not jurisdiction-specific.

¹⁰ Marc Brysbaert, 'How Many Words Do We Read per Minute? A Review and Meta-Analysis of Reading Rate' (2019) 109 *Journal of Memory and Language* 104047, 21.

¹¹ Ibid 18, 21.

¹² Ibid 19.

examines reading speed and language background alongside the law, whether or not anyone intended it. The student at the bottom of that range is not underprepared or under-able; she is simply still reading the facts while the fastest pens in the room are already writing. None of this makes timed exams indefensible; it means time pressure is a decision about what you are measuring, and that decision should be made, not inherited. The third layer asks whether the genre's tacit rules were ever taught: where exam technique goes untaught, the exam partly ranks students on their skill at guessing what each marker rewards, an equity burden that falls hardest on students furthest from the profession's cultural inside track.¹³

III Advise a novice unit coordinator on the pedagogical risks and hidden variables inherent in the inherited exam template. (30 MARKS)

The experiment is not conducted on a blank page, and would be poorer if it were. Some of the frame is institutional and blunt: at my university, a formal invigilated exam must be two hours long, with no separate reading time, handwritten. Nobody designing a paper chooses that envelope; you choose whether to enter the invigilated channel at all, and the envelope comes with the choice. Some of the frame is resources, which have a history of doing the designing: Thornton records the drift back to traditional exams under massification as logistical accommodation to marking burden, not pedagogy,¹⁴ and Rocklin finds marking capacity the most-cited reason exam skills go untaught.¹⁵ The 100 per cent final does not remove marking labour; it piles it into a post-semester spike,¹⁶ and James and Jensen's dialogue on the comprehensive final ends with four conditions of acceptability: informed students, prior formative feedback, some choice among assessment regimes, and degree-level skills safeguarded elsewhere.¹⁷ Your own unit is worth checking against all four; I did not entirely enjoy the exercise. And some of the frame is the climate: generative AI has made unsupervised assessment feel unverifiable, and the profession's regulators recently floated the idea that at least half the assessment in every Priestley 11 subject be invigilated,¹⁸ so the pull of the exam room is stronger than in decades. That pull deserves a note of its own; for

¹³ Mary Beth Beazley, 'Better Writing, Better Thinking' (2004) 10 *Legal Writing* 23; DeShun Harris, 'Let's Talk About Grading, Maybe' (2022) 45 *Seattle University Law Review* 805, 835–8; Joan M Rocklin, 'Exam-Writing Instruction in a Classroom Near You' (2018) 22 *Legal Writing* 189, 211.

¹⁴ Margaret Thornton, 'The Idea of the University and the Contemporary Legal Academy' (2004) 26 *Sydney Law Review* 481, 500–1.

¹⁵ Rocklin (n 13) 211.

¹⁶ Nick James and Darryn Jensen, 'A Dialogue concerning the Merits of the 100% Final Examination in the Assessment of Law Students' (2011) 10(3) *Canberra Law Review* 49, 50.

¹⁷ *Ibid* 79–80.

¹⁸ Legal Services Council and Law Admissions Consultative Committee, *Consultation Paper on Proposed Revisions to the Accreditation Standards for Australian Law Courses* (March 2025) section 'Invigilated assessments', proposed cl 4.7(b).

now, if regulation is about to fix how much examining we do, the design questions that remain ours matter more, not less.

So what does the inherited template actually contain? I have done my best to find out by analysing our school's available past exam papers: first the 2022–2024 papers across core and option units, coded against thirty-odd variables, then back through the archive to 2013. This gathered just over ninety papers, with question-level coding of more than two hundred questions. Three caveats: the coding is mine alone; the corpus is one school's; and I report only aggregate patterns (no unit other than my own is identifiable) because the point is self-knowledge, not scorekeeping.

The corpus is strikingly uniform, in two layers worth keeping apart. One is the institution-imposed envelope (two hours, no reading time, handwritten), which no coordinator chose and no coordinator can vary. The other layer is chosen, or at least chosen-by-default: almost no paper articulates what it is assessing, and almost none discloses criteria. Students meet paper after paper that asks for their best work without ever saying what 'best' looks like. At question level, coded against Bloom's taxonomy,¹⁹ roughly half of all questions ask students to analyse, a fifth to apply, and none to merely remember (recall having been quietly pensioned off by the open-book norm). The thinness is at the top end: questions asking students to evaluate (judge, critique, weigh a reform) make up about a quarter but live almost entirely in essay questions, a form several units have dropped; and questions asking students to create something (draft, design, propose) are close to extinct, at under one per cent. And the most arresting finding: in the core-unit problem questions, the instruction is 'advise'. It is almost always 'advise'. We tell students the degree builds critique, evaluation and reform capability; the final assessments mostly ask them to advise a client on settled doctrine, again.

IV Draft a proposal for a first-principles examination, detailing the required modifications to the assessment's small print. (40 MARKS)

Now the experiment: sit down with the brief and the constraints, refuse the filing cabinet, and derive a paper. The first surprise is convergence. First principles do not abolish the exam — some lawyer capabilities cannot be assessed by any exam format — but that makes the exam one instrument among others, not nothing.²⁰ Open book survives too, with a string attached: the closed-book orthodoxy sometimes defended as a professional requirement is a myth, and memorisation is hard to justify for a practice in which few competent lawyers work from

¹⁹ Lorin W Anderson and David R Krathwohl (eds), *A Taxonomy for Learning, Teaching, and Assessing: A Revision of Bloom's Taxonomy of Educational Objectives* (Longman, 2001).

²⁰ Amanda Cahill-Ripley, 'Innovative Methods of Assessment in Law: The Value of Open-Book Exams as a Catalyst for Improving Teaching and Learning in the Law School' (2015) 49(2) *The Law Teacher* 206, 216–17.

memory alone;²¹ but open-book conditions only deliver their higher-order benefits when the teaching and the questions are redesigned for the format, not merely substituted in.²² The problem question survives scrutiny as well: it integrates issue-spotting, doctrine and application, and students prefer problem questions whatever the format.²³ However, its limits deserve equal candour: Reid classifies it as a problem with predetermined solutions and known reasoning paths, not the messy, ill-structured kind much real legal work is,²⁴ and Mertz reads the form as quietly teaching while it tests, rewarding reading for authority and flattening the human beings in the fact pattern.²⁵ So the derived paper keeps the problem question and surrounds it: perhaps with something evaluative, to reach the level the corpus undersupplies, and maybe a modest drafting task, in a genre that is unambiguously a lawyering genre. It declines the multiple-choice section, whose marking economy comes at the price of a narrowed construct and maximum ease of machine completion.²⁶

The real divergence is the small print. The biggest gap between the derived paper and the inherited one is not architectural at all: the first-principles paper *says what it is doing*. It states, on its face, what it is assessing. It discloses the criteria and the mark allocations, so that a student's split of two scarce hours is an informed decision rather than a guess about the marker's undisclosed priorities. It counts its own words against what a person can read in the time allowed, as a paper that cannot comfortably be read in the time has made speed part of the test without saying so.²⁷ And it arrives with a marking plan, not just a marking guide: a calibration step designed at the same time as the questions, because that is where consistency is actually manufactured.²⁸ Every one of these moves is cheap; none needs a rule change, a committee or a technology. Which is what makes the corpus's silence so instructive: the template's most consequential defaults are ones few would defend out loud; they persist because the filing cabinet has never contained a counter-example. The first-principles exam, in short, is recognisably our exam: invigilated, open book, two hours, anchored by a problem question. The differences that remain are unglamorous, inexpensive, and almost entirely within an individual examiner's gift. The revolution, such as it is, is in the small print.

²¹ Matthew Marin and Amanda Fisher, 'Memory: The Past, Present & Future of Law School Exams' (2023) 38(1) *Western Michigan University Cooley Law Review* 29, 29–33; Cahill-Ripley (n 20) 214–15.

²² Cahill-Ripley (n 20) 207–9.

²³ *Ibid* 215–16.

²⁴ Katie Reid, 'Using Critical Pedagogy and Legal Design Methodology to Develop the Traditional Problem Question' (2024) 58(1) *The Law Teacher* 20, 26.

²⁵ Elizabeth Mertz, *The Language of Law School: Learning to 'Think Like a Lawyer'* (Oxford University Press, 2007) 215–22.

²⁶ John Bliss, 'Teaching Law in the Age of Generative AI' (2024) 64 *Jurimetrics Journal* 111, 137.

²⁷ Brysbaert (n 10).

²⁸ Boyd and Hill (n 5).

V EXTRA CREDIT: Apply the principles of intentional assessment design to evaluate and reform your own unit's most recent final paper.

Thought experiments are cheap; semesters are not. My own unit, LAWS5102 Administrative Law, carries a two-hour, open-book final exam worth 60 per cent of the unit, and the corpus shows it oscillating between three-question and two-question architectures from 2018 to 2024 with no settled pattern — a record I now read, a little ruefully, as template inheritance in action. The first deliberate divergence came with a policy-advice question in 2024 and 2025: instead of a second multi-issue problem, one question put the student in the role of adviser to a Minister weighing discrete reform proposals to a known statutory scheme, and asked for a reasoned evaluation of each. This design sought to test structural doctrines cleanly, reach the evaluative level our papers undersupply, and reward command of a statutory framework as a system, while the retained problem question kept integrated application. The redesign has continued since, further into the small print; but this year's paper has not yet been sat, and an account of a design whose cohort has not met it would be advertising rather than evidence. I will report on it (results and regrets included) once it has run.

I invite you to join the experiment. Take your most recent paper and rate one question, one to five, against each promise: does it prompt the performance your unit outline describes? Would two colleagues mark it alike? Could a capable student who never learned the genre's unwritten rules show you what they know? Then finish one sentence: *what I most need this exam to show me about what my students know and can do is...* Now design next year's paper as its answer. If the analysis here is right, the answer will probably not require you to tear up the inherited form; it will require you to say out loud what the form has been leaving unsaid. No single paper has to keep every promise alone; what it must do is know which promises it is keeping, which it is delegating, and which constraint is binding. The exam will still end the way it always ends: a number beside each name. What design can change is how much of the truth that number carries, and how much of it you can vouch for.

LOOKING AT THE 1992 ACADEMIC LEGAL REQUIREMENTS WITH 2026 SPECTACLES

THE NEED FOR CONTEMPORARY LEGAL EDUCATION FOR TOMORROW'S LAWYERS

PHIL EVANS, REBECCA PIERLUIGI &
CHRISTINA DO *

This piece is published as a 'teaching note' rather than a scholarly article.

WALTR publishes teaching notes to provide space for reflective, practice-based contributions that sit outside the scope of traditional peer-reviewed articles but are nonetheless of value to the community of legal educators. They may include reflections on teaching and assessment, contextualised lesson plans (including for secondary legal studies), or opinion and commentary on broader issues in legal education.

I INTRODUCTION

In the case of *Roe v Minister of Health* [1954] 2 All ER 131 ('*Roe v Minister of Health*'), Lord Denning, in his judgment on a medical negligence cause of action, famously stated: 'we must not look at the 1947 accident with 1954 spectacles'.¹ It is arguable that Lord Denning's comment could apply equally to contemporary legal education and practice.

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¹ The case concerned two patients who were administered anaesthetic prior to their minor operations in 1947. Following standard medical practice at the time, the anaesthetic was stored in glass ampoules submerged in sterilising fluid. Unfortunately, the ampoules had micro cracks, which were not visible, causing the sterilising fluid to leak into the ampoules and contaminating the anaesthetic. This caused both patients to become permanently paralysed. Both patients commenced legal action against the hospital for medical negligence. The Court of

The current academic legal requirements for admission to legal practice in Australia were formulated in 1992,² and specify prescribed areas of knowledge, colloquially referred to as the 'Priestley 11'.³ While the Priestley 11 has been subject to criticism over the last 33 years,⁴ it has largely remained unchanged, despite attempts to redraft the academic requirements, only minor amendments have eventuated.⁵ To ensure compliance with the regulatory framework, some Australian law schools have tended to 'contain' the Priestley 11 units to 'leave as much room for electives as possible',⁶ including by ensuring that subject areas that are not prescribed in the Priestley 11 can be offered as elective units. While this approach ensures that Australian law schools are meeting their regulatory obligations, given the level of disruption experienced in the legal industry 'by new technologies, internationalisation and the emergence of new law',⁷ it is questionable whether this approach adequately equips law graduates with the requisite knowledge for contemporary legal practice. By virtue of the Priestley 11, '[l]aw [s]chools are constrained by 20 to 30 year old notions of what is essential'.⁸ Applying the rationale of *Roe v Minister of Health*, looking at the 1992 Priestley 11 prescribed areas of knowledge with 2026 spectacles, it is evident that the academic requirements for admission are no longer sufficient for preparing law graduates for contemporary legal practice.

Legal practice and the law industry are very different from what they were 33 years ago when the Priestley 11 was first formulated. It is contended that the Priestley 11 prescribed areas of knowledge do not adequately reflect contemporary practice areas. To ensure law graduates are better equipped for legal practice, it is argued that reform is necessary so that Australian law schools can adapt and teach law students the necessary skills for contemporary legal practice. Part II of this teaching note explains the role of the Priestley 11 in the regulatory

Appeal of England and Wales held that the hospital had met the standard of care expected as they had not diverted from standard practice at that time, so they had not breached the requisite legal standard of care.

² Consultative Committee of State and Territorial Law Admitting Authorities, *Uniform Admission Requirements: Discussion Paper and Recommendations* (April 1992) 25 <<https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/UniformAdmissionrequirementsDiscussionPaper1992.pdf>>.

³ See, eg, Geoff Monahan and Bronwyn Liffie, 'Competency-Based Education and Training for Law Students' (2001) 3 *University of Technology Sydney Law Review* 181; Anna Huggins, 'Incremental and Inevitable: Contextualising the Threshold Learning Outcomes for Law' (2015) 38(1) *University of New South Wales Law Journal* 264; Sally Kift and Kana Nakano, 'Reimagining the Professional Regulation of Australian Legal Education', *Council for Australian Law Deans* (Report, 1 December 2021) <https://cald.asn.au/wp-content/uploads/2024/04/Reimagining-KiftNakano_FINAL.pdf> 1.2.

⁴ See, eg, Kift and Nakano (n 3) 1.3; Grace Ormsby, 'Priestley 11 'not keeping up' with reality', *Lawyers Weekly* (Article, 27 May 2019) <<https://www.lawyersweekly.com.au/biglaw/25707-priestley-11-not-keeping-up-with-reality>>; Richard Johnstone and Sumitra Vignaendra, 'Learning Outcomes and Curriculum Development in Law: A Report Commissioned by the Australian Universities Teaching Committee' (2003), 15; Kate Galloway, Melissa Castan and Alex Steel, 'Hacking the Priestley' in Helen Gibbon, Ben Golder, Lucas Lixinski, Marina Nehme and Prue Vines (eds), *Critical Legal Education as a Subversive Activity* (Routledge, 2022).

⁵ Kift and Nakano (n 3) 14; Sandford Clark, 'Regulating Admissions: Are We There Yet?' (2017) 91 *Australian Law Journal* 907, 910; Robert French, 'Legal Education in Australia – A Never Ending Story' (Speech, Australasian Law Teachers' Association Conference, 4 July 2011) 22.

⁶ See, eg, Ormsby (n 4).

⁷ Grace Ormsby, 'Disruption reverberating through legal ed', *Lawyers Weekly* (Article, 21 May 2019) <<https://www.lawyersweekly.com.au/biglaw/25677-disruption-reverberating-through-legal-ed>>.

⁸ Johnstone and Vignaendra (n 4) 90.

framework of legal education (and more broadly admission into the Australian legal profession), and the arguments for reforming Priestley 11.

While there is broad agreement that the Priestley 11 needs reform, there is no corresponding consensus as to what form that reform should take and what should replace it. Legal academics and practitioners who advocate for and against reform of the legal education prescribed curriculum often, in good faith, emphasise the importance of practice areas that reflect their own areas of expertise and practice.⁹ These arguments are not without their merit, and they are often well argued and sound. In Part II, sections B and C, of this teaching note, two case studies will be used to illustrate the arguments why two subject areas (based on the opinions of two experienced academics), specifically alternative dispute resolution and legal philosophy, should be taught with greater prominence in the legal curriculum to adequately prepare law graduates for contemporary legal practice. The arguments raised in the two case studies are prepared by two legal academics who have expertise in the respective subject areas, namely Professor Phil Evans (who has practiced, researched and taught alternative dispute resolution for over 30 years), and Rebecca Pierluigi (who has practiced, researched and taught law for 12 years). These two case studies highlight the tension that is currently experienced in the Australian legal academy: while there is broad agreement that the prescribed legal education curriculum requires reform, consensus is still needed on what technical knowledge and skills should be covered to adequately prepare graduates for legal practice.

This teaching note concludes that reform of the regulatory framework governing Australian legal education is necessary to ensure that law graduates are adequately prepared for contemporary legal practice. In particular, the Priestley 11 prescribed areas of knowledge should be reconsidered to enable Australian law schools to develop students' knowledge and skills in ways that better reflect the demands of legal practice. Given the varied views as to the knowledge and skills that should be included, any such reform should be undertaken through a collective process informed by a genuine diversity of perspectives on the knowledge and skills necessary for legal practitioners to engage effectively in contemporary practice.

⁹ See, eg, James Duffy and Rachael Field, 'Why ADR must be a mandatory subject in the law degree: A cheat sheet for the willing and a primer for the non-believer' (2014) 25(1) *Australasian Dispute Resolution Journal* 9; Rachael Field, *Australian Dispute Resolution* (LexisNexis, 2nd ed, 2022); Rachael Field and Roy Alpana, 'A compulsory dispute resolution capstone subject: An important inclusion in a 21st century Australian law curriculum' (2017) 27(1) *Legal Education Review* 73; Maxine Evers and Lesley Townsley, 'The importance of ethics in the law curriculum: essential or incidental?' (2017) 51(1) *The Law Teacher* 17; Michael Douglas, 'Integrating private international law into the Australian law curriculum' (2020) 44(1) *Melbourne University Law Review* 98; Danielle Ireland-Piper and Nick James, 'The obligation of law schools to teach climate change law' (2021) 40(3) *University of Queensland Law Journal* 319; Irene Baghoomians, Emily Crawford and Jacqueline Mowbray, 'The teaching of public international law in Australian Law Schools: 2021 and beyond' (2022) 43(1) *Adelaide Law Review* 8; Libby Newton, 'Law school culture and curriculum: Correcting social justice drift' (2025) 50(1) *Alternative Law Journal* 1.

II PRIESTLEY 11

Being admitted as a legal practitioner in the Australian legal profession requires applicants to satisfy the academic and practical legal training prerequisites prescribed by the governing legislation of the relevant jurisdiction.¹⁰ In Western Australia, the academic prerequisite requires that applicants complete a tertiary academic course 'equivalent of at least 3 years' full-time study of law' offered by a law school accredited by the local regulatory authority, ie. the state legal practice board.¹¹ There are several requirements that a law school must satisfy for their course to be accredited by the local regulatory authority, particularly the coverage of the prescribed areas of academic knowledge.¹²

In 1992 the Consultative Committee of State and Territory Law Admitting Authorities, chaired by Justice Priestley, established the uniform admission requirements which specified 'areas of knowledge' that each applicant seeking admission must possess prior to admission.¹³ The prescribed areas of knowledge, colloquially referred to as the 'Priestley 11',¹⁴ were adopted by all admitting authorities in Australia as the academic requirements required for admission.¹⁵ The original Priestley 11 prescribed areas of knowledge were:

- Criminal Law and Procedure;
- Torts;
- Contracts;
- Property (including Torrens System Land);
- Equity (including Trusts);
- Administrative Law;
- Federal and State Constitutional Law;
- Civil Procedure;
- Evidence;
- Company Law; and
- Professional Conduct (including basic trust accounting).¹⁶

¹⁰ For example, in Western Australia by virtue of the *Legal Profession Uniform Law Application Act 2022* (WA), the regulation of the admission into the legal profession is prescribed by the *Legal Profession Uniform Law* (as enacted by the *Legal Profession Uniform Law Application Act 2014* (Vic), sch 1) and *Legal Profession Uniform Admission Rules 2015*.

¹¹ *Legal Profession Uniform Law*, s 17; *Legal Profession Uniform Admission Rules 2015*, r 5.

¹² For example, in Western Australia the specified areas of knowledge are outlined in *Legal Profession Uniform Admission Rules 2015*, sch 1.

¹³ Consultative Committee of State and Territorial Law Admitting Authorities (n 2) 5.

¹⁴ See, eg, Monahan and Liffe (n 3); Huggins (n 3); Kift and Nakano (n 3).

¹⁵ *Court Procedure Rules 2006* (ACT) r 3605; *Legal Profession Uniform Admission Rules 2015* (NSW) r 5; *Legal Profession Admission Rules 2007* (NT) r 4; *Supreme Court (Admission) Rules 2004* (Qld) r 6; *Rules of the Legal Practitioners Education and Admission Council 2018* (SA) r 7; *Legal Profession (Board of Legal Education) Rules 2010* (Tas) r 4; *Legal Profession Uniform Admission Rules 2015* (Vic) r 5.

¹⁶ Consultative Committee of State and Territorial Law Admitting Authorities (n 2) 24–5.

Included in the 1992 Consultative Committee of State and Territory Law Admitting Authorities report were topic lists grouped under each area of knowledge which applicants are expected to have 'basic understanding and competence'.¹⁷

While the Consultative Committee of State and Territory Law Admitting Authorities established the prescribed areas of knowledge and topics that need to be covered to satisfy the academic requirements for admission, it did not dictate the curriculum requirements and structure. While coverage of the areas of knowledge is required, Australian law schools have flexibility in the manner, order and depth that the areas of knowledge are to be taught and assessed.

Since the inception of the Priestley 11, there have only been minor amendments to the original prescribed areas of knowledge. In 2008, the Priestley 11 prescribed area of knowledge of 'Professional Conduct' and 'trust accounting' was amended and 'Ethics and Professional Responsibility' was inserted.¹⁸ Similarly in 2016, the prescribed area of knowledge 'Civil Procedure' was changed to 'Civil Dispute Resolution', and the description of 'Civil Dispute Resolution' and 'Evidence' was amended.¹⁹ Presently the Priestley 11 areas of knowledge specified in the Model Admission Rules are:

- Criminal Law and Procedure;
- Torts;
- Contracts;
- Property;
- Equity;
- Company Law;
- Administrative Law;
- Federal and State Constitutional Law;
- Civil Dispute Resolution;
- Evidence; and
- Ethics and Professional Responsibility.²⁰

A Arguments for Reform

Despite being largely unchanged since its inception, the Priestley 11 has drawn significant and varied criticism.²¹ However, despite the criticism of the Priestley 11, the Australian legal

¹⁷ Ibid 27.

¹⁸ Kift and Nakano (n 3) 14; Clark (n 5) 910; French (n 5) 22. Note: Trust accounting was moved from being an 'academic requirement' to a 'practical requirement' for the purposes of admission to the Australian legal profession.

¹⁹ Ibid.

²⁰ See, eg, *Legal Profession Uniform Admission Rules 2015* (WA).

²¹ See, eg, Ormsby (n 4); Johnstone and Vignaendra (n 4); Galloway, Castan and Steel (n 4).

profession has been cautious to take action.²² For example, in 2019 then Attorney-General, Christian Porter MP, observed that 'the Priestley 11 work, generally speaking, fairly well'.²³ Similarly in the same year, Kift suggested that collectively law schools 'on the whole ... are in relatively good shape' and advised that any regulatory reform should be undertaken with great care.²⁴

In 1999, the Australian Law Reform Commission after conducting a review of Priestley 11 criticised the requirements for focusing 'entirely on specifying areas of substantive law' as opposed to the legal 'professional skills and values ... [law graduates] will need to operate in a dynamic work environment'.²⁵ On the other hand, the criticism of some Australian Law Deans of the Priestley 11 is that it is 'a significant constraint on curriculum development' as the Priestley descriptors are 'too detailed and have too much in them' and 'don't give ... [law schools] much room for manoeuvre'.²⁶ The breadth and rigidity of the Priestley 11 requirements means that the law curriculum of each university is often very similar,²⁷ as the Priestley compulsory subjects often '[account] for two thirds of most law schools' LLB program'.²⁸ This restrictiveness makes it very challenging for law schools to innovate, largely limiting points of difference between law programs to the electives offered.²⁹

Another criticism of the Priestley 11 is that the prescribed areas of knowledge reflect 'insular subject areas, which are based on nineteenth and early twentieth century subject areas',³⁰ which in turn shapes students' perceptions of the practice of law and legal profession which may not be an adequate reflection of contemporary legal practice. Given the rigidity and the outdatedness of the Priestley 11 requirements, it is arguable that several areas of law are omitted from law curriculums despite the relevance and prominence of these practice areas in contemporary legal practice, for example family law, wills and probate, employment law, consumer law, environmental law, international law and taxation law. Furthermore, the authors contend that a significant omission within the Priestley 11 is that there is no specific requirement to cover the development of the law within Australia with reference to Aboriginal and Torres Strait Islander peoples. It is contended that such a requirement is

²² Note: In 2019, the Legal Admission Consultative Council reviewed the Priestley 11 prescribed areas of knowledge to update the content of the areas, but ultimately decided to defer implementing any changes. See generally, Law Admissions Consultative Committee, 'Redrafting the academic requirements for admission' *Legal Services Council* (Paper, 1999) <<https://legalservicescouncil.org.au/documents/redrafting-the-academic-requirements-for-admission.pdf>>; Law Services Council, 'Newsletter' (Web Page, 2020) <<https://legalservicescouncil.org.au/documents/publications/newsletter-september-issue3-2020.pdf>>.

²³ Jerome Doraisamy, 'A-G: Priestley 11 still work', *Lawyers Weekly* (Article, 1 July 2019) <<https://www.lawyersweekly.com.au/biglaw/25932-a-g-priestley-11-still-works>>.

²⁴ Sally Kift, 'A virtuous journey through the regulation minefield: Reflections on two decades of Australian legal education' in Ben Golder, Marina Nehme, Alex Steel and Prue Vines, 'Imperatives for Legal Education Research: Then, Now and Tomorrow' (Routledge, 2019) 159.

²⁵ Australian Law Reform Commission, 'Review of the Federal Civil Justice System' (Discussion Paper 62, 1999) <<https://www.alrc.gov.au/wp-content/uploads/2019/08/DP62.pdf>> 46.

²⁶ Johnstone and Vignaendra (n 4) 90.

²⁷ *Ibid* 91.

²⁸ *Ibid* 458.

²⁹ *Ibid* 91.

³⁰ *Ibid* 90.

necessary given how Aboriginal people were dispossessed of their land because of colonisation,³¹ and the lack of constitutional recognition is likely to affect First Nations peoples and will continue to do so following the referendum regarding the introduction of the Voice to Parliament.³²

There have been notable attempts to redraft the Priestley 11 prescribed areas of knowledge, although most attempts have been unsuccessful.³³ Most recently, in 2019 the Law Admissions Consultative Committee considered the feasibility of the academic requirements for admission to the Australian legal profession, and while the appointed steering committee recommended that Priestley 11 be revised, the Law Admissions Consultative Committee ultimately decided to defer recommendations to amend the Priestley 11 indefinitely.³⁴

Legal practice in 1992 is no longer reflective of contemporary legal practice. To adequately prepare law students to become legal practitioners, the Priestley 11 prescribed areas of knowledge need to be reformed to reflect present-day legal practice. Otherwise, Australian law schools will continue to teach to a curriculum that is 'anchored around outmoded notions of what lawyers need to know' as opposed to the 'high level professional skills and values they will need to operate in a dynamic work environment'.³⁵

B Case Example 1: Alternative Dispute Resolution

This section of this teaching note is written by and reflects the opinions of one of the three authors, Professor Phil Evans, who argues that Alternative Dispute Resolution ('ADR') should be taught with greater prominence in the legal curriculum to adequately prepare law graduates for contemporary legal practice.

Surprisingly, ADR was not originally included as a Priestley 11 prescribed area of knowledge when it was first formulated in 1992. While the 2016 Law Admissions Consultative Committee review resulted in the prescribed area of knowledge of 'civil procedure' being amended to 'civil dispute resolution' and the inclusion of 'alternative dispute resolution' as a topic in recognition of the growing prevalence of ADR, this inclusion does not adequately reflect the significant and fundamental role ADR has in contemporary legal practice. As Professor Rachael Field pointedly identified, despite the prescribed area of knowledge being changed

³¹ The authors acknowledge that the Australian land was never ceded, and it always was, and always will be the land of the Aboriginal and Torres Strait Islander people.

³² Reconciliation Australia, 'Voice to Parliament' (Web Page, 2023) <<https://www.reconciliation.org.au/support-a-voice-to-parliament/>>.

³³ Kift and Nakano (n 3) 14.

³⁴ Ibid 16.

³⁵ Australian Law Reform Commission, 'Managing Justice: A Review of the Federal Civil Justice System' (Report, 31 December 1999) <<https://www.alrc.gov.au/publication/managing-justice-a-review-of-the-federal-civil-justice-system-alrc-report-89/>> [2.21].

from 'civil procedure' to 'civil dispute resolution', the topics listed under the area of knowledge are predominantly litigation focused.³⁶

For the purposes of this teaching note, ADR refers to all processes of dispute resolution which do not involve the exercise of judicial power, such as mediation, conciliation, arbitration, expert determination and adjudication. With the growing prevalence of ADR, many Australian law academics are advocating for greater coverage of ADR within the Australian legal curriculum.³⁷

Given that ADR is not set as a Priestley 11 prescribed area of knowledge and is only a topic that requires coverage sufficient for law graduates to have a 'basic understanding and competence',³⁸ Australian law schools have adopted various approaches on how the subject area is taught in their law curriculum. For example, some Australian Law Schools have made ADR a core unit, whereas others have incorporated it as a topic within a core unit and have separately offered it as an elective unit.³⁹

The growing prevalence of ADR in Australia is evidenced by the fact that a significant number of civil disputes are being resolved by ADR or other means. For example, the District Court of Western Australia, Family Court of Western Australia, Magistrates Court of Western Australia and Children's Court of Western Australia have seen a significant decline of civil cases requiring trial as the cases have been able to be resolved by ADR or other means between 2018 and 2023.⁴⁰ While the significant decline in civil cases requiring trial cannot be attributed to ADR alone, as other means can include ordinary settlement, discontinuance and default, the Western Australian court statistics do nevertheless suggest the growing prevalence of ADR.

It is no surprise that a significant number of commercial disputes are resolved by ADR, as Megarry J acknowledged in *John v Rees* [1970] Ch 345 that when it comes to litigation there is no such thing as a strong case:

As everybody who has anything to do with the law well knows, the path of the law is strewn with examples of open and shut cases which, somehow, were not; of unanswerable charges

³⁶ Rachael Field, *Australian Dispute Resolution* (LexisNexis, 2nd ed, 2022) 24.

³⁷ See, eg, Ibid; Tom Fisher, Judy Gutman and Erika Martens, 'Why Teach Alternative Dispute Resolution to Law Students Part 2: An Empirical Survey' (2007) 17(2) *Legal Education Review* 67; Kathy Douglas, 'The Teaching of ADR in Australian Law Schools: Promoting Non-Adversarial Practice in Law' (2011) 22(1) *Australasian Dispute Resolution Journal* 157; Tania Sourdin, 'Not Teaching ADR in Law Schools? Implications for Law Students, Clients and the ADR Field' (2012) 23(3) *Australasian Dispute Resolution Journal* 148; Ben Waters, 'The importance of teaching dispute resolution in a twenty-first-century law school' (2017) 51(2) *The Law Teacher* 227.

³⁸ Consultative Committee of State and Territorial Law Admitting Authorities (n 2) 27.

³⁹ See, eg, Kathy Douglas and Lola Akin Ojelbi, 'Civil Dispute Resolution in Australia: A Content Analysis of the teaching of the topic of ADR in the core legal curriculum' (2024) 45(2) *Adelaide Law Review* 339 for a comprehensive review of how ADR is taught as a part of the core legal curriculum by Australian law schools.

⁴⁰ Statistical Summary 2018/19 to 2022/23, *Government of Western Australia Department of Justice* (Report) <<https://www.wa.gov.au/system/files/2024-06/statistical-summary-2018-2019-to-2022-2023.pdf>> 7. Between 2018 and 2023, the percent change of civil cases being finalised by trial in the District Court of Western Australia is -63%; Family Court of Western Australia is -62.5%; Magistrates Court of Western Australia is -14.2%; and Children's Court of Western Australia is -71.6%.

which, in the event, were completely answered; of inexplicable conduct which was fully explained; of fixed and unalterable determinations that, by discussion, suffered a change.⁴¹

Given that such a large proportion of civil disputes in Australia are resolved by ADR processes, greater focus should be placed on teaching law students the necessary knowledge and skills with respect to ADR. In the given circumstances, the Priestley 11 should be amended so that ADR is stipulated as a prescribed area of academic knowledge, so that ADR becomes a core unit in all Australian law school curricula.

1 *The costs of litigation*

In 1850, Abraham Lincoln, former United States of America President and American lawyer, made the following observations in his written notes for a law lecture:

Discourage litigation. Persuade your neighbours to compromise whenever you can. Point out to them how the nominal winner is often a real loser --- in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.⁴²

Over one hundred and seventy-five years on and the cost of litigation remains substantial. The growing prevalence of ADR can be attributed to the associated high costs of litigation. From a financial perspective, the costs of litigation can be disproportionate compared to the outcome.

The costs of litigation can be seen through the two recent highly publicised cases involving prominent former politicians, businesspeople, television personalities and politician staffers, as well as closures of well-established law firms.

(a) *Clive Palmer v Mark McGowan*

The highly publicised 2022 Federal Court defamation proceedings between Clive Palmer and Mark McGowan provide a striking illustration of the potential cost of litigation. The Federal Court of Australia determined that Mr Palmer was to pay Mr McGowan \$20,000 in damages, while Mr Palmer was awarded \$5,000 after both parties were found liable for defamation.⁴³ In commenting on the proceedings, Lee J observed: 'The game has not been worth the candle'.⁴⁴ His Honour noted the considerable expenditure incurred by Mr Palmer and the taxpayers of Western Australia, the resources of the Commonwealth consumed by the proceedings and the diversion of Court time from other controversies requiring judicial determination.⁴⁵ His

⁴¹ *John v Rees* [1970] Ch 345, 402.

⁴² Abraham Lincoln, 'Collected Works of Abraham Lincoln. Volume 2', *University of Michigan Library Digital Collections* (Web Page, 1 July 1850) <<https://quod.lib.umich.edu/l/lincoln/lincoln2/1:134?rgn=div1;view=fulltext>>.

⁴³ *Palmer v McGowan* (No 5) [2022] FCA 893.

⁴⁴ *Ibid* [522].

⁴⁵ *Ibid* [522]–[526].

Honour also identified the 'glaring disproportion between the damages awarded and the extent of legal expense' as relevant to the question of costs.⁴⁶

The litigation reportedly cost the State of Western Australia approximately \$2 million.⁴⁷ Mr McGowan acknowledged that this represented 'a significant amount of public money', while explaining that he had not sought or initiated the litigation and that 'the state and myself could not give in to Mr Palmer in relation to these matters'.⁴⁸

Palmer v McGowan should therefore be treated cautiously in the context of an argument for ADR. The case provides compelling evidence of the potential disproportion between the cost of litigation and the ultimate monetary outcome. It does not, however, demonstrate that mediation or another ADR process would necessarily have produced a different result. Indeed, Mr McGowan's explanation suggests that the dispute involved issues on which the parties were not prepared to compromise. The case therefore illustrates both sides of the contemporary dispute-resolution problem: litigation may be extraordinarily expensive, but ADR cannot be assumed to provide an appropriate solution where parties are unwilling to compromise or where the dispute is fundamentally concerned with matters of principle.

The significance of *Palmer v McGowan* for legal education consequently lies not in demonstrating that the parties should have mediated, but in demonstrating why a contemporary lawyer should consider the full range of dispute-resolution options before embarking upon, or continuing with, expensive litigation.

(b) *Bruce Lehrmann v Network Ten*

The litigation involving Bruce Lehrmann and Network Ten similarly illustrates the potentially substantial consequences of pursuing litigation. In the subsequent costs proceedings, the Federal Court of Australia ordered Mr Lehrmann to pay Network Ten approximately \$2 million following the failure of his defamation claim.⁴⁹ Lee J observed that the applicant was 'a man of modest means' and that there was no real likelihood that he would be able to pay a substantial costs order.⁵⁰ The proceedings had been pursued pursuant to a conditional costs arrangement under which Mr Lehrmann was not required to pay his lawyers' fees if the action was unsuccessful.⁵¹

⁴⁶ Ibid [526].

⁴⁷ Keane Bourke, *Mark McGowan reveals Clive Palmer's defamation action legal bill cost WA taxpayers more than \$2 million* (22 December 2022) ABC News <<https://www.abc.net.au/news/2022-12-22/mark-mcgowan-reveals-cost-of-clive-palmer-defamation-action/101802142>>.

⁴⁸ Ibid.

⁴⁹ *Lehrmann v Network Ten Pty Limited (Costs) (No 2)* [2024] FCA 706.

⁵⁰ Ibid [4].

⁵¹ Elizabeth Byrne, *Bruce Lehrmann's legal team made agreement not to charge him if they lost defamation action, court hears* (8 May 2024) ABC News <<https://www.abc.net.au/news/2024-05-08/bruce-lehrmann-no-fee-defamation-action/103821292>>.

Following Lee J's decision, it was widely reported that Lehrmann did not have the means to cover the cost order and will likely be forced into bankruptcy.⁵²

The consequences of the litigation were therefore significant for both parties. Mr Lehrmann faced a substantial costs liability that he was reportedly unlikely to be able to meet, while Network Ten faced uncertainty concerning its ability to recover its costs. Lee J's opening observation in the costs judgment was consequently apt: 'There are no real winners in this litigation'.⁵³

Again, however, the case should not be presented as demonstrating that ADR would necessarily have been a realistic or successful alternative. The circumstances of the dispute do not establish that mediation could have resolved the controversy, nor is there a sufficient basis to assume that either party would have been prepared to compromise. Its relevance to the present argument is narrower but nevertheless important: it demonstrates the financial risks that can accompany prolonged litigation and the importance of lawyers giving careful consideration to the likely costs and consequences of pursuing a dispute through the courts.

Taken together, *Palmer v McGowan* and *Lehrmann v Network Ten* therefore provide illustrations of the costs and consequences that may accompany rights-based litigation. They should not be understood as empirical evidence that ADR would have resolved either dispute. Rather, they illustrate the circumstances in which the question 'should this dispute be litigated?' ought to be accompanied by a second question: 'what other means of resolving this dispute should be considered?'

(c) *Dwyer Durack*

Specifically, the cost of rigid rights-based litigation, opposed to pursuing ADR options, is further evidenced by the closure of one of Western Australia's respected law firms, Dwyer Durack. Established in 1915, Dwyer Durack provided a wide range of services to diverse client groups across Western Australia for over 100 years. However, on 2 February 2014, the firm went into receivership amongst other things owing its employees \$678,000 and the Australian Taxation Office over \$700,000.⁵⁴

⁵² See, eg, Greta Stonehouse, *What the costs decision in Bruce Lehrmann's failed defamation case means for his appeal prospects and Network Ten* (11 May 2024) ABC News <<https://www.abc.net.au/news/2024-05-11/bruce-lehrmann-costs-order-can-he-appeal/103830066>>; Samantha Maiden, 'No real winners': *Bruce Lehrmann loses again in \$6 million judgment* (10 May 2024) The Weekly Times <<https://www.weeklytimesnow.com.au/news/national/bruce-lehrmann-to-learn-how-much-he-has-to-pay-after-failed-defamation-case/news-story/d85754fd689c37bae1bbc8a409868242>>.

⁵³ *Lehrmann v Network Ten Pty Limited (Costs)* [2024] FCA 486, [1].

⁵⁴ Neale Prior, *Perth law firm Dwyer Durack set to shut after 108 years* (25 January 2024) The West Australian <<https://thewest.com.au/news/court-justice/perth-law-firm-dwyer-durack-set-to-shut-after-108-years-c-13339940>>; Matt McKenzie, *Century-old Terrace law firm Dwyer Durack looks set for liquidation after cash squeeze* (6 June 2024) The West Australian <<https://thewest.com.au/business/administration-and-liquidation/century-old-terrace-law-firm-dwyer-durack-looks-set-for-liquidation-after-cash-squeeze-c-14930724>>.

Explaining the reason for the closure of Dwyer Durack, a report filed with the Australian Securities and Investments Commission indicated that the firm had struggled to manage working capital because its 'biggest division was running highly complex cases, under way for considerable time before resolution and payment'.⁵⁵ It would appear that the closure of Dwyer Durack is an example of where the cost of litigation (to both the client and the firm) is not adequately prioritised over pursuing litigation.

2 *Legal problem-solving methodology: IRAC*

Despite a significant portion of civil disputes being resolved by ADR or other means, legal education in Australia still places notable teaching focus on assessing the likelihood of success of a cause of action and whether litigation should be pursued. For example, a core aspect of legal teaching in Australian law schools involves teaching students to engage in legal problem-solving by applying the acronym IRAC. The IRAC methodology is often associated with 'legal reasoning' and 'thinking like a lawyer',⁵⁶ and is usually taught very early in law school. In applying the IRAC methodology, students are required to:

- I Identify the legal **issues**
- R Identify and explain the **relevant law**
- A **Apply** the law to the facts of the problem scenario
- C Reach a reasoned **conclusion**

Notably, the IRAC methodology does not actively require students to consider ADR approaches to resolve legal issues.

Despite the IRAC methodology being first cited over 50 years ago,⁵⁷ it remains prominent in contemporary Australian legal education as it has been acknowledged as 'formalistic techniques such as IRAC are useful for students new to the study of law'⁵⁸ as it offers a 'technical rational approach to thinking and problem-solving'⁵⁹ in a legal context.

The IRAC methodology is not without its criticisms. Key criticisms of the methodology are that it is too 'formalistic' and oversimplifies legal reasoning and distorts the complex nature of legal problems.⁶⁰ Further, given that the IRAC methodology was premised on an adversarial and confrontational approach (which results in winners and losers) it is often applied rigidly and inflexibly without considering alternative options to litigation.

⁵⁵ McKenzie (n 54).

⁵⁶ Kelley Burton, "'Think Like a Lawyer": Using a Legal Reasoning Grid and Criterion-Referenced Assessment Rubric on IRAC (Issue, Rule, Application, Conclusion)' (2017) 10(2) *Journal of Learning Design* 57, 59.

⁵⁷ Ibid citing Norman Brand and John White, *Legal writing: The strategy of persuasion* (St Martin's Press, 1976).

⁵⁸ Nick James, 'Logical, critical and creative: Teaching 'thinking skills' to law students' (2012) 12(1) *Queensland University of Technology Law & Justice* 66, 77.

⁵⁹ Rachael Field, James Duffy and Anna Huggins, *Lawyering and positive professional identities* (LexisNexis, 2014) 203.

⁶⁰ Ibid 204.

Until there is reform of the Priestley 11, a practical teaching method for Australian law academics to bring ADR to the forefront of their students' minds is to incorporate 'O' at the end of the IRAC acronym and methodology representing 'alternative **options** to litigation'. By having law students consider alternative options to litigation when applying the IRAC methodology, ADR will be introduced to students early in their studies and will be considered when answering problem questions in most law units, regardless of subject area. Thereby adequately preparing law students for legal practice by having them practically consider options to resolve disputes.

C Case Example 2: Legal Philosophy

This section of this teaching note is written by and reflects the opinions of one of the three authors, Rebecca Pierluigi, who argues that legal philosophy should be taught with greater prominence in the legal curriculum to adequately prepare law graduates for contemporary legal practice.

In 1956, Oxford University awarded former United States of America president Harry Truman an honorary doctorate in Civil Law.⁶¹ Although the academic community largely supported this decision, it was not without its opponents. One philosopher, Elizabeth Anscombe, publicly opposed this award because: 'choosing to kill the innocent as a means to your end is always murder.'⁶² She was referring to Truman's involvement in the August 1945 decision to drop atomic bombs on Hiroshima and Nagasaki. The civilians of these cities were largely unarmed and unprepared for the attacks that devastated the region and ended the war in the Pacific. Ironically, Truman's involvement in this decision is now a point of contention, and many historians agree that it was unlikely he made a positive 'decision' to drop these bombs.⁶³ However, at the time, this was the established view and yet Anscombe was largely alone in her opposition.⁶⁴ Matthew Beard asked himself whether he had the courage and 'sense of self' to stand against colleagues and institutions larger than himself. He concluded that he likely does not.⁶⁵ It is worth asking whether lawyers, particularly law graduates, are equipped to tackle similar ethical problems, or if they too would choose conformity over conscience?

1 *Ethics and the Practice of Law*

The practice of law is heavily regulated. Each jurisdiction in Australia has either adopted the *Uniform Australian Solicitor's Conduct Rules* and the *Legal Profession Uniform Conduct*

⁶¹ Honorary doctorates are awarded by the University of Oxford in circumstances where the person has, amongst other eligibility criteria, 'played a distinguished role in public life, for example in contributing to progress and change in society.': University of Oxford, *Honorary Degrees and degrees by diploma* University of Oxford: Governance and Planning (Web Page) <<https://governance.admin.ox.ac.uk/committee-on-honorary-degrees>>.

⁶² Gertrude Elizabeth Margaret Anscombe, *Mr. Truman's Degree* (Oxonian Press, 1958) 66.

⁶³ Alex Wellerstein, 'The Kyoto Misconception: What Truman Knew, and Didn't Know, About Hiroshima' in Michael D. Gordin and G. John Ikenberry (eds), *The Age of Hiroshima* (Princeton University Press, 2020) 34.

⁶⁴ Matthew Beard, 'A Sense of Oneself', *NewPhilosopher* (Article, 2023) <<https://www.newphilosopher.com/>> 87.

⁶⁵ *Ibid* 87.

(*Barrister*) Rules or has its own variation. These are strictly enforced by the jurisdiction's Legal Practice Board, Law Institute or Legal Services Commission.

These rules are generally expressed as limitations, and this has received some commentary and criticism.⁶⁶ Nonetheless, the prescriptive nature of the rules can be helpful for lawyers facing ethical dilemmas but is arguably not enough in isolation. The practice of law is morally and ethically convoluted.

In February 2024, the New South Wales Court of Criminal Appeal held that before 1984, s 81 of the *Crimes Act 1900* (NSW) did not apply to female offending against male victims.⁶⁷ The matter of *Lam v R* [2024] NSWCCA 6 involved allegations of historic sexual assault committed in 1976 by a female high school teacher against male students.⁶⁸ The accused's legal practitioners made an application to the court for a demurrer on the basis that their client was not male. This was a legally sound and ultimately successful application, but one that could have only been comfortably made by practitioners who were cognisant of their role in the legal system and how that role is reflective of the community's moral and ethical standards.

The practice of law is not gentle on the conscience, and the dilemma faced by the legal representatives in *Lam v R* is not new. In 1820, Lord Brougham defended Queen Caroline in the House of Lords against charges of adultery brought under the Bill of Pains and Penalties 1820. He commented on his role in the matter as follows:

An advocate in the discharge of this duty knows but one person in all the world and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and among them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction which he may bring upon others.⁶⁹

Brougham, in undertaking such defence work, demonstrates a central moral or philosophical understanding of the importance of his role in the judicial system. It could be said that Brougham, like Anscombe, had a strong sense of self.

2 *The Point of Difference*

A philosophical understanding improves the legal profession not only for those accessing the profession but also for those working within it.

⁶⁶ See, eg, Justice Craig Colvin, 'Virtue, Honour and Ethics: Problems with a Deontological Perspective on Ethical Responsibilities of Lawyers' (Paper presented at the Western Australian Bar Association Spring CPD, Perth, 20 October 2020) 1-2. Justice Colvin has argued that 'legal ethics should be concerned in a more fundamental way with moral character' than merely on policing the actions of lawyers and suggested that there is, 'merit in adopting a view of legal ethics that encourages particular character traits or virtues amongst lawyers'.

⁶⁷ *Lam v R* [2024] NSWCCA 6, [2].

⁶⁸ *Ibid.*

⁶⁹ Charles Fried, 'The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation' (1976) 85(8) *The Yale Law Journal* 1060, 1060.

Members of the legal profession still experience sexual harassment and discrimination. The 2019 discussion paper released by the Women's Legal Services Victoria suggests that the legal profession is still a 'boys club' despite women now comprising 55.7% of law school graduates.⁷⁰ Lawyers are also more likely to experience imposter syndrome and mental health concerns (including anxiety and depression).⁷¹ Philosophical teachings such as Stoicism, self-awareness and legal positivism could improve the professional culture and accessibility to the Australian legal profession. Lawyers who understand the teachings of Stoics may find losing an argument more palatable (and by extension may behave differently towards colleagues in pursuit of that argument).⁷² Like Anscombe, lawyers who have a strong sense of moral awareness may have the courage to call out harassing or discriminatory behaviour, even if that behaviour is the dominant culture of their firm.⁷³ An understanding of legal positivism may help lawyers distinguish legal validity from moral approval, while virtue ethics cultivates the courage and practical wisdom required to perform an institutionally important role when a legally successful outcome may be viewed as morally and socially reprehensible (as in the case of *Lam v R*).⁷⁴

An understanding and practice of philosophy could provide graduate lawyers with the courage they need to practice law ethically. Patrick Schiltz commented on the ethical conduct of lawyers in his paper *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy and Unethical Profession*. He explained the descent into unethical behaviour as follows:

Unethical lawyers do not start out being unethical; they start out...as perfectly decent young men or women who have every intention of practicing law ethically. They do not become unethical overnight; they become unethical...a little bit at a time...by cutting a corner here, by stretching the truth a little bit there...It will start with your time sheets...And then you will pad more and more...A deadline will come up one day...and you will not be able to meet it. So you will call your senior partner of your client and make up a white lie for why you missed the

⁷⁰ Emma Musgrave, 'Sexism, harassment and 'boys club' still rife in legal profession', *Lawyers Weekly* (Article, 1 May 2019) <<https://www.lawyersweekly.com.au/biglaw/25547-sexism-harassment-and-boys-club-still-rife-in-legal-profession>>; and College of Law, 'The State of Gender Equity in the Australian Legal Profession' *College of Law* (Web Page, 21 November 2022) <<https://www.collaw.edu.au/news/2022/11/16/gender-inequality-in-legal-profession>>.

⁷¹ See, eg, Emma Heuston, 'How to get over imposter syndrome', *LSJ Online* (Web Page, 13 May 2019) <<https://lsj.com.au/articles/get-over-imposter-syndrome/>>; Kate Allman, 'The burnout profession', *LSJ Online* (Web Page, 27 May 2019) <<https://lsj.com.au/articles/the-burnout-profession/>>.

⁷² See, eg, Christine Watson, Peter Case, Josephine Pryce, Carol Jarvis and Wendelin Küpers, 'Neo-Stoicism and Complex Social-ecological Systems: Ethical Practices in Contemporary Workplaces' (2026) 22 *Philosophy of Management* 111.

⁷³ See, eg, Rachael D Goodwin, Jesse Graham and Kristina A Diekmann, 'Good Intentions Aren't Enough: Moral Courage in Opposing Sexual Harassment' (2020) 86 *Journal of Experimental Social Psychology* 103894; and Kristan Stampe Nielsen, Maj Hansen and Eva Gemzøe Mikkelsen, 'Bystander interventions against gender-based violence and harassment in the workplace: a scoping review' (2025) 16 *Frontiers in Psychology* 1570812.

⁷⁴ See, eg, W Bradley Wendel, 'Legal Ethics and the Separation of Law and Morals' (2005) 91 *Cornell Law Review* 67; Mark L Jones, 'Developing Virtue & Practical Wisdom' (2019) 68 *Mercer Law Review* 537; and Patrick Emery Longan, Daisy Hurst Floyd and Timothy W Floyd, 'A Virtue Ethics Approach to Professional Identity: Lessons for the First Year and Beyond' (2021) 89 *UMKC Law Review* 645.

deadline...None of these things will seem like a big deal in itself...But, after a while, your entire frame of reference will change.⁷⁵

Lawyers, especially impressionable law graduates, must be given the tools they need to navigate the ethical and moral complexities of legal practice.

3 *The Role of Law Schools*

Law schools are already required to teach the profession's rules as part of the Priestley 11. A professional responsibility unit may incorporate some exploration of moral decision-making, although the unit is likely limited in this regard, given the substantive content that must be covered.⁷⁶ It is likely, given the practical (time) constraints, that a 'carrot-and-stick' teaching method may be deployed for this unit; if a lawyer acts honestly, they are permitted to keep their practising certificate (carrot), if they do not act honestly, then they will be struck from the roll of practitioners (stick). It is arguably an effective way to impose on students the gravity and importance of ethical practice. However, it does not necessarily produce lawyers who are honest in the deontological sense. Instead, it will likely produce lawyers who know they are required to act honestly. The extent to which this serves the legal profession is questionable, as 'a virtuous person will be ethical irrespective of rules or consequences.'⁷⁷

Philosophy teaches critical thinking and provides students with methods of debate, argument and collaboration with others. These skills have always been relevant to the practice of law but are of particular import in our post-truth era.⁷⁸ In an era where truth is ascertained from an emotional response to a statement, students benefit from the teachings of philosophers like John Stuart Mill, who wrote:

He who knows only his own side of the case, knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side; if he does not so much as know what they are, he has no ground for preferring either opinion.⁷⁹

It is central, particularly in advocacy, to have the intellectual capacity to understand and even sympathise with both sides of a case – philosophy teaches this critical thinking skill.

An understanding of philosophy, of right and wrong, assists junior lawyers in determining the quality of a law firm and, by extension, in finding an appropriate mentor or, to use Aristotle's term, exemplar. As described above by Schiltz, the malleability, particularly of graduate lawyers, makes the securing of an exemplar even more important to that legal

⁷⁵ Patrick J Schiltz, 'On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy and Unethical Profession' (1999) 52 *Vanderbilt Law Review* 871, 916–18.

⁷⁶ Colvin (n 66) 5.

⁷⁷ Ibid 7.

⁷⁸ Andrew Calcutt, 'The surprising origins of 'post-truth' – and how it was spawned by the liberal left', *The Conversation* (Article, 18 November 2016) <<https://theconversation.com/the-surprising-origins-of-post-truth-and-how-it-was-spawned-by-the-liberal-left-68929>>.

⁷⁹ John Stuart Mill, *On Liberty* (Cambridge University Press, first published 1859, 2012) 67.

practitioner's successful career. Some law schools (for example, the University of Sydney) have embraced this and made the completion of at least one jurisprudential unit mandatory. This should be broadly adopted, and all law schools should reserve at least one elective unit for philosophical and jurisprudential study.

In returning to the initial dilemma posed in this case example, law students who study philosophy would understand that Truman's ethical decision to launch a nuclear attack on Japan in 1945 had a teleological basis. The idea that the end justified the means – those opposing Anscombe could argue that Truman made a difficult decision that ended the war in the Pacific early and so saved lives (or at least saved American lives). An understanding of philosophy develops the moral and analytical capacities lawyers need. In morally compromising positions (like representing a guilty client), a practitioner must recognise the extent of their personal moral autonomy and the significant service they provide to society in undertaking such work. The ability to understand and engage with both sides of a case, as Mill contends, fosters more fulsome reasoning, which ultimately serves the individual lawyer's mental health and professional well-being.

The line we draw between our personal ethics and the ethical and moral importance of our role in the administration of justice is convoluted. Individual practitioners need to be equipped with the philosophical toolbelt necessary to chart their legal career.⁸⁰ As Justice Colvin reasoned, lawyers 'need to have a philosophical perspective on what they are doing and how it should be done. *Only then will they have the skeletal integrity, the backbone required to undertake the task*'.⁸¹

III CONCLUSION

Like all facets of life, legal practice in Australia has experienced substantial changes in the last 30 years, and with it what it means to be a lawyer. The deeper problem with the Priestley 11 is not simply that it omits subjects, but that it encodes an ageing conception of the lawyer: adversarial, litigation-centred and technically rational. Viewed through 2026 spectacles, to borrow Lord Denning's metaphor, the 1992 requirements prepare graduates for a narrower profession than the one they will now enter. If Australian law schools and academics are to prepare law students for the realities of legal practice, reform to the Priestley 11 is necessary.

The two case studies in this teaching note converge on precisely this point. The argument for alternative dispute resolution is, at its foundations, an argument that the lawyer's role is as much to resolve disputes as to litigate them. The argument for legal philosophy is that the conduct rules can produce compliance but not character, and it is good character that ethical

⁸⁰ See, eg, *Dyczynski v Gibson* [2020] FCAFC 120, [217]–[220].

⁸¹ Colvin (n 66) 5 (emphasis added).

practice depends on. Both call for a broader conception of what a lawyer is, and of the knowledge, skills and dispositions that contemporary practice demands.

Precisely because reformers tend to advocate for their own fields, a tendency these two case studies openly reflect, the broader conception of a lawyer cannot be arrived at by piecemeal additions. Reform of the academic requirements for admission to legal practice in Australia is on the horizon.⁸² What it requires is extensive consultation across the legal academy to identify the core competencies graduates genuinely need, so that the next iteration of the prescribed requirements equips and empowers Australian law schools to prepare students for a sustained and principled career in law.

⁸² See, eg, 'Proposed revisions to accreditation standards for Australian law courses' *Law Council of Australia* (Web Page, 2 April 2026) <<https://lawcouncil.au/media/news/proposed-revisions-to-accreditation-standards-for-australian-law-courses>>.