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TEACHING NOTE
Evaluating a Change to
Seminar-Style Teaching

Kirsten Anker, Catherine Dauvergne,** Mark Findlay[†] and Jenni Millbank^{††}*

Introduction

While the use of small to medium-sized seminar-style groups has long been a feature of some Australian law faculties, such as the University of New South Wales, it is a recent innovation in others, including the University of Western Australia and the University of Adelaide. In March 1996 the Faculty of Law at the University of Sydney made a decision to move from a traditional lecture and tutorial structure to seminar-style classes of limited size.¹ This article discusses the reasons for the move away from a traditional lecture/tutorial format to an interactive seminar-style model of teaching. The paper explains the 1999 review of the new model and presents highlights of the review.² It provides an opportunity to reflect on both the shift in teaching paradigm and the means of assessing such broad-based program shifts. At the

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1 The motion was carried in a Faculty Meeting by 44 to 3.

2 A full report of the review is available from the Faculty of Law of the University of Sydney on request. See K Anker, C Dauvergne, M Findlay and J Millbank, *1999 Faculty of Law Teaching Audit Final Report*. This paper presents many issues raised in the report, but does not attempt to summarise it, nor does it dwell on matters of relevance only to an internal faculty audience. The 1999 Faculty of Law First Year Teaching Audit was made possible by funding through a University of Sydney Vice Chancellor's Award for Teaching Excellence. The University of Sydney College of Humanities and Social Sciences provided additional funding. The funding from both of these sources made it possible to conduct an intensive research effort. We greatly appreciate this support and recognise that it provides a rare opportunity for this type of work. Thanks also to more than 25 members of staff, and many students, who took the time to participate in interviews, focus groups and surveys.

time the review was completed the model had been in operation for three years.

We sought to examine how the model was working in practice, how it was being received by staff and students, the problems and concerns that were arising from it, and the solutions that could be directed to those issues at both a micro and macro level. Concerns at a micro level focused upon the actual teaching and learning environment in each classroom through the use of the new model. At a macro level, issues of concern revolved around the implications of the use of the model for the delivery of courses and the program as a whole. Specifically, these included the implications of increased specialisation, with varied course content and assessment, upon the coordination of the degree program as a whole.

In this paper we examine these various concerns in turn and note some of the recommendations which the audit produced to deal with these issues. Our aim is to explain and explore the challenges posed by a transition from a lecture/tutorial model to interactive medium sized seminar-style groups. We argue that the change to seminar-style teaching is a positive step, but that considerable energy and resources must be invested to change the culture of teaching and learning in order to make the transition a successful one. In addition, an evaluation of any change in teaching model is an essential step in ensuring the on-going success of the new model, in building support for a new teaching culture, and in fine-tuning the inevitable hiccups of such a change.

A New Model for an Old Faculty

The Faculty vote to adopt what was termed "seminar-style" (small-medium group) teaching followed a long process of curriculum review. In 1995 a Discussion Paper indicated that major issues for the Faculty included a desire to integrate skills and substantive knowledge within units, and to build up a synergy between all aspects of a unit – information, teaching methods, materials and assessment. Rather than trying to cover all theoretical and skills aspects in each unit, specialisation of approaches in different units was also sought. It was in part these aims that pointed to the need for a teaching model which would allow for greater experiential learning than the traditional lecture/tutorial model.

These recommendations arose out of a perception that the Faculty goals and methods were not necessarily in synchronisation. The statement of goals for the Law School is:

The University of Sydney Law School should seek to produce Bachelors of Laws graduates who are legally imaginative and creative, with a high level of critical and analytical ability, historically and socially perceptive, as well as being competent technical lawyers. The graduates should leave this Law School with a well-rounded and broad grasp of the law and the necessary knowledge to satisfy requirements for entering legal practice. They should be able to see the law in its social context and have the skills to respond to and direct change in law and society where necessary. The graduates should have a sense of professional responsibility and a sensitivity to the human element in legal problems. The emphasis in legal education should be on producing graduates who can question and challenge, and who can also apply their legal skills to the increasingly varied environments in which the law is developing. Knowledge of law and thinking about law should be combined into an integrated teaching of the law. An evaluation of existing law should be part of this process.

While knowledge of rules and legal reasoning is an element in these goals, they contain far more emphasis on diffuse skills such as sensitivity, perception, adaptability, creativity and responsibility, learning to see law in a broad context, and learning to think independently and analytically. The Introduction to the Faculty Handbook also adds that the degree program aims to develop communication skills through “written assignments, mootings, tutorials, seminars and class participation assessment”.³

The Curriculum Review Report to Faculty in 1995 argued that:

It makes no sense to employ teaching methods and assessment methods that contradict – to teach research skills through lectures alone and then assess by closed-book examination.⁴

³ University of Sydney, *Faculty of Law Handbook* (Sydney: 1999) 3.

⁴ Teaching & Curriculum Committee, Curriculum Review Report, para 3.34, in University of Sydney, Faculty of Law, *Faculty Minutes*, 13 June 1995, at 43.

This view was supported by educational theory and recent literature on legal education in Australia. Experiential learning assists in the development of cognitive knowledge, and the situation in which learning takes place is also integral to the knowledge that is developed.⁵ Knowing, it is argued, can not actually be separated from doing. Johnstone describes the development of this kind of situated knowledge as a “cognitive apprenticeship”, where students learn to use the tools of legal culture through the modelling of authentic activity and then conscious participation in that culture.⁶ The teacher’s role is to make explicit their own tacit knowledge of meaning and purpose within the discipline so that students then have access “to the standpoint that allows the practitioner to act in a meaningful and purposeful way”.⁷ The legal knowledge students gain is integral to the skills used to exercise that knowledge.

If students learn by doing, then in the traditional lecture format learning is largely limited to listening, note-taking, bulk reading and summarising, and verbatim regurgitation of information in an exam (particularly when it is readily admitted by students that “knowledge” gained in this way is often not retained in the long term).⁸ The Pearce Report’s call in 1987 for more practice and more “experiential learning” in legal education⁹ is also supported by the contention that in the rapidly changing legal domain, specific subject knowledge is becoming less valuable to the practitioner, since “that knowledge can only be a tiny portion of the whole, can be understood only superficially ... is rarely needed in practice in the form it is learnt [and] is of little use when new problems arise to be solved”.¹⁰ It is, rather,

5 M Le Brun, *Law at Griffith University: The First Year of Study* (1992) 1 *GLR* 15, at 19.

6 R Johnstone, *Rethinking the Teaching of Law* (1992) 3 *Legal Educ Rev* 17, at 40.

7 Le Brun, *supra* note 5, at 20.

8 71% of students surveyed at QUT thought the main reason for lack of memory of a subject was either due to “exams which simply require you to rote learn rules and cases which are then easily forgotten within a relatively short space of time after the exam” or “large volume of content covered makes it impossible to remember”. See N Rogers, *Improving the Quality of Learning in Law Schools by Improving Student Assessment* (1993) 4 *Legal Educ Rev* 113, at 131.

9 See D Pearce et al, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (Canberra: AGPS, Canberra, 1987).

10 P Wesley-Smith in F Martin, *The Integration of Legal Skills into the Curriculum of the Undergraduate Law Degree: The Queensland University of Technology Perspective* (1995) 13 *JPLE* 45, at 48.

the cognitive and affective skills and teaching students “how to fish” which are transferable to new situations and will enable them to become flexible, life long learners.¹¹

Extrapolating back from the work that lawyers do produces a vast list of abilities ranging from knowledge, application, synthesis and analysis of legal rules; information gathering and research; problem identification and solving; communication and persuasive argument in speech and in writing; drafting of legal documents such as contracts; to dispute resolution, negotiation, interviewing clients and examining witnesses; methods of managing and planning for social change; leadership and team-work skills; managing time and resources; using information technology; and the ability to learn from experience.¹² Many commentators now also stress the non “litigation-oriented functions”¹³ of the lawyer which should inform the exercise of the above skills and be developed alongside them, such as client empathy, open-mindedness and a willingness to accept other cultures and view-points; the identification of ethical dilemmas and potential responses to them; and a recognition of the social responsibility of lawyers. Although adoption of values is essentially a personal process, students can be encouraged to explore implicit and explicit ideologies in the law, and to reflect on “how lawyers think”.¹⁴ The repeated incorporation of such reflective practices can make ethical considerations “reflexive and subconscious” as well as “more defensible by being systematised orally and in writing thereby finding organisational and historical roots”.¹⁵

These abilities may be broken down into categories, such as cognitive and skills objectives and objectives relating to values and motivation,¹⁶ or cognitive/experiential and

11 N Gold, Are Skills Really Frills? (1993) 11 *JPLE* 1, at 1.

12 For some taxonomies of the objectives of legal education, see J Wade, Legal Skills Training: Some Thoughts on Terminology and On-going Challenges (1994) 5 *Legal Educ Rev* 173, at 175-77; S Kift, Lawyering Skills: Finding Their Place in Legal Education (1997) 8 *Legal Educ Rev* 43, at 50-51; Nancy Schultz, How Do Lawyers Really Think? (1992) 42 *Journal of Legal Education* 57, at 59-62; R Hyams, The Teaching of Skills: Rebuilding — Not Just Tinkering Around the Edges (1995) 13 *JPLE* 63, at 66-67; and Johnstone, *supra* note 6, at 23-28.

13 C Menkel-Meadow, Narrowing the Gap by Narrowing the Field: What’s Missing From the McCrate Report — Of Skills, Legal Science and Being a Human Being (1994) 69 *Wash L Rev* 593, at 605.

14 Johnstone, *supra* note 6, at 26.

15 Wade, *supra* note 12, at 179.

16 Johnstone, *supra* note 6, at 22-28.

17 Menkel-Meadow, *supra* note 13, at 623.

affective/normative learning with technical competence.¹⁷ When this is done, it becomes clear that the generic goals for educating lawyers are in fact the same as the “ideals of a good University education” – the liberal education of the whole person.¹⁸ Wade argues that any form of cognitive learning requires the exercise of some type of skill, even if it is at the most basic level: “the activity of training memory by strategies, pneumonics, behavioural modification (rewards with exercise, chocolate and television) and above all, repetition”.¹⁹ This is to say that legal education has always taught “skills”, so the question is not whether skills should be taught, but what skills fulfil the educational objectives of our law school.

Student interaction in class discussion has radical implications in shifting the focus away from teachers as authoritative transmitters of meaning, to students as constructors of meaning. The inclusion of different voices in the classroom, different experiences and different perspectives undermines the idea that law is an internally coherent, independent body of rules, and demonstrates instead that law itself is a continual process of constituting meaning.

If student participation in discussion can help produce a degree of critical reflection necessary to put law into a wider theoretical context, then experiential exercises can provide the complementary context of law in operation. Not only can practical exercises demonstrate the uses to which law can be put and consequently make it more meaningful,²⁰ they can highlight the complexities of law in operation in a way that is more effective than being told, for instance, that the outcome of a contract negotiation can very much depend on the personalities and bargaining power of the parties.²¹ In addition, Collins, Brown and Newman note that “learning in multiple contexts induces the abstraction of knowledge [and that this] unbinding of knowledge from a particular context fosters its transfer to new problems and new domains”,²² thus allowing students to be adaptable to different working contexts. As experiential learning is a

18 Carter in Kift, *supra* note 12, at 49.

19 Wade, *supra* note 12, at 178.

20 S Kift and G Airo-Farulla, Throwing Students in the Deep End or Teaching Them How to Swim? Developing “Offices” as a Technique of Law Teaching (1995) 6 *Legal Educ Rev* 53, at 57.

21 J Lipton, Role-Playing Exercises in First Year Legal Process Classes (1998) 16 *JPLE* 97, at 110.

22 In Kift and Airo-Farulla, *supra* note 20, at 57.

holistic integration of experience, perception, cognition and behaviour, what is important in maximising the benefit to students of this cycle is the “links between the doing and the thinking” stages.²³

The literature on adult learning and the objectives of legal education indicate that a good learning environment in law should include:

- high levels of student activity
- student discussion to allow an engagement in the construction of knowledge and legal discourse
- tasks which are of clear, practical and career-related relevance to increase motivation
- activities which are as close to the authentic situation as possible to help to enculturate students
- a variety of contexts in which knowledge is applied
- a variety of teaching methods which accommodate and foster different learning styles
- a degree of student choice
- opportunities for students to direct their own learning, activities which foster communication skills and the ability to work as a team
- maximum opportunities for providing feedback.

There is nothing which prescribes the seminar method as the only model for teaching law. The thrust of educational research is, as Biggs stresses, not to advocate “the adoption of particular techniques and methods, but to reflect on teaching”,²⁴ and to consider what the teaching goals might be and what methods might best achieve the desired learning outcomes.²⁵ Johnstone comments on the importance of variety in teaching methods and assessment, not only to avoid favouring some learning styles above others, but also to challenge students to develop different learning styles “so that students develop all-round learning, problem-solving and decision-making skills”.²⁶

Some examples of teaching models and techniques which have been implemented in law schools around Australia indicate a variety of ways in which these issues can be

23 Kift, *supra* note 12, at 62.

24 J Biggs, Teaching for Better Learning (1991) 2 *Legal Educ Rev* 133, at 145.

25 A Black, Student Perceptions of Teaching Methods: An Analysis of How Perceptions can Impact upon the Learning Process (1996) 14 *JPLE* 203, at 223.

26 R Johnstone, Rethinking the Teaching of Law (1992) 3 *Legal Educ Rev* 17, at 32.

addressed. Skills teaching through experiential learning takes places in integrated programs at the University of Western Sydney, Queensland University of Technology and Monash University. Monash has used role-playing exercises to teach elements of their first year Legal Process Course (such as Dispute Resolution and Federal Constitutional Law and History).²⁷ The first year course at Griffith University is structured to have a combination of large and small group classes as well as teacherless “offices” which utilise situated and student-directed learning.²⁸ And the University of NSW has long encouraged interactive learning through seminar-style teaching. More recently, the University of Western Australia and Adelaide University have also changed part of their program to seminar style teaching.

The adoption of the seminar method does not guarantee that most or even many of the above elements will be incorporated into the classroom environment. It does, however, provide a space that is much more amenable to student participation, to student/instructor and student/student interaction, and which can be used to encourage variety and experimentation in method and assessment. In addition, it is helping to change the culture of teaching and learning in the law school by initiating reflection on what the process is all about, what we want to achieve, and how we can improve students’ learning in law.

An internal impetus for change within the Faculty was the feeling that there was an urgent need to improve the quality of the teaching and learning experience of both staff and students. Course Evaluation Questionnaire ratings over previous years had placed Sydney very low, and student feedback for compulsory courses indicated a negative student response to large lectures with low levels of student participation, particularly for classes where student numbers were often upwards of 200. Yet those staff who were receiving poor feedback for these large groups would often get excellent feedback when they taught smaller optional groups. Anecdotal evidence was also received about —

the alienation of ... Law students, the inability of even ... top honours graduates to find members of staff who [were] sufficiently familiar with their work to serve as referees, and the perception that [the] main competitors

27 Lipton, *supra* note 21.

28 See Kift and Airo-Farulla, *supra* note 20.

29 “Restructuring Teaching at the Law School: From Lectures and Tutorials to the Seminar Method”, Teaching and Curriculum Committee Report to Faculty, 12 March 1996, at 14.

for prospective students [were] much more concerned with teaching and student welfare.²⁹

These factors indicated that a change in culture at the Law Faculty was imperative. Limiting group size and adopting a seminar model was decided upon as a means of providing a catalyst for this process. This arrangement was intended to give staff heightened responsibility for their class and encourage them to try a variety of approaches in the use of theory, method and assessment, thus exposing students to a range of learning experiences and the likelihood of greater enthusiasm from the instructor. The previous arrangement, where one or two instructors “set” the course and dictated its content through lectures followed by tutorials, was abandoned.³⁰

The decision to limit undergraduate compulsory units to 40 (30 or less in the first year subjects) and to increase teaching hours to a standard of eight hours per week was seen by those Faculty members responsible for managing the change as the most practical option that would make a seminar model work with the resources available. At around the time this shift was being contemplated (1996) a change in Federal Government brought about funding cuts to tertiary education resulting in an effective loss of one-third of the Law School budget. However, the University was simultaneously persuaded by the Faculty to change the internal distribution of funding to incorporate changes in teaching delivery. This change to the funding model meant that the Law School was able to maintain approximately the same level of resources.

Essentially the change in teaching paradigm was achieved through the impetus of the Dean, the Head of Department, and the Teaching and Curriculum Committee. It was pursued for three main reasons: the evidence of negative feedback about the LLB program at Sydney Law Faculty from both staff and students; the belief that the teaching model and methods used at the Faculty were not those that optimised a productive teaching and learning environment; and lastly, that the move to a new interactive model to address these issues was supported in spirit and in funding by the University.

30 With the exception of the first year courses, which adhered to a common course policy.

The Teaching Audit Project

The new model has been in operation since 1997. In 1999 our review of how this model was working in practice was funded by a research grant from the Vice-Chancellor's Fund for Teaching Excellence and Innovation. The aim of the "Teaching Audit project" was to review the adoption of a seminar-style ("small") group teaching model by the Faculty of Law, and to investigate the delivery of the initial law program as a whole. Because of the particular impact of the new model on compulsory, early year units,³¹ and the needs of students in these years, we decided to limit the scope of the audit to the subjects that students would normally take in their first year in the graduate LLB program, or in their first three years of a combined law degree.³²

The general aims of the audit were to take stock of the opportunities provided by seminar-style teaching, identify when and how generic skills were being taught, and to reflect on how the discrete units fitted together to constitute our degree program. Through listening to the concerns of teachers and students and examining existing statements of goals and aspirations at the level of unit, faculty and university, we aimed to:

- harmonise our teaching objectives
- facilitate communication within the Faculty
- rationalise our use of scarce teaching resources
- identify areas of concern for students and teachers
- make the audit information work for us in future years.

An intended outcome of the project was to gather information about the implementation of "small" group teaching and make recommendations to the Faculty which would further our educational objectives within the chosen teaching model. The data gathering process included examining University and Faculty policy documents on teaching and learning issues, and discussion papers, reports and other information within the Faculty (including the collation of course outlines, assessment regimes, and assessment criteria). It also included a review of both legal and general

31 Many optional subjects and some later year units were already taught in seminars prior to the 1997 shift to seminar-style teaching.

32 The project therefore covered the subjects Legal Institutions; Law, Lawyers and Justice; Contract Law; Criminal Law; Federal Constitutional Law; and Tort Law, together with Legal Research and Legal Writing. The University of Sydney does not offer an "uncombined" LLB to school leavers.

educational literature. Once this process was completed the research focused upon staff and student experience and expectations of the new model.

We sought student views through a combination of surveys³³ and focus group research.³⁴ Focus groups were chosen to explore student views in greater depth because

33 Two surveys were used. The first, an "Entry Survey", was given to selected classes of students in their first week of Graduate Law I, or Combined Law I, II or III, and focussed on students' expectations of their law degree, the skills they hoped to learn and their preferred teaching method. The second, an "Exit Survey", asked questions directed more towards students' actual experience at law school, such as which aspects of a unit, teaching method or assessment scheme had been most helpful to them as learners. This survey was administered in two stages: at the beginning of semester I to students starting Graduate Law II/Combined Law IV and at the beginning of semester II to the student cohort which had been given the Entry Survey. As the main purpose was to get a sense of student concerns on various issues, open-ended survey questions were used together with a qualitative analysis, rather than questions which would produce quantitative data. This format was preferred because there was already a lot of quantitative data available indicating the problem areas for students and we needed to explore the reasons behind these concerns and think through some alternative approaches. Copies of the surveys can be found in the Appendix. The results of the surveys, interviews and focus groups are qualitative and are integrated in the Audit Report, available from the authors, *supra* note 2.

34 Students were "recruited" in three ways: by an invitation made through the email group that had been set up when the first surveys were administered; by asking students to add their name to a list circulated in class; and by directly contacting students whose names had been suggested by teachers as being people who might be interested and willing to share their opinions. The groups were then divided into three cohorts - Graduate Law I, Graduate Law II together with Combined Law IV, and two campus groups with a mix of Combined Law I transfer and Combined Law II students. Although groups were originally organised with around eight or nine participants in each, due to difficulties in guaranteeing attendance on the day, the groups in practice ranged from three to eight students. A handout was given to students at the beginning of the group which outlined issues raised by the surveys that we were interested in exploring (see Appendix). The discussion was initiated by two open questions directed to each student in turn: "What have you found most helpful in your law degree so far", and "What has been least useful?"

35 Because we did not have a lot of information on the problems that certain students faced, particularly overseas students or those from non-English speaking backgrounds, we had initially been keen to hold a separate focus group to discuss language and cultural issues within the law school. No students volunteered to participate in this proposed group and we judged it inappropriate to have instructors select individuals on the basis of incomplete language skills. The lack of volunteers highlights that such students may be less inclined to identify themselves, or are already finding the demands of the course too great to be able to spare additional time.

student responses to open-ended survey questions were often contradictory and tended to give the “what” but not the “why”.³⁵ Once student survey responses had been reviewed, and in light of their comments and concerns, staff members teaching in the relevant units were asked to participate in in-depth interviews. These interviews were planned as a progression of topics rather than a structured series of questions. Topics included:

- the position of their subject in the degree progression
- what role skills and ethics teaching had in their subject or the degree as a whole
- how instructors evaluated the move to “small group” teaching
- what teaching methods and assessment practices instructors found most useful and why
- workload issues
- what they felt about the Faculty’s responsibility to students with language difficulties
- issues of coordination, integration and harmonisation within and between units.

We qualitatively analysed the responses to develop the major themes of concern.³⁶

Because it was not just the outcome of the project, but also the process of working through these issues as a Faculty that was important, staff were involved in the various stages of planning, discussion and developing recommendations.³⁷ An email group was set up to enable us to inform staff and students of the progress of the project throughout

36 A breakdown of interview topics can be found in the Appendix. Nearly all of the staff teaching in the units were interviewed, including most of the part-time and casual instructors. A total of 30 interviews were conducted.

37 Drafts of proposed student surveys were circulated, and ideas sought from staff about the sort of information they were interested in eliciting from students, and what they considered would be useful to the audit. There was on-going liaison and communication between the audit and the Teaching and Curriculum Committee. An Issues Paper was presented to faculty at a mid-year meeting, in which we described the progress of the project and our findings up to that point. We also put forward some interim proposals for discussion, based on the issues that had arisen in the surveys and the interviews. The proposals offered varied and alternative options which were workshopped by participants and were accepted, modified or rejected for the final report on the basis of the consensus reached through the discussion at the meeting.

38 About 100 students joined the group and many have used this as a way of directing their feedback about different aspects of the course in a less restricted format than the classroom surveys.

the year and to receive on-going feedback.³⁸ An audit web-page was established, linked to the teaching home pages on the Faculty web-site, as a means of providing information about the audit to students and other interested people.

The Findings

Many staff and student concerns centred upon what was actually happening in the classroom as a result of the new model (such as difficulty in initiating, or controlling, student interaction, and assessing student participation). These “micro” concerns were manifold and engendered positive and reflective feedback, as instructors offered suggestions and methods for dealing with such challenges. We will discuss these concerns and suggestions first, before noting some of the recommendations which the audit developed in response to them. The second area, in which concerns were raised mostly by instructors, related to the impact of the changes upon the degree program as a whole. The proliferation of groups and instructor approaches made coordination and consistency across groups and across the program more of an issue. These “macro” concerns were not only a result of the change to seminar-style teaching, but had certainly been exacerbated by it. To some extent these issues invited a reconsideration of how the law degree is delivered as a whole. These issues will be discussed later.

What is Happening in the Classroom: Micro Matters

Within the constraints of a decreasing budget and steady enrolment numbers, the new model in practice has meant classes of around 25 for the first year foundation units (which are Legal Institutions in first semester and Law, Lawyers and Justice in second semester). For the four substantive units we examined it has brought about classes of around 40.³⁹ The review found that both staff and students felt that the model had benefits for them in terms of the environment it produced. Staff and student experiences of difficulties encountered with the model varied somewhat, although there was a common concern about overcrowding and ensuring participation (particularly participation marks) was handled fairly and predictably.

³⁹ 1999 saw significantly increased numbers in some classes and units in an unbalanced fashion.

Benefits

The majority of instructors expressed the view that the seminar model offered advantages over the previous lecture/tutorial format. Benefits included a more relaxed teaching environment, with groups offering far more scope for personal interaction, questions, and student contribution than “large” lectures. Staff reported that:

It is less intimidating as a lecturer.

Students are more engaged.

Small groups can create an environment where students feel they can participate. This is important as oral skills are a really important part of teaching people to make arguments about law, which is often undervalued in the system with a large emphasis on written work.

Having the student for 4 hours a week rather than just one, you start developing a very personal relationship, that is fundamentally important in [understanding] why the interaction in a small group is different.

The presumption of participation in the new model meant that students were required to take more responsibility for their own learning.⁴⁰ Staff reported that:

Students tend to be a lot less prepared in lecture/tutorial format. In a small group, students are quite aware that their lack of knowledge is going to be apparent.

The educational experience is much more diffuse when there’s a fluid discussion in class and the teacher is not playing the authority figure. It puts much more pressure on students to work it out for themselves.

This year’s group who have had their whole foundation in small group teaching take this approach seriously. The expectation now is that they will have to be prepared and the information won’t just be dished out.

In addition, staff noted that seminar groups allowed for flexibility in a number of ways:

40 It was evident in the responses to the second round of Exit Surveys from students who have had seminar-style teaching right from the beginning of their degree that there is less resistance to discussion-based methods of learning than in the cohort who are further advanced in the degree and who have “learned to learn” in the lecture format.

Small groups allow for the teaching of a greater number of skills — discussion, interviewing, debating, problem solving.

Small group teaching enables you to achieve a variety of teaching techniques.

Small group teaching allows for a variety of teaching and assessment methods to accommodate individual differences in learning styles and abilities of students — I try to give everyone a bit of what they like.

You can do more innovative things.

In surveys and focus groups, students were not asked direct questions about the benefits of seminar-style teaching, or the differences between lectures and tutorials. Rather, they were asked what teaching style or method they found most helpful in their learning (see Appendix to this paper). In the Exit Surveys, the most common response to this question was that interactive, structured discussion and participation were preferred, or classes which contained a combination of lecture, discussion and group problem work.

Students reported that:

Seminar-style teaching which relies on student participation I believe is the most effective way to teach and learn law.

Seminar/discussion form leads to greater understanding since it forces one to actively consider the issues and develop one's opinions.

Interactive seminars [work the best for me]. Discussions enable students to flesh out arguments orally and interrogate their own responses to issues.

Discussion is best. It engages me, whereas formal dictation bores.

Seminars are less intimidating, more thought provoking and raise questions that I may not think of at the time.

Definitely seminars which presume reading has been done and focuses on discussion. Forces me to work harder and I am more absorbed in the subject through discussion. However the discussion has to be ordered and controlled by the tutor.

Seminar-style — teacher providing input but drawing out our opinions and knowledge in a non-threatening way.

The lecturing style with classes spent reinforcing the lectures through interactive problem solving, group tasks. Gather all the info first, and then get participation by application and working through principles.

Interactive teaching, with class participation being assessed – it makes me do my reading each week!

Issues of Concern

While there was generalised support for the new model, students and teachers both identified some reservations. Student concerns were directed more towards what happened in each individual class rather than the model as a whole, and reflected anxiety about their own performance and marks. Staff concerns were focused on the difficulties of putting the model into practice – how to generate (and to appropriately assess) participation, manage discussion, interact with an often sizeable group, and structure classes so that the range of desired material was covered.

Student Concerns

Students tended to take one of two contrasting positions on the new model, depending upon the delivery style they were experiencing. Those who were experiencing the new model in a fully interactive manner expressed some resistance based on fears that they would not “learn enough” from discussion, while those who were receiving less interaction were often frustrated and bored. Students also felt that discussion was difficult in groups of 40 or more, and were anxious about being assessed on such participation. This issue was also a major concern for instructors, and will be discussed in the section below.

Where, due to class size or the preferences of the instructor, the main mode of teaching tended to be lectures focusing on “delivery of content”, students expressed frustration at losing the opportunity for greater activity.

In the changeover to seminars, many seem to be simply lecturing, losing the tutorial aspect entirely.

While some lecturers try to get participation, others are content with spoon-feeding still.

A lecturer standing out in front of the class, reading out parts of the text book or from his/her notes is never effective. We might as well be reading the text ourselves.

Discussion [is best]. There seems to be too much “lecturing” going on in [subject x] at the moment.

This is an issue for the Faculty in terms of staff training and development, as the model was adopted with little training or change-over period in which to reskill and adapt to the new teaching and learning environment. Some instructors have clearly transplanted their old methods into the new environment.

The contrasting concern when classes were more interactive in style was that discussion-based learning was confusing, irrelevant or a waste of time.

[I prefer] lectures. They are the most informative and time efficient. Discussions waste time and only confuse the issue.

[I prefer] lectures rather than open discussion. A good set of notes is more valuable than other students’ sometimes incorrect perspectives.

To me, the purpose of going to class is to learn from the tutor, not read by myself and explain what I have learnt to others.

Lecture style because the person in front of the class has a vast knowledge and should be permitted to use it.

To be honest, I most appreciate lecturers who simply lecture, rather than trying to involve the class in other types of teaching/learning styles, simply because class sizes are too large to sustain any other styles.

These reservations express a particular perception of learning law which emphasises the teacher as authority figure, and learning the right facts and covering the subject matter as the ultimate goal. The learning culture associated with the lecture format used in previous years privileged the transmission of “legal knowledge” (rules and principles drawn from legislation and select appellate court decisions) and subsequent resubmission of that knowledge in a formal exam. The features of the teaching context which were valued by students were those which would assist in reaching those ends. Comments about the new teaching model from students and instructors must be understood in light of that culture, and the priorities and objectives associated with it. For example, even students who indicate that they appreciate having smaller, more informal classes and feel they benefit from student discussion, may still prefer the instructor

to walk them through the material. These students may value exercises which are directed towards preparing them for examinations, if that is still the dominant assessment mechanism. Evidently, also, students desire a certain level of structure in any teaching method, to focus and guide their learning. The anxiety that is created by feeling "lost" in class discussion is obviously exacerbated by the degree to which the rest of the course continues to imply that ascertaining a set of "the right" rules for the exam is the major goal.

In an initial review of their Faculty's similar move to seminar-style teaching at the University of Western Australia, Judy Allen and Paula Baron note that much of the student feedback about their new class structure revolved around whether or not it conformed to the priorities of the lecture paradigm, such as getting a good set of notes or finding the "right answer".⁴¹ They link it to a pervading theme that they identified in many of the negative responses from staff and students — "fear of failure" and "fear of the unknown". They also observe that many of the concerns directed towards seminar-style teaching, such as workload or insufficient time to cover the subject, were in fact also present in the previous system, but had been given a focus with the introduction of change. Students have particular expectations about legal education that are informed by their previous educational experience and their perception of law as a discipline.

In our research we found that there was observably less resistance over time as students became accustomed to the different requirements of seminar-style teaching, and both students and instructors gained experience in the new format. Student expectations are particularly shaped by how we teach them to learn from the beginning of the degree, and it is therefore critical that we utilise, as a priority for the earlier years, methods which will encourage students to adopt independent and deep learning skills.

Instructors' Concerns

For some instructors, the shift in teaching culture was a fairly abrupt one, and they felt the stresses of trying to make it work in practice and to adapt both their own and the

41 "Innovation and Resistance: the Implementation of Change": Paper delivered to the Legal Education Interest Group at the Australasian Law Teachers' Association conference, Wellington, July 1999.

students' expectations to the new model. Concerns centred on generating, and guiding, interaction with and between students, covering the course content, overcrowding, and assessing participation fairly.

Creating interaction

Generating and controlling discussion was seen as something which was not always easy, for instance if the subject did not relate to students' prior knowledge or was something about which they could not readily form an opinion:

[Small group teaching] works better in [courses] based on issues rather than cases.

I give mini-lectures because of the amount of material and the fact that students seem very unsure of the concepts — it is their first substantive subject.

Small groups are good for more advanced subjects — students are more sophisticated with a greater knowledge base, there's more opportunities to talk about issues.

One instructor expressed frustration that —

They won't even discuss general issues about [subject x], even though they are capable, because they are scared and think [it] is something that lawyers talk about and they have to know all the cases ... How do you get people to participate? Force them to prepare by sitting there in embarrassing silence until they speak? But they all say they can't do the work — if you believe them, then you have to help them out with lectures and notes.

Workload pressures were felt to impact significantly on the students' ability to prepare and perform. Pressures both from within the university and from the paid workforce meant that students were not always able to prepare adequately:

We should assume that law school is a full-time occupation, although that doesn't fit with their needs in reality. Given these pressures, we probably try to cover far too much ground. We need to understand that process is equally important.

It's hard to work on interaction progressively, because just as they are starting to get into the habit of preparing and asking questions, the assessment is due and they don't have time to prepare.

Experiential learning was felt to be far less workable in current class sizes:

The best way theoretically to learn those skills [communication, negotiation] is in the context of substantive law, but time constraints make it difficult to even get through the content and requirements for admission. Also it requires very small classes to give students a chance to complete the cycle of learning, doing, feedback and practice. This is impossible with 45, so proper skills teaching can't happen effectively in the current context of teaching.

Coverage of material

Many comments from staff indicated apprehension that class time dedicated to discussion, student presentations, group work or other interactive exercises meant less time available to cover the subject content of the unit:

Because of the amount of material, it felt like you were falling between the two methods – not getting the benefits of small groups, or the benefits of tutorials under the old system, there is not enough time.

I don't like to break into small groups – there is so much material to get through that you can't finish the course if you teach like that.

Using this method [lecture outline, questions, problem application] the class only got through two thirds of the course in the time.

As can be seen in the student comments comparing lectures and discussion-based methods above, this pressure to cover the course is often also communicated to students, either overtly or implicitly through the structure of the course and materials.

In order for the shift in the learning paradigm to be effective, other elements in the teaching context may need to be reconfigured so that all aspects work in consonance towards the objectives inculcated in the new class structure. In part this is an issue of redesigning curriculum rather than simply transplanting old course designs to the new teaching model. It was clear that all aspects of the course – assessment, materials, questions for discussion, teaching method – had to work in harmony to produce interaction. Careful structuring of the course, and particularly the amount and type of materials, are crucial in order to help rather than hinder the attainment of these objectives.

Class size and participation

The most constant concern from both staff and students was that the size of groups in practice frustrated the objectives of seminar style teaching. Half the instructors who took classes of around 40 said they found it difficult to teach interactively because of the lack of time to let everyone speak, the unmanageability of experiential exercises, or because the dynamics of a class that size make discussion more unlikely than in a true “small” group:

40 is medium sized where it is impossible for everyone to contribute to discussion — it’s more personal in a way, but it’s not a small group.

Even with 26 the discussion only works because a third of the class doesn’t want to talk, so there’s enough time for the others to talk.

Even using all the techniques for small groups, it’s still very difficult to do a lot of group work with 40 or 50 students.

With 40, the debriefing process [after small group work] can’t hear everyone — this is unsatisfying for students who have done the work in small groups and have got answers but can’t say their piece.

The number of students in the class affected the ability of the instructor to remember names. Knowing names is essential for class participation marks, and was seen by many as a key to transforming the teaching environment:

30 is the number, for practical reasons — you can remember 30 names fairly quickly, which is very important as a confidence building exercise ... to know that they are listened to if you can address them personally.

Effective class participation depends on low enough numbers and also things like being able to remember names, being good at keeping track of who’s been talking and who hasn’t.

Undoubtedly most instructors and students would prefer smaller classes across the board, and it is clear that the target of 40 students per class was a pragmatic accommodation of numbers and resources rather than the implementation of an absolute pedagogical ideal. Some suggest that, given the difficulties of teaching interactively with 40 students and the tendency of many instructors to utilise at least some level of didactic teaching, the same objectives could be better met

under the old system of large lectures and truly small group tutorials of 15 or 20. Here, however, we come back to the initial problem that where lectures set up a certain educational paradigm, the potential of small tutorials to be an active learning experience “is doomed if the lectures have already promoted a surface approach”, and students will tend to use tutorials “for reasons of expediency – to get a method of solving problems, answering exam questions or to clarify issues from the lecture”.⁴²

Given that there are not unlimited resources, we believe that some standard is necessary and that 40 is a realistic target. However, problems have been exacerbated in a few units when some classes have approached or even exceeded 50. The creep above 40 has made it increasingly difficult to achieve seminar-style teaching and, because “40” has symbolic significance as evidence of the Faculty’s commitment to seminar-style teaching, both staff and students have perceived these larger sizes as a breach of undertaking by the Faculty. In addition, tension is created over issues of equality when it is only some groups in a particular unit which have significantly more than 40. Given these factors, we stress that class sizes of 40 in substantive units must be treated as a ceiling rather than a floor. Our recommendations also strongly endorse limiting class sizes in the first year subjects to 25. Particularly for those commencing law from a secondary or tertiary education system in which they have been unused to interactive teaching methods, classes of under 25 provide a vital transitional arena to practice oral skills, develop confidence and become accustomed to contributing in class. This experience should set the climate and expectations for future learning in their law degree.

Second, interactive teaching methods represent a departure from the previous teaching experience, and often the legal educational experience, of some instructors. As was pointed out in some staff interviews and one student focus group discussion in particular, it is imperative to train instructors in the techniques that can be used in “medium sized” classes of 40 and to establish practices, such as peer class observation, which can help consolidate ideas and information on teaching practices within the Faculty.

42 Black, *supra* note 25, at 220.

Assessing participation

Many concerns about time and scope for widespread contribution in class, particularly those expressed by students, were focussed around the issue of class participation marks. Not all classes included this as a form of assessment. In those classes where participation was assessed this was done either as an “unstructured” mark which assessed the student’s contribution to general class discussion (often using criteria such as evidence of preparation for class and willingness to engage with the issues) or as a “structured” participation task involving a set exercise (such as class presentations or facilitation, debates or moots). Many students also complained that unstructured class participation marks encouraged “talking for the sake of it” to the detriment of the quality of class discussion, and both staff and students were concerned that it was unfair for less confident members of the class.

From students it was said:

Perhaps too much emphasis on class participation. Some people are shy and some are not as good at spoken argument as written.

I understand how [class participation] is helpful for students but I just hope you also consider the variety of confidence levels among students.

Class participation assessment is extremely artificial. Not only does it create a tense environment within a class of eager to speak students, but it also gives no clear understanding of how much we the students know.

And from staff it was said:

Class participation should be ditched as a form of assessment in a class over 35 – you are denying people the opportunity to participate regularly.

I approve of class participation in principle, but I haven’t found a fair way of assessing it with 40 people.

It’s difficult to apply the criteria in unstructured participation to shy students.

There were also instructors who expressed their unwillingness to mark class participation because of issues of objectivity or effectiveness:

I’m not satisfied that the requisite degree of objectivity could be obtained [even] in giving everybody the same

opportunity to be assessed, [or that we could succeed] in allocating marks that are more than just attendance.

In structured class participation the tasks vary so much it's hard to compare marks.

What are we testing? Oral presentation, engagement, attendance, eagerness to get involved, behaviour? These get conflated in class participation ... if they don't want to get involved in class that's their choice. To make class participation compulsory is to endanger the quality of participation.

However, some felt that class participation marks helped the cultural transition for students where previously they had not been required to prepare for class:

Class participation marks help focus their mind on reading materials and contributing.

Class discussion is a crucial learning tool and students won't do things they're not assessed on, so class participation marks are necessary.

Many students also thought that class participation was a useful form of assessment:

Some form of class participation requirement is helpful in that it provides incentive to do readings before class and ensures that you understand what you read.

Class participation – I hate it at the time but it benefits me in the long run.

When there is no class participation mark there is little impetus to contribute – this is compounded by heavily weighted exams which enable you to cover the course in stuvac and still do quite well. A brief oral presentation would break the monotony.

The facilitation component provided incentive to communicate my personal feelings towards the reading material.

Assessment in general creates a lot of anxiety for students about performance and fairness, although class

43 Some use a form of self-assessment to off-set claims of teacher bias, where students are to award themselves grades on the basis of the criteria, and where the teacher's mark would be reviewed if there was a significant difference. There was some concern, however, that such a method might contain a significant gender or cultural bias because of the socialisation of different groups with respect to self-evaluation.

participation in particular seems to have provoked diverse responses in our research. Staff also were unsure of being able to find a method for marking class participation neutrally and fairly.⁴³

The common attitude that being assessed on oral contribution is unfair because people naturally have differing public speaking abilities and confidence levels seems to assume other forms of assessment, such as essays or exams, are inherently fair and equitable. In fact, concerns about fairness apply to most forms of assessment used at university. More “familiar” tasks may be unfair to students who are less able to structure written arguments, memorise information or work under pressure, and there are often complaints that essays are subjective to mark.⁴⁴

Students need to have a clear understanding of the criteria on which they are being marked and why this form of assessment has been selected and what skills and values it supports. Ideally, written criteria need to be made available and students should be given the opportunity to self-assess and/or to query their marks. That is, the same rules of fairness apply as with written assessment. The instructor must also take an active role in controlling the discussion and be aware of the different abilities in the class in order to create a variety of spaces and opportunities for people to participate. The confusion and difficulties surrounding the management of class participation highlight the need for training in this area.

Responding to Challenges

As part of the staff interviews in our research, instructors were asked for solutions they adopted as well as the problems they faced. This discussion generated a great many ideas and demonstrated that the new model is being implemented in a wide variety of ways. Techniques to encourage student involvement include an open discursive style of teaching, question and answer, intuitive response exercises, brainstorming, group problem solving, debates involving the whole class, or alternatively an allocated number of student debaters. Instructors are solving the size/interactive teaching dilemma in a variety of ways. One of the useful

44 See discussion in M Armstrong and D Boud, *Assessing Student Participation in Discussion: An Exploration of the Issues* (1983) 8 *Studies in Higher Education* 33.

functions of the project has been to share information about these innovations and techniques.

Getting to know the class

Interaction is significantly assisted when instructors know their students' names. There were various suggestions for ways in which this process can be made easier, including:

- asking students to contribute passport-type photos of themselves to create a poster sized "map" of the class
- name plates on the desk
- getting students to say their name prior to a question or comment, or saying their names/asking them when you call on them.

Generating class discussion

Breaking down student resistance to discussion, whether through inertia or shyness, may require different approaches. Suggestions included:

- Questions which invite a response from students' own experiences, or which do not require specific technical understanding are generally less intimidating.
- Calling on people by name to make sure everybody gets a chance for their voice to be heard. This may be positive in that it makes the space more personal, shows that the teacher knows students' names and permits students who tend to be quieter to speak in class, although it is important that this be done in a non-intimidating way. One instructor commented that even asking basic questions just to get people talking was good, as the more people got used to hearing different voices and contributing themselves, the less nerve-racking it would seem.
- Asking for students' intuitive responses to problem situations as a way of allowing everybody to be able to make a contribution, but also to demonstrate an approach to problem solving which could make the law more comprehensible.
- "Brainstorming" a particular issue or question calls on the class to generate as many responses as possible which are collected on the board before the ideas are worked through critically as a class. It encourages creative think-

45 For an exploration of this technique, see E de Bono, "Brainstorming" in D Bligh (ed) *Teach Thinking by Discussion* (Surrey: SRHE & NFER-Nelson, 1986).

ing and the development of fresh perspectives, as well as stimulating student participation.⁴⁵

Reducing size of discussion groups

A class of 40 need not be taught as a group of 40. Methods included:

- “Buzz groups” (groups of 3 to 6 students) can provide a space for quieter students to participate and develop communication skills, and when a spokesperson is elected to report back to the plenary discussion, it can be less intimidating for them to present group ideas rather than their own. Buzz groups can be used to discuss particular issues, solve problems or prepare for other activities such as debates. Because they require students to take initiative in performing the activity, it is important that the purpose is clearly communicated by the teacher. Although it is hard in larger classes to monitor each group, one instructor commented that they allow for much more intense discussion in which the lecturer doesn’t necessarily have to be “in control”, and wrapping up with a plenary session gives a chance to keep track of what has been discussed. The exercises need to be planned to allow enough time for all the groups to report back and gain a sense of closure. Reporting back can be done in writing as an alternative to, or as well as, orally.
- While buzz groups are used regularly in many classes, one particular strategy used was to keep the same groups throughout the semester as “syndicates” and encourage those students to work together both in and outside the class room. The instructor who used this strategy felt that these close-knit smaller groups added to the collegiate atmosphere in the class as a whole, and encouraged students to develop team work and study skills.
- “Pyramiding” is when an exercise is structured to take the student through different stages of individual and group activity. Work initially done by students on their own can provide ideas as the basis for discussion in pairs or groups, which can then be fed into a plenary class discussion in the final stage of the exercise. This structure can also facilitate a more comfortable transition from a relatively passive lecture to an active class discussion.
- Simple techniques such as moving around the room help change the focus away from the teacher at the front of the class and generate a feeling of greater activity and interac-

tion. Even in a lecture theatre, walking up the middle aisle “immediately gives you two groups of 20”.

Structured class participation exercises

Many staff expressed frustration with structured student presentations because of their tendency to be of variable quality or because the rest of the class “don’t listen as they don’t value peer contributions, or are hesitant about how authoritative it is”. Instructors who do use it, however, think it is valuable for allowing students the chance to prepare before they have to speak in front of the class. This is less intimidating for many, and also forces them to really come to terms with the materials. Some suggestions of ways which have worked were:

- A group does a presentation on the optional readings. People are interested because it is a fresh perspective, not just rehashing the materials that everyone is required to read.
- Selected students take primary responsibility for answering questions or generating discussion. Here they are not totally alone and get more “goes” at participating compared to a one-off presentation of a paper.
- Prepared team debates on broad topics. They have tended to be more interesting than straight presentations, as having to argue for one side or the other forces students to think critically about the issues and the process.
- Regular use of written problems to be solved in class. This is a good way of working through the issues and applying legal principles to fact situations. As was seen in the survey results, students really appreciate the chance to see how the law relates to “real life” examples.

Authentic activities

Authentic activities are those which aim to replicate in part the sort of tasks that students may be engaged in as professionals. Problem solving is the most common such activity in the law curriculum, although smaller classes have allowed greater innovation with the range of activities that can be conducted in class. Some examples of these are:

- Client interviewing exercise done as a “fish bowl”, where a few students are selected for a role play and the rest of the class observe the performance. Observations can form the focus for small group or class discussions which follow.

- Negotiation exercises done as a one-on-one negotiation between two student “parties”, or with a third student acting as negotiator. The results of different groups can be compared in class discussion, as well as students’ experience of the whole procedure.
- Mooting as an extension of debate-type exercises. It likewise helps students to think critically about problems and find alternative solutions to them. The “real law” feeling can engage their enthusiasm and interest.
- Mock trial activities. They also have an authentic feeling for students and can incorporate problem solving exercises.
- Specific legal forms of writing such as drafting a contract or preparing a brief to a barrister. They can familiarise students with common aspects of legal practice, and can give them experience in putting substantive knowledge to different practical purposes, as well as writing for different audiences.

Lecturing

While most instructors still acknowledged the role of lecturing in some form in their approach to teaching, there were many ways suggested to make lecturing more effective:

- As lecturing “relies wholly on the oral skills of the lecturer and the aural and recording skills of the student”,⁴⁶ the use of media such as handouts, overhead projectors or chalk/whiteboards can stimulate additional senses and make a lecture easier to follow.
- One instructor commented that her use of handouts to cover the main points in a particular class made students relax and actually engage intellectually with the materials, rather than be “stenographers”.
- Many staff and students indicated a preference for having a mini-lecture at the start of the class to provide a context or framework for discussion or group work — a “mixed-modality” class.

Email and internet

Class email groups are used by some instructors as a way of communicating with the students outside class, and to create an on-going discussion forum which can feed back into class discussion.

⁴⁶ Johnstone, *supra* note 6, at 43.

Appropriately structured course outline and materials

As much of the anxiety about teaching in a seminar-style is created by a feeling of not having enough time to get through the materials, it was suggested that the course content needs to be reconfigured with the needs and priorities of interactive learning in mind. This might simply be a matter of cutting down on the quantity of materials, or structuring them more suitably, and may include:

- Material which aims to provoke discussion rather than generate a set of answers.
- Directed reading rather than just a list of cases or articles, so as to engage students in the material as they read.
- Questions or issues for class discussion included in the reading materials to enable students to think about them as they read.⁴⁷
- Structured outlines for each class that clearly tie into the progression of the unit as a whole.
- Problems and activities with clear objectives and structure that are explicitly connected with the unit themes and aims.

Involving students in the management of the group

These strategies help to create a group dynamic by encouraging students to take responsibility for the operation and structure of their class. Suggestions included:

- Negotiating the ground rules for the class, including acceptable behaviour, and what is expected of students and of the instructor.
- Negotiating the forms of assessment and the criteria against which students will be marked.
- Conducting regular feedback surveys to ascertain areas that have been misunderstood as well as what the students feel is working in the class, or what needs to be improved, so that the instructor can adapt, where appropriate, to the specific needs of that class.

Recommendations for Better Teaching and Learning Within the Seminar-Style Model: Micro Reforms

Given the considerable feedback relating to both the challenges faced by staff and students and the solutions proposed by staff, various recommendations were formulated which

⁴⁷ It was noted that course outlines which clearly direct the learning strategy not only help guide students but are also invaluable for casual or part-time teachers.

were directed towards making the new model work better in practice in the classroom. Several of these recommendations related to developing better staff training, both internally and externally. Internal training has the advantages of being on-going in nature, and providing support at a “peer” level, as well as through internal performance measures. External training was also favoured because it brought new skills into the pool, and permitted staff to explore areas of their own performance without the fear that it would reflect upon their opportunities for promotion or tenure.

Recommendations to improve and support teaching *externally* included:

- Send all new staff to ALTA teaching workshops and fund further spaces as ALTA will allow, with a view to making these workshops available to staff at all stages in their careers.
- Utilise other modes of external training, for example communications courses, to develop more diverse skills.
- Work with other Sydney law schools to develop and coordinate a pool of teaching/training sessions by using people from all institutions.

Recommendations to improve and support teaching *internally* included:

- Have an annual Faculty teaching retreat.
- Continue sharing ideas in the Faculty through structures such as a teaching library (which the audit has begun), a teaching e-mail group or shared drive on the Faculty server to facilitate idea exchange in a different medium, and on-going face to face meetings of small groups of colleagues facing similar teaching issues.
- Make the Teaching Handbook (initially developed by the audit project) available to all staff and casual teachers, and update it annually.
- Introduce a day-long orientation and training session for new teachers (required of casuals) at the start of each year. (For experienced teachers: a short session on Sydney policies; for new teachers: more detailed information on class planning and interactive teaching strategies.)
- Evaluate teaching in other ways besides student surveys, for example: peer review, lesson planning review, self-evaluation against set objectives and targets.
- Invite our colleagues to observe our classes and help us.
- Have a “teaching buddy” at own rank to provide support.

- Ask the Pro-Dean (Staff Development) to assemble a team of people willing to go and observe classes and provide support.
- Enhance support for the casual teachers who are responsible for approximately half of program delivery in these early units.

Other recommendations focused upon the provision of increased resources for teaching and structured methods of evaluation for teachers. These included:

- Fund development of undergraduate course materials (this is already done for Postgraduate materials).
- When money is allocated to the Faculty because of our teaching record, target it specifically to teaching matters such as training & course development, material preparation, and use of team teaching and mentors.
- Maintain the commitment to class caps of 40, and 30 or smaller for first year
- Make observation of teaching part of promotion/hiring process
- Make a yearly review of our teaching part of the Pro-Dean (Staff Development) job.

What is Happening in the Degree Program: Macro Issues

In addition to the changes within the classroom there are the gradually widening spread of issues concerning impacts across the law degree program as a whole. Simply put, there are more classes being taught in each subject, and the opportunities for specialisation within each small group has meant greater variety of content within courses, with more varied assessment. The review sought to investigate the extent to which co-ordination and consistency were issues for staff and students both within units and across the program.

The shift to seminar-style teaching has had effects at a structural level which have generated fundamental questions about what it is that the degree program is trying to convey as a whole, and how the units, together and in combination, deliver that program. This rethink has generated recommendations directed to a “foundation program” with clearly designated skills and outcomes. These issues will be addressed later.

Where the same unit was taught in different groups, co-ordination and parity issues were raised through questions

about the extent of appropriate commonality in units, for example the same course outline or the same assessment regime. The shift to seminar-style teaching involved the premise that each instructor would be responsible for their own group, and was in part supported by the idea that it would encourage academic independence and creativity. The second level of the coordination issue is the way in which different units integrate with each other.

These questions prompted diverse responses from staff interviewed. Particular areas of concern to staff were:

- overlap (of content and teaching materials)
- the extent to which instructors can know what others are doing in their classes
- student workload (involving overlap/overload in assessment style or due date)
- student choice as to which seminar group to register in
- communicating to students the reasons for variations and diversity.

One of the aims of adopting seminar style teaching was to allow instructors increased independence within their group, in order to encourage innovation and experimentation in teaching and assessment. Support for diversity was expressed in the Curriculum Review Report notion of “specialisation” where, rather than “the current strategy of trying to do everything in every course [each course in the core should] assume responsibility for emphasising one approach to information, teaching methods, materials and assessment which combine to form a coherent approach”.⁴⁸

A number of instructors felt that it was pedagogically healthy to show students the validity of diverse approaches, while others felt that an underlying presumption of “academic freedom” in the approach to teaching would benefit students by unleashing the full scope of the creativity and enthusiasm of their instructor. As long as assessment was internally appropriate and consistent, instructors felt it was positive to expose students to a wide range of tasks:

It’s important for students to recognise that there are many valid approaches to the same subject.

Variation in approach is appropriate considering the personal leanings of the teacher.

48 Teaching & Curriculum Committee, *supra* note 4, at 53.

If there's different outlooks among teachers, as long as there's broad agreement in the subject matter, it's OK to have different emphases.

It's part of the strength of Sydney Uni law school that people have freedom in their own course.

However, the concept of academic freedom may be more important in some settings than others. Not only must it be balanced against other priorities, but it is also less meaningful to junior teachers and casual teachers. They have less teaching experience to fall back on in being able to judge appropriate perimeters for their "freedom" and probably have more to gain from being involved in a group-mediated teaching program.

Many staff views were based on concerns about student dissatisfaction or anxiety when instructors in different streams were not "doing the same thing". In fact, our research showed relatively low levels of student concern on this issue. However there was concern about the absence of communication, coordination and workload parity:

In theory, uniformity is preferable, but still the teacher has a strong desire to teach what they see as the central and important issues. The only way to make it fair would be to let students choose ... there is no one right way to teach [subject x], but if a student prefers a traditional course, then they are disadvantaged by being in this particular course.

Student concerns are probably because some were [seen to be] given an "easy" time in assessment ... diversity in assessment has to be a question of genuine unfairness.

Students know which sort of learning suits them best, so they should be able to choose. But if the issue is comparability [of marks], you may as well complain that different units have different assessments!

It's important for approach and assessment to be harmonised so students don't feel disadvantaged by the groups they've been placed in.

Staff were particularly sensitive to student dissatisfaction because students do not have a choice as to which group they enrol in:

It's partly an issue of student choice, although that choice will always be constrained by other commitments like work.

Genuine student choice would be good, but I'm concerned that some will be forced into a group ... which is worse when some have had their choice.

Because of the current climate of competition for marks and jobs, many felt that coordinating uniform course guides and assessment in the interests of fairness to students overrode other interests in allowing variation:

Uniformity in assessment is something students should claim – they are disadvantaged when they can't choose the group and form of assessment which suits them, and they are being pressured to get the best marks in a job-focussed environment.

Uniformity is important where there is realistic pressure on students about marks and jobs.

Student Perspectives

We expected the questions of fairness, for instance with parity of workload and assessment, to be a major issue for students. However only 11 out of 322 students who completed the Exit surveys responded to the question "Have you any criticisms to make of the assessment regime in this unit, or overall in the Law degree so far?" with a reference to the lack of uniformity in content or assessment units with differently taught or assessed groups. These relatively low numbers do not necessarily indicate the actual level of concern of students on this issue, however, considering the generality of the question, and the existence of several other major issues of assessment which tended to dominate the responses to this question. One student complained that difference encouraged "forum shopping" by some students who changed after the groups had started.

When the issue of uniformity came up in one of the focus group sessions, it seemed that the sense of division in the cohort created by not having a common ground on which to discuss their studies was more of a problem for those students than any sense of unfairness.⁴⁹ Most of the 11 survey comments about uniformity did, however, make general

⁴⁹ Considering the recruitment procedures for the focus groups, it might be possible to conclude that students who are more conscientious and reflective about their studies (and consequently more likely to volunteer or agree to participate in the groups) are less inclined to be anxious about the effect on their end performance of the form of assessment, particular course guide content, or teaching method.

references to fairness, with one student suggesting what may be the source of anxiety for many:

As we are all ultimately graded and compared against each other there should be one assessment regime for everyone doing a subject, not different assessments and different exams – as that is not a fair assessment.

As in the discussion on student anxieties surrounding class participation in the previous section, if there is a sound pedagogical basis for a particular curricular or assessment structure, then students benefit from it being made explicit. The instructor should carefully explain the reasons why the differences exist, maintaining an open dialogue with students through which their concerns, if any, can be addressed.

What is Meant by Parity between Different Streams?

Is the basis of the concern about uniformity the view that all students should learn the same things? The individual teaching styles of each instructor probably mean this is not an objective even when teaching from the same unit outline. A similar concern over fairness in assessment arises. Markers cannot guarantee complete objectivity and uniformity in their marking, and the Faculty has long debated the appropriateness or likelihood of achieving grade standardisation. Disparity in marking between different streams can occur regardless of having common assessment tasks, and the current absence of standardisation procedures within the Faculty means that having the same course guarantees nothing in terms of statistical measures such as the bell curve.⁵⁰

If the primary requirement is that all students studying one unit should cover a core area of subject matter and skills, then some basic principles to guide consistency between groups can be drafted. Such a core would also allow consistency from year to year, and facilitate the efforts of other staff to form a picture of “what goes on” in different units. Greater parity between groups would also be effected by allowing students access to an agreed common range of assessment tasks.

50 Instead, criteria-referenced marking, adopted University-wide as the marking paradigm, provides a means of accounting for some degree of equity in standards by allowing specific criteria to be developed collaboratively across streams which meet the agreed objectives of the unit without dictating the form of the assessment. See University of Sydney, Academic Policy, Principles of Assessment, http://www.usyd.edu.au/planning/policy/acad/256_AssPrin.html. Procedures such as control cross-marking can also be instituted to support claims of consistency and parity in assessment standards.

Other aspects of assessment are less central to questions of teaching method, but tend nonetheless to be important to a sense of equity between groups. For example, the same policy for extensions and penalties for late submission may be more easily agreed upon by instructors. There is a strong case for harmonising these highly visible indicators and little to tie them to academic freedom.

It is interesting to reflect on why staff are so sensitive to fairness issues in diverse courses and assessment programs. It is probably fair to say that the experience of many of us in our legal education would have been in lecture-based courses where there was only ever one course guide. In addition, the previous paradigm at Sydney Law School had a high degree of uniformity. Instructors' legal preoccupations make fairness an important issue in any setting, and we are also concerned with fairness because we take our work seriously and feel a high degree of responsibility to our students. However, given strong pedagogical arguments supporting some degree of flexibility or difference, which staff generally recognised in the interviews, there are few reasons to compel absolute uniformity. Aiming instead for reasonable parity, in terms of comparable assessment, skills and content, will go a long way towards addressing staff and student concerns over fairness.

The consensus in our research was that the focus should be more on encouraging communication and consistency in core content, skills, criteria, marking and feedback rather than establishing the same teaching and assessment regime. It may be the case anyway that unnecessary differences between groups could be minimised through discussion and negotiation between the instructors. Teachers in units which had a formal coordination process with regular meetings considered it to be valuable as an on-going dialogue about, and resource for, their teaching. These were especially important in units where there were a number of casual teachers who gained from having a forum to discuss issues related to the course, as well as a more structured involvement in the Faculty. And, as one instructor commented, the coordination process allowed an enunciation of reasons and objectives that would support the communication of principles of fairness to students:

If students complain that it's unfair, you have to be able to sit down and demonstrate to them why it's fair, you have to have had that process of discussion to show that.

Through the consultation process, staff expressed a commitment to “parity” rather than “uniformity”. They supported alternative means of attempting to balance the encouragement of creativity and enthusiasm in teaching, with a sense of fairness for students, by agreeing on some basic principles. They included a core set of topics to be covered in the subject (“dot points”); uniform policies on word length and lateness penalties; limits on assessment type and relative weighting; agreement on which skills are to be the focus of the unit; as well as on-going communications and sharing of resources during semester. There was also agreement on the need to maximise student choice through the provision of information prior to enrolment and early planning.

Implications Across the Degree Program

A major theme in the research was the need for greater communication between staff about teaching across the program as a whole and not just within each unit. The need for clearly articulated goals and channels of communication over the program as a whole was often expressed:

It was difficult coming into the Faculty without knowing how your teaching assignment [fitted] into the overall program.

It’s hard to know what to teach without knowing what they’ve learnt already and what the overall goal of teaching them is.

There needs to be more communication between subjects – no-one asks what is being taught in [subject x] or indicates what they expect will be taught.

Teaching can get really functional, you focus on 13 weeks and 3 assignments. When there is no overarching structure and statements of goals it is easy to lose sight of good teaching and end up doing the antitheses of what we want to achieve.

In the interviews there were many staff who felt that greater attempts at integration could improve some aspects of the current degree structure and delivery. At the most basic level this would avoid unnecessary duplication of materials and content (although some level of deliberate overlap is generally appreciated by students). Greater integration could also help rationalise student workload (particularly in the context of continuous assessment) and coordinate the implementation of the degree objectives.

We need an integrated approach in [the foundation] to assessment so that everybody's not doing the same thing, students are not overworked.

Assessment has to be coordinated over the whole year, in terms of range of skills and workload.

Coordination would be good to ensure they get a variety of experience over different subjects.

Thus instead of replicating the same range of tasks in each unit, or focussing disproportionately on one type of task, different subject areas would target different skills, or even try to design tasks which bridged two concurrent units.

To achieve such co-ordination of objectives and methods across subject areas and years, with different personnel and timing of delivery, it was clear that considerable structural changes were required. Instituting procedures for coordination across these areas required a single person, a foundation co-ordinator, to oversee the delivery of programs. The research process also highlighted the need for a major re-articulation of what that program actually is, and what it aims to deliver. We also recommended, therefore, the creation of a "Foundation Program" within the Faculty, covering the subjects we researched here, that is, the subjects comprising the first year of study in the Graduate Law program and first three years of study in the Combined Law program. A Foundation Program, convened by a single Co-ordinator, is seen by us as a major step towards developing a cohesive vision of the program and realistic management and communication structures with which to deliver it.

Recommendations

Our structural recommendations were divided into those that were directed to consistency and harmonisation within the units themselves, and those which were directed to the broader degree, or Foundation Program.

Within units, recommendations included:

- Some degree of student choice of group in enrolment (for example, preferential system and provide details of the course structure, assessment and instructor in advance to assist choice).
- Set out a timetable for important dates in each semester; for example, a least one unit meeting four weeks before term to discuss unit content, assessment regimes and

course outlines, and another at the end to discuss results and marking issues.

- Fostering of agreement on basic principles to guide co-ordination and parity between groups:
 - Basic 'dot points' or issues to be covered in each unit; and skills to be a focus in each unit
 - The modes of assessment, workload and due dates in each unit; no one assessment to be worth more than 60 per cent
 - Uniform policy for extensions and penalties for word length and lateness.
- Cross-mark in each unit for fails and other grades as well.
- Establish formal on-going communication and sharing of resources within units (teaching ideas, class strategies, problems, exam questions, etc) during semester.
- An enhanced role for the Unit Coordinator, and increased recognition of that role.
- Better coordination for the spread of due dates for assignments across the program.

Recommendations for coordination across units and the degree program included:

- Meetings within units, and then between Unit Coordinators, about skills to be acquired in each unit.
- The encouragement of variety in assessment (for example: research essay, "non-research" essay, problem question, examination, take-home examination, class participation, class presentation/facilitation, moot, negotiation exercise, interview exercise, court report, class diary).
- Overlap of staff across early units to be provided for, to facilitate flow of information.
- Unit Coordinators to meet prior to semester as a group (with Foundation Coordinator) to discuss unit materials and assessment.
- Appointment of a Foundation Co-ordinator to oversee the delivery of the "foundation program" (the first 3 years of the combined degree and first year of the graduate studies).
- Within the Foundation Program, assessment choices to be drawn from modes of assessment agreed upon with Foundation Coordinator and Teaching and Curriculum Coordinator.

Conclusion: A Change in Culture

The audit review found that the move to seminar-style teaching has necessitated a change of culture, both at the micro level of what is happening in the classroom and at the

macro level of program delivery. Within the classroom there have been issues of adjustment as staff and students become accustomed to the new model and struggle, at times, to make it work effectively. In part this is an issue of training and in part an issue of expectations. For example, from the instructor's point of view, it is difficult to embrace new methods in the classroom if to do so means "sacrificing" coverage of material. Likewise, it is difficult to expect students to embrace more unstructured, student-centred learning styles when courses remain content driven with the same, if not greater, amount of material as under the lecture format, and when the major assessment task is still an examination at the end of the course. There is also inertia in the student body in overcoming the "lecture note" culture, as well as a general fear that there would be more work involved in the seminar format. The cultural shift to seminar-style teaching is now mostly about understanding and tackling these issues.

Methods of didactic teaching have reflected and reinforced traditional conceptions of law as a discipline. The perceived need to find "the right answer" may undermine students' willingness to engage in discussion-based learning, even though many admit to finding it a more interesting way to learn. What becomes clear is that in implementing a model of learning which is unfamiliar to many students and instructors it is vital that students be given clear instructions as to what is expected of them and the purpose of their activities. Particularly with preparation for and participation in class, students may be unsure of what exactly they are being marked on, and this leads to anxieties about performance and participation marks. Clearer objectives and communication of these objectives are an essential part of course delivery in the new format.

At a macro level the growth of innovation and varied methods and content has meant that coordination and consistency are greater issues than they were before, although not entirely new. Consideration of how better to structure our coordination of units and across units inevitably prompted a rethink as to the meaning and aims of the law degree program as a whole.

We presented our report and recommendations to the Faculty in late 1999. The initial response has been enthusiastic. Throughout 2000 the Faculty will work toward digesting and implementing recommendations.⁵¹ This continues the

⁵¹ As this article goes to press we are pleased to add that the Faculty passed the major set of recommendations comprising a Foundation

process which produced the 1997 change in teaching model. Among the most significant achievements of that change is the fact that teaching is now firmly placed on the formal and informal agendas in our Faculty.

Program at its August 2000 meeting. The Program is scheduled to run from 2001.

APPENDIX

Part 1

Student Entry Survey

The University of Sydney

Faculty of Law

Unit:.....

Group No
.....

Dear Students,

Welcome (back) to Law! This survey is part of a “teaching audit” of undergraduate courses in the Law Faculty this year. We are gathering detailed information about teaching and learning in the early part of the LLB program — and your experiences and expectations of the Course are an important part of that.

Your legal education should be a rewarding experience and student feedback is essential if we are to continue to improve the delivery of the course, so please give some time and thought to completing this survey — your assistance is appreciated. *NB This is a voluntary survey and your responses are anonymous.*

Why did you choose to study Law? Why did you choose The University of Sydney?

What do you think, or expect, are some of the characteristics of a good university subject?

What do you think is the best way for you to demonstrate what you learn in a unit of study?

What knowledge and/or skills do you hope to acquire from your Law degree? Why?

How many hours of course work (preparation, reading, assignments), in addition to class time, do you think it is reasonable to expect students to complete each week for each unit of study?

How many hours per week do you spend, or plan to spend this semester, in paid employment?

What form of employment do you think you will seek when you finish your degree?

Part 2

Student Exit Survey

The University of Sydney

Faculty of Law

Unit:

Group No

Dear Students,

This survey is part of a “teaching audit” of undergraduate courses in the Law Faculty this year. We are gathering detailed information about teaching and learning in the early part of the LLB program – and your experiences and expectations of the Course are an important part of that.

Your legal education should be a rewarding experience, and student feedback is essential if we are to continue to improve the delivery of the course, so please give some thought to the questions below as your course progresses. Complete this survey in your own time and get it back to us by the end of August – you can hand it in to any of your instructors, or to the student counters at either Campus or Level 12 of the Law School.

Thank you, your assistance is appreciated.

NB This is a voluntary survey and your responses are anonymous. Please ignore those questions you think are inapplicable to your situation, eg. first year students who have only completed one subject etc.

What skills have you acquired in your Law degree so far?

What were some of the best elements of the Law unit(s) you have most recently completed?

What types of assessment have you found particularly helpful in your Law units so far?

Have you any criticisms to make of the assessment regime in this unit, or overall in the Law degree so far?

In relation to assessment and class preparation, has your workload been evenly spread over the semester? If not, please explain.

How many hours outside class did you spend each week on course work (preparation, reading, assignments) for the Law unit(s) you most recently completed?

How many hours per week did you spend in paid employment last semester?

Do you think that the order in which you studied your Law subjects is the appropriate order? If not, please give details.

If you have experienced overlap or repetition in content or assessment in your subjects, please explain.

If you have experienced, in any of your subjects, content or assessment which you believed was largely irrelevant, please explain.

By now you will have encountered various teaching styles. Which do you think works best for you and why?

Has your legal education met your expectations? Why/why not?

What form of employment do you think you will seek when you finish your degree?

*** e-mail contact ***

If you have any comments, suggestions or constructive criticism about any part of your Course, you can e-mail the audit researcher Kirsten Anker any time at kirsten@law.usyd.edu.au. Of course, correspondence by e-mail can't be entirely anonymous, but anything you say will be in the strictest confidence. We may pass on your concerns to people in the Law Faculty who are responsible for making changes, but your name will **not** be passed on or associated with your comments in any way.

Part 3

Student Focus Groups

Hi! Welcome to your Student Focus Group and thank you for participating. These groups are a chance to follow up in greater detail some of the issues that have been raised in the Teaching Audit surveys conducted earlier in the year. So that you can get a sense of the kind of things we might be discussing, some of the main issues and areas of interest are set out below. As you read through them, if you think of additional points you would like to raise, please write them down so that we can come to them during the discussion. We are not at all restricted to the list below, as the main

idea is to find out what concerns you, as a student, have. Student feedback gained in these sessions will be used in formulating recommendations to the Faculty as part of the Teaching Audit report. Confidentiality is assured, and although your comments may be passed on to the Faculty, your name will not be associated with them in any way.

NB – This research is directed towards the first 6 units, although many issues will be common to the whole degree program.

The Classroom Environment

- What do you get out of coming to class?
- What is it that you value in different methods/styles of teaching?

Choice

- How does freedom of/lack of choice impact on your studies? eg. in assessment, timetable, teaching stream (when there is more than one instructor in a unit)

Assessment

- How does continuous assessment help you to learn?
- Class participation attracted a lot of comments in the surveys. Can you help us understand why? How can it best be assessed fairly?

Legal Research Classes and Legal Writing Workshop

- Do these courses help your work in the substantive units (eg. Criminal Law, Torts)?
- How appropriately are they currently placed in the degree progression? Do they need to be repeated?

Orientation to Law School

- What sort of information did you have at the start of your law studies about law as a program? Was this enough information? What would have been useful to know?

Part 4

Interview Topics

Through these interviews and in listening to your concerns, we hope to consider how we can —

- take stock of the opportunities provided by small group teaching and semesterisation
- reflect on how the discrete units fit together to constitute our degree program
- harmonise our teaching objectives
- rationalise our use of scarce teaching resources.

Subject sequencing and integration

- Do you think the sequence of subjects matters?
- Do you think your subject comes at the appropriate time?
- Any changes you would suggest?
- Have you found any overlap or gap in these formative units?
- What are the alternatives?

Small group teaching

- Were you here when the move to small group teaching occurred?
- What do you think about a group of 40?
- What can you do with a group of 40?
- How would a move to greater than 40 affect you?

Method

- What are your principal teaching methods?
- What technologies do you use?
- How has your teaching changed over time?
- Is there anything you would do differently with more teaching resources?
- Are there any problems with the physical teaching environment?

Rationalisation of both student and staff time

Coordinating assessment tasks across the course

- Coordinating with other teachers — what do you do?

- (Question for course coordinators) How should the competing demands of academic freedom and course co-ordination be balanced?

Workload issues for staff and students

- Comment on your work load
- Are students under or over-assessed?
- How much time do you spend in consultation with students outside class time?

Assessment

- How do you assess your students?
- What works and what doesn't?
- How has your assessment changed because of small group teaching?
- Can you explain the way your assessment links with your teaching and learning strategy?

Generic legal skills

- What do you expect students to know when they get to your subject?
- What do you build on to that?

Ethics

- Where and how should they be taught?

Language skills

- Whose responsibility is it if students enter a course with a poor command of English?
- Should we have an entrance exam? If yes, what sort of content?

What do you think about the "Foundation Course"?

- Do we have one?