

AUSTRALIAN LAW STUDENTS' ASSOCIATION



TEACHING AND LEARNING POLICY

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1. Executive Summary

TEACHING AND LEARNING GUIDELINES

- That all examinations, assignments and other forms of assessment be anonymous where practicable;
- That all units include components of continuous assessment;
- That students be provided with their results for each assessment item and that any movement due to scaling, moderation or other forms of adjustment be made available to students;
- That students be provided with their results within a reasonable time for the purposes of adjusting their academic performance and submitting academic appeals;
- That students be provided with adequate feedback on all assessments;
- That all core unit materials (including the course outline, learning objectives, assessment outline, tutorial and assignment questions, notes and similar materials) be made available to students both in hardcopy and online as soon as practicable;
- That learning objectives and assessment criteria for all units be specified and made available to all students;
- That students be made aware of the assessment appeal processes in the course outline or other core course materials;
- That teachers be available for regular consultation with students;
- That schools conduct annual surveys of student responses to the quality of teaching and learning in every unit and review and take into account the results of these surveys on an annual basis.

2. Teaching and Learning in Australian Law Schools

2.1 The Goals of Teaching and Learning

The aim of teaching is to make learning possible; ie, effective teaching is the facilitation of learning. Good legal teaching depends on an understanding of how law students learn, and how their learning is affected by teaching. It requires clear explanations, using a variety of appropriate techniques, such as demonstrations, diagrams, and role-plays etc, which are relevant and which illustrate key points to students. Effective teaching also focuses on key concepts, and key student misconceptions, rather than simply covering the field.

2.2 Changes in Law School Curricula

2.2.1 Traditional LLB Curricula

Traditionally, Australian law schools aimed their LLB programmes at school-leavers, taught the LLB as a stand-alone program, and then offered few dual degree options. Furthermore, the focus of teaching was on the content of legal rules, with little attention given to legal ethics, legal theory, or skills-based learning. Most units were assessed by a single end-of-year examination. Legal ethics issues were generally covered in a discrete "Professional Conduct" subject and "skills" teaching consisted mainly of legal analysis and reasoning, legal research, legal writing and mooting.

2.2.2 Contemporary LLB Curricula

2.2.2.1 Core Curriculum Requirements

The most notable development has been the insistence upon the "Priestley Eleven" in law school curricula. The Priestley requirements for admission to legal practice include contract, tort, real and personal property, equity (including trusts), criminal law and procedure, civil procedure, evidence, professional conduct (including basic trust accounting), administrative law, federal and state constitutional law, and company law. The focus on areas of knowledge, rather than on skills and capabilities, has been criticised, as has the configuration of the subject areas around what are seen to be outdated categories. Nevertheless, most law schools ensure that they cover all Priestley subject areas in their core, compulsory subjects. Those few schools that do not cover all Priestley areas in the compulsory, core component of the LLB programme offer students these areas in elective components.

Often, the priestly subjects that are not compulsory are evidence, civil procedure and professional conduct, which are seen as necessary only if a student wishes to practice law. This is an acknowledgement of the fact that more than 50% of law graduates never practice. In contrast, some law schools include units beyond the Priestley Eleven in their compulsory curriculum, such as legal theory, legal method, research methods or law and society. Recently, law schools restructuring their law degrees have included compulsory subjects such as remedies, a general private law subject that ties in everything taught in contract, tort, equity, trusts and property, and a general public law subject that incorporates constitutional and administrative law. Many law schools teach courses such as contract, tort, equity, property and criminal law as year-long courses. The Priestley

compulsory component accounts for two thirds of most law schools' LLB programmes.

2.2.2.2 *Practical Skills*

General and legal skills teaching have increased as the consequence of a formal or informal infiltration of professional legal training. The teaching of more "practical legal skills" in the LLB program (such as negotiation and drafting skills) was largely a post-1987 development. Law schools, to differing degrees, now have a strong commitment to covering the major areas of law relevant to practice; to teaching relevant legal principles; to showing LLB students how to respond to new developments in law; to giving emphasis to clear and logical written and oral expression; to encouraging ethical legal practice; to fostering student responsibility for their own development; and, to a lesser extent, to teaching students how to provide practical legal advice.

Most of Australian law schools adopt only a "low-key" approach to the introduction of generic and legal skills into the curriculum. Most Australian law schools focus on fundamental skills, such as legal research and writing, case analysis, statutory interpretation, and oral communication; however, many also include more specific legal skills such as advocacy, alternative dispute resolution skills, client interviewing, witness examination, drafting and negotiation. Most schools do not offer discrete skills subjects. Some law schools have an integrated skills program in their LLB curricula. Such programs include substantial clinical teaching programs and/or placements and/or incremental and co-ordinated skills development.

Four law schools include accredited professional legal training programs within LLB programmes. This means that students can graduate with an LLB and a Diploma of Legal Practice. With few exceptions, the skills-based curriculum in most Australian law schools is piecemeal and fragmented; most schools have not devoted significant resources to developing skills-based learning programs, or to mapping and embedding skills teaching within the general LLB curriculum. In recent years, many law schools have moved away from skills teaching in the LLB. Some see this as the role of Professional Legal Training or Graduate Diplomas of Legal Practice. Teaching and assessing skills such as mooting and witness examination is also extremely time consuming and costly. The experience at large metropolitan universities has been that the assessment of these skills has been lacklustre. Hence, any attempt to incorporate legal skills into the LLB must be done properly, which is very difficult with over 500 students per subject at some universities.

2.2.2.3 *Legal Theory/Jurisprudence*

Most law schools now give greater weight to legal theory and require students to undertake at least one subject in legal theory. Some go further, and require students to undertake advanced legal theory subjects in later years, and/or require, or at least encourage, staff to incorporate theoretical perspectives into both core and elective subjects. Not many schools, however, appear to have a rigorous process of ensuring that legal theory is integrated into the LLB curriculum at all levels, so that students can build upon their understanding of different areas of legal theory as they progress through the degree.

2.2.2.4 *Other changes*

Other changes in focus include more emphasis on ethics teaching, a strong commercial law focus, and an increasingly international focus. Almost all law schools now teach legal ethics, many as part of the compulsory program. However, there is no consensus as to how legal ethics should be incorporated into the curriculum. Some law schools teach ethics in discrete subjects and others as one component of a discrete subject. Critics argue that most legal ethics teaching in Australian law schools emphasises only practical problem solving in the context of ethical issues. Legal ethics are rarely taught as a pervasive set of values that underpin the practice of law or as an integral part of learning the law as a social phenomenon. Most universities now offer public international law and private international law (also called conflict of laws), as well as many specific international subjects, such as comparative law, human rights law, international humanitarian law, Islamic law, Asian legal systems and civil/roman law.

2.3 Content Delivery Methods

2.3.1 Developments in Content Delivery Methods

Key developments have included a shift to student-focused teaching; commitment to small-group teaching; an increased grounding of teaching in theories of teaching and learning; and, an increased use of electronic modes of delivery. These developments, however, have been undermined by the under-resourcing of law schools leading to increased class sizes (despite the commitment to smaller classes) and greater administrative burdens on academic staff. Other changes to law schools that have been driven by external pressures (such as funding) include increased use of casual staff, conversion of year-long courses to single semester units, and greater use of intensive teaching. The focus on research and publishing means that teaching is often not the key

focus for a law school. These changes may have positive dimensions, but also result in significant negative effects on student learning.

2.3.1.1 *Student-Focused Teaching and Learning*

Law teachers have moved towards conceptualising teaching as the facilitation of student learning. Most law schools are seeking information from students and the profession as to how their programs, subjects and approaches to teaching might be improved.

2.3.1.2 *Problem-Based Learning*

Some law schools have begun to move towards problem-based learning models, which emphasise hypothetical problem situations and 'practical' learning. Nonetheless, this is an area in which law schools lag behind other disciplines, such as medicine.

2.3.1.3 *Small Group Teaching*

In the wake of the Pearce Report, many law schools have moved towards smaller class sizes, particularly in the earlier years and in the foundational subjects of the LLB. This was predicated upon a notion of "small group teaching", where classes of 25 to 45 students would be taught by a range of more interactive methods including seminars, teacher-led full class discussion, mini-group discussion, and other methods designed to maximise student opportunity to discuss class material. This approach also emphasises pre-reading. Moreover, it was thought that small group teaching would enable the provision of more regular feedback to students and instil student responsibility for learning.

Not all law schools consider small-group teaching to be preferable to the traditional lecture/tutorial model. These schools maintain that lectures supplemented by tutorials with small¹ numbers of students can achieve many of the same aims. Some larger universities have moved away from the small group model, because with large numbers of students, a number of small-group lecturers are needed for the same subject, which meant that often different content was emphasised by different lecturers. The lecture/tutorial model does have the advantage of having the same person lecture all students.

2.3.1.4 *Electronic Modes of Delivery*

The greater use of electronic modes of delivery and the greater use of websites and

¹ Generally, law schools aim to cap tutorials at 20 students.

email to facilitate communication with students has been adopted by many Australian law schools. Many universities now podcast lectures online.

2.3.2 Suggested Effective Content Delivery Methods

2.3.2.1 Large Group Teaching

There are several methods of large group teaching that can be used to increase student participation and impart information more effectively, including:

- Breaking the large class into smaller and more manageable groups where the lecturer plays the role of a facilitator, spending part of the class with each small group and facilitating discussion.
- Group work – such as group assignments, group presentations or other group activities – can reduce marking loads in large classes that are under-resourced;
- Group work has the added advantages of encouraging discussion and interaction, and there is anecdotal evidence that it increases pre-class preparation.

2.3.2.2 Guest Lecturing

'Guest lecturers' are common in many large group classes. The advantages of guest lectures include the benefit of a different or 'practical' perspective on a subject. However, guest lecturing is often unsuitable, because the visiting lecturer may have a poor understanding of teaching, or her/his segment may not be properly integrated into the subject. It can often lead to a subject being, or appearing to be, poorly organised. Recommended methods for the effective use of guest lecturing include:

- Scheduling guest lectures at the end of a course/topic, so that the lecture reflects on, or adds a practical perspective to, what has already been learned, rather than teaching substantive material; or,
- Using guest lecturers in tandem or in groups with the course lecturer to ensure that quality is maintained, that the section is properly organised and integrated into the course and that the guest lecturers can benefit from the skills of those with previous teaching experience.

Guest lecturers are often more suitable in elective, rather than compulsory courses. Some universities use visiting lecturers to offer subjects that their staff have no expertise in, for example, Mining and Petroleum Law or Construction Law.

2.3.3.3 Course Materials

Many law schools now require that all students be provided with subject guides, based

on a standard template, which ensures that students receive all essential subject information, including learning objectives, details of assessment, and the scheduling of topics. It is recommended that course materials include: key cases, introductory texts, topic summaries, questions aimed at guiding reading and class discussion, and other activities (including hypothetical problems, simulations, real-life examples) to provide a context for student learning. It is also advisable for course materials to link the subject matter of the course to other areas of law, so that students can build on their previous learning.

2.3.3.4 *Information Technology*

Most, if not all law schools now require teachers to use the internet to support teaching. As a minimum, schools should insist that all subject guides and other core materials are placed on law school websites and made available to students. In the classroom, some lecturers are embracing information technology by using PowerPoint, establishing chat-rooms and bulletin boards for student discussion, providing students with opportunities for online learning, and using other internet-based teaching methods. Most law schools have expressed a preference for using online teaching as a complement to, rather than a substitute for, face-to-face teaching. This is a preferable approach, at least for the foreseeable future, particularly because technology-based teaching strategies are not sufficiently developed to ensuring that teaching and learning remains the paramount consideration.

In the field of skills learning, information technology has dramatically changed the nature of legal research and legal practice such that electronic information retrieval is now a skill students need to master from the beginning of their law studies. Most law schools have responded to the demand for these practical skills.

However, some law schools are now pushing for their lecturers not to use PowerPoint or podcast their lectures. There is a concern commonly held amongst lecturers that placing PowerPoint slides on the web or podcast their lectures means that students treat the slides as an exhaustive statement of the course content. Using slides in lectures often means that students concentrate on scribing, rather than listening to their lecturer. Ultimately, the question that must be asked is 'what is the role of lectures'? If they are simply a means of a lecture conveying information by talking at students, then slides and pod-casts are appropriate. In this situation, it is questionable whether lectures should even be offered in person, or simply made available online. Furthermore, if a lecturer is

simply reading from a script, it would be more interesting to have an actor read the script! However, if lectures are meant to be an interactive forum where students engage with lecturers, then podcasting certainly defeats this purpose. Lecture slides can often provide a barrier between students and teachers, and if they contain too much content, then the lecturer adds less value. Not having PowerPoint slides can mean unstructured lectures, so deciding whether to have slides, and how many to have is a balancing act. Of course, you can still have interactive lectures and pod-cast them online; however, students will gain far less benefit from this.

2.4 Recommendations for Law School Teaching and Learning Policies

2.4.1 Educating Lecturers on Student Learning

- Key works on student learning should be made available in the school's library;
- Staff should be encouraged to participate in discussion groups within the school, where key information or texts on student learning should be discussed;
- Schools should encourage and fund teaching staff to attend conferences and workshops and to undertake professional development courses on teaching and learning;
- Schools should invite experts in tertiary education to give seminars in which they outline recent developments in educational theory and practice, and likely future developments in teaching and learning;
- Schools should consider initiating and funding a research project on student learning within the school;
- Schools should implement a policy of accountability to ensure that an understanding of theories of, and innovations in, student learning is maintained and encouraged.

2.4.2 Subject Design

- Key materials and support on subject design should be made available to lecturers, including a collection of material exemplifying good subject design (e.g. examples of clear objectives, assessment criteria, feedback mechanisms, activity-based materials);
- Schools should organise workshops on subject design for teachers, and particularly new teachers, which should provide a forum for groups of teachers to work together to plan and structure subjects;
- Schools should establish a peer mentoring system for new teachers;

- Schools should consider initiating and funding research projects on aspects of subject design selected from issues raised by the retrospective course survey, or prompted by changes in university teaching and learning policies;
- Schools should organise seminars, conferences and workshops show-casing exemplary subject design practices;
- Schools should encourage or require teaching staff to evaluate the design of their subjects by drawing on appropriate sources of information (including student and peer evaluations);
- Schools should provide staff who have engaged in informed and reflective work in subject design with credit for that work, for example in the allocation of teaching responsibilities.

2.4.3 Classroom Teaching Strategies

- Schools should make key materials on classroom teaching methods available to lecturers;
- Schools should organise workshops for staff (particularly new teaching staff) on approaches to the selection of teaching methods and media; and seminars and workshops on specific teaching methods and media to showcase exemplary methods;
- Schools should ensure the availability of required teaching media (electronic or otherwise) in classrooms used by school teachers;
- Schools should encourage teaching staff to seek qualitative information to evaluate their classroom teaching performance, and to develop a plan for improvement independently of the assessment of teaching processes required by the university and,
- Schools should encourage and financially support staff to attend courses and workshops on teaching methods.

2.4.4 Student Input

- Staff-student relationships would be improved by encouraging students to elect representatives in each subject who could regularly meet with teachers to discuss progress in the subject, raise issues of concern for students, and suggest solutions to problems. Alternatively, LSSs can deal with complaints and suggestions;
- Schools should establish a complaints procedure for students who are unhappy with the teaching of their subjects, and who have raised issues with their teacher without successful resolution;

- Schools should establish a student liaison forum, comprising staff and students, specifically devoted to teaching and learning questions in the school.

3. Teaching and Learning Guidelines

The following ten guidelines represent ALSA's teaching and learning guidelines for Australian Law Schools. All Australian Law Schools should meet the following ten requirements in their assessment and teaching and learning policies, and all Australian law students should expect their schools to attain the requirements as a minimum standard. It should be noted that some of these standards may not be possible in relation to certain intensive or practical skills-based units – the standards are intended to be a guide for ordinary compulsory and elective units and only apply to other units insofar as is practical.

1. That all examinations and assignments, and other assessment items where practicable, be anonymous;
2. That all units include components of continuous assessment; and specifically, that no unit should have 100% final examination-based assessment;
3. That students be provided with their results for each and every assessment item, and that any movement due to scaling, moderation or other forms of adjustment be made available to students on request;
4. That students be provided with their results within a reasonable time for the purposes of adjusting their academic performance and submitting academic appeals;
5. That students be provided with adequate feedback on all assessments;
6. That all core unit materials (including the course outline, learning objectives, assessment outline, tutorial and assignment questions, notes and similar materials) be made available to students both in hardcopy and online;
7. That learning objectives and assessment criteria for all units be specified and made available to all students;
8. That students be made aware of the assessment appeal processes in the course outline or other core course materials;
9. That teachers be regularly available for consultation with students; and,
10. That schools conduct annual surveys of student responses to the quality of teaching and learning in every unit and review and take into account the results of these surveys on an annual basis.