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Sitting on the same bench: Complementing law learning outcomes

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Academic skills are now an integral element of the Monash University Library's educational program, joining the more established library-taught skill of research. Librarians and learning skills advisers work to present combined classes, and jointly develop programs to deepen the educational experience of students, both through and alongside the curriculum (co-curricula). The Law Library team are fortunate in having a close association with the Monash Faculty of Law, thereby strengthening integration through the provision of shared classes in compulsory law units. Librarians and learning skills advisers have largely complementary skills: good academic writing is based on solid research, and academic argument and its expression are limited by inadequate research.

On request from the Law Faculty, the Law Library team teach into a compulsory first-year unit which aims to improve students' research and writing skills. The learning skills adviser and the librarians planned, prepared and delivered classes jointly; starting with analysing the question, establishing a framework for the research, and ending with drafting the legal advice that utilises the research.

Moreover, the recent educational drive to extend curricula and develop graduate attribute statements has consolidated the methodological foundation of the educational programs. In response to the 2011 curriculum review carried out by the Monash Law Faculty, the Law Library team drew on the draft Threshold Learning Outcomes for Law (Australian Learning and Teaching Council, 2010) combining these with the Research Skill Development Framework (Willison & O'Regan, 2006) to map the classes currently offered and suggest further directions.

Key Words: skills, law, legal research, academic writing, academic argument, team work, learning outcomes, curriculum, partnerships, law programs, research skills development framework, Monash University, librarians, learning skills advisers.

1. Introduction

Teaching law students how to reason, research and write is the focus of a partnership between law academic staff, librarians and learning skills advisers at Monash University. The ability to undertake effective legal research and to analyse and communicate the results of this research is fundamental to the study and practice of law and the employability of law graduates by law firms, courts and government. However, graduates working in these areas are often unprepared for the amount of legal research and writing that they are expected to do. How to best teach these skills at university remains a subject of vigorous debate amongst law academics and skills

professionals; there being a variety of methods in place, from embedding skills within substantive law units to running discrete skills units (Tucker & Hughes, 2008).

Discrete legal research and writing courses are common in the United States. The most recent report of the Annual Legal Writing Survey (2010) shows that the majority of programs there integrate research and writing instruction (154 programs out of the 191 surveyed). The survey also found that the type of staff teaching into these programs varies; at 77 North American law schools, legal research is taught by faculty; at 68 schools both faculty and librarians teach legal research; and at 29 schools teaching assistants and other students also teach research (p. iv). Generally, academic staff teach reasoning methods within substantive law units, while librarians, both in the US and Australia, have for some time been involved in the teaching of legal research skills. In Australia, academic skills experts, or learning skills advisers, are now becoming integral to the mix; recognised as experts in teaching the elements of language and writing structure.

The integrated nature of research and writing determines the nature of the teaching and the associated assessment tasks. Merging the skills in the classroom ensures that "students gain exposure to these skills as interconnected processes crucial in the production of a quality assessment task" (Einfalt & Turley 2009, p. A-109). Information literacy and academic literacy are the two skills that lie at the heart of the blended approach and overlap in a number of critical concepts or skills areas. They are best taught "within the context of a discipline" (Peacock, 2008, p. 1). As Peacock makes clear, we must "strive to create stronger linkages for students between reading, writing and research which acknowledges and promotes these domains as a single recursive scholarly process" (p. 3). A vital element to this process is the collaboration and partnership of the key experts, namely academics, librarians and academic skills advisers, in order to enhance learning outcomes for the students (Einfalt & Turley, 2009). The goal for all those involved in teaching law students is a common one: to produce graduates who have the necessary attributes and skills to equip them for the workforce and for lifelong learning (see later discussion of Threshold Learning Outcomes). We set out below the argument that the complementary processes of research skills and academic learning skills specialised in by experts in the Monash University Library, together with the knowledge and skills taught by academic staff, serve as a successful model to teach law students. In effect, we are all "sitting on the same bench".

2. Evolving roles in libraries

Academic library strategic planners are becoming increasingly convinced that teaching and learning is a key role that the library can participate in within the broader organisation. A survey of academic library directors in the United States found that "library directors at all types of institutions see supporting teaching and learning as one of their primary missions" (Ithaka S+R Library Survey, 2010, p. 5). "Libraries are increasingly concerned with the role they play in teaching"; "they think like educators, not service providers" (p. 21). Another recent report on the value of academic libraries goes further by suggesting that "academic libraries might soon be assessed in terms of how they contribute to teaching and learning" (Association of College and Research Libraries, 2010). At Monash University, library staff have embraced this direction and consider their role a partnership with the academic community. A major contribution to this has been the expansion of the Library to include academic language and learning experts holding positions as Learning Skills Advisers. This role has become an integrated part of the Library, a successful model being used increasingly by other universities, for example, at the Queensland University of Technology where library staff assume responsibility for "ongoing development of academic literacy as well as information literacy" (Peacock, 2008, p. 1).

The Monash University Library Learning Skills project was established in 2007, led by Lisa Smith (currently Director, Client Services at Monash University Library), and services began in Semester 2, 2007, with learning skills advisers established at each branch library. The Library now has a strong team of 20 learning skills advisers. The most recent extension of integration has seen the new roles of "Research and Learning Coordinators" who lead teams of librarians and learning skills advisers across faculty teams and branches. Although the change was

initially seen by some to mean that "learning is no longer bound up with language, and at the same time has been reduced to skills" (Clerehan, 2007, p. A-75), how best to use the "language" of the discipline is still an essential part of the learning skills adviser role.

3. Law Library team

The Law Library's team consists of the Law Library manager, two subject librarians, one full-time learning skills adviser, and another learning skills adviser (shared with the Library's Arts Faculty team), with further support and teaching assistance provided by two reference librarians. Learning skills has been successfully integrated within the Law Library because of the already established close working relationship with the Law Faculty, and also because the specialised nature of legal research requires intensive instruction and follow-up. Providing individual assistance to students within the Library at the "Research and Learning" point is an important element of this instruction and follow-up. At the beginning of 2011, this service point (previously the Information Desk) was renamed in a Library-wide strategy to better integrate both research and learning skills and to encourage students to think of seeking assistance in learning skills as part of the mainstream function of the Library. As students are usually already familiar with accessing research assistance in libraries, it follows that they should readily accept assistance with other academic skills, especially as the two areas are closely linked (Peacock, 2008). Ultimately, it is the student who benefits from this close integration of skills.

Due to the greater level of understanding that has developed between different specialists in the team, initial support can be provided by both types of specialists. Referrals happen frequently, and are necessary, as there is no desire to require staff to become experts in all areas, but rather to enable the seamless flow of assistance for the student. While the majority of help sought still concerns either a research or a writing/learning skill, there are a growing number of students requiring and seeking both. The cross-over is seen particularly in the area of citing and referencing, where a student may be concerned about how to incorporate a particular piece of information or quote obtained from a source into their writing and how best to reference it according to the style required in the Faculty (Australian Guide to Legal Citation, 2010). Additionally, the learning skills adviser may notice a particular problem or lack of research when advising on the writing and so refer the student to a librarian. Over time, staff have reported that, while experts in each area are known and sought out by students, there is also more willingness from students to ask overlapping questions of the staff member rostered at the service point. The willingness and ability of staff to expand their roles to areas outside their more traditional ones are of significant benefit to the student.

4. Teaching partnerships

Following the strategic directions of the Library, the Law Library team has developed and expanded the partnership model in a number of areas. Staff teach the combined skills of research and writing in core units within Law undergraduate and postgraduate programs. At undergraduate level, a high proportion of students undertake double degrees, 8% of law students have a non-English speaking background, and at present, relatively few come from lower socio-economic backgrounds.

In the first unit taken by law students, Introduction to Legal Reasoning, staff members have combined to instil good writing and research habits by focusing on the first "court report" assignment. A class on developing a thesis statement and developing and following through an argument, taught by the learning skills adviser, is followed up by classes where students actively research to find information related to topics identified from the assignment questions. Since this approach began, Library staff have received verbal and written feedback commenting on the sharp improvement of the assignments submitted.

Skills are built on further in the following semester within the unit, Research and Writing (RAW) (described in more detail later), where a series of classes are run on legal research skills, including a class on how to use the research effectively in writing assignments. A similar series of classes is run for the JD (Juris Doctor) students as part of their foundation law unit. Honours

and HDR students are provided with co-curricular classes and "writing circles", incorporating skills elements such as effective reading, note-taking, and avoiding plagiarism, tying in with research skills and instruction in the use of EndNote bibliographic management software.

At the other end of the degree, librarians and learning skills advisers have also worked collaboratively to develop the "Clerkship tutorial". This tutorial has been designed to refine research and writing skills for later year students who are applying for seasonal clerkships. Law firms use clerkships to identify students who will take part in their traineeship programs, so it is vital that students are able to research and write effectively. Students have already developed a certain degree of proficiency in research and writing, through previous teaching and from their own practice of these skills in assignments. The Clerkship tutorial seeks to further develop these skills to the levels required in work environments, whether in a law firm, professional services, or government department setting. It also seeks to highlight the professional attitudes and behaviours required in work situations. To ensure that the tutorial achieves these aims, input was sought from a range of firms and departments as to which skills and attitudes they perceived as essential. The feedback received focussed on the types of research and writing typically performed by seasonal clerks, essential key resources, and the attitude and preparation skills required. The tutorial has been held five times to date, with very positive feedback received, and possibilities for expansion are being considered.

Having an established program of Library-run classes and an excellent relationship with the Faculty has eased the way when adding further classes. Learning skills advisers teach elements of critical reading, note-taking, legal case analysis, and argument development both into extracurricular classes, and into Faculty units in collaboration with the academic staff. These classes are mainly at beginning level for both undergraduate and postgraduate degrees, but more advanced seminars and writing groups are also run, usually with good attendance. The voluntary seminars aimed at first-year students, held at lunchtimes, have attracted about 15% of the first-year intake over semester 1, 2011, with numbers improving each year.

5. Research and Writing (RAW) unit

Effective collaboration with Faculty staff has also encouraged library staff to be more involved in teaching. RAW is the most recent result of this. Library staff bring expertise in teaching study techniques; oral communication and presentation skills; and academic essay, report and thesis writing; as well as legal research. The aim of the unit is to develop critical early competencies in legal research and writing. The focus on flexible teaching and learning through online and face-to-face environments continues; however, there are new challenges and broader aims. These include meeting the needs of first year students without significant substantive law knowledge and independent learning skills, and a commitment to small group teaching of first year students as a way to aid transition and retention through social and educational engagement.

Engaging first-year law students in a skills-based unit is a somewhat difficult, yet important, challenge. Skills are recognised as being the fundamental building blocks for building a competent law professional, essential for preparing them for practice when they graduate (Brown, 2010). However, skills teaching has not been received with the same enthusiasm by students as has the substantive law teaching of, say, criminal law or torts. As well, students tend to come into law school with an inflated sense of their legal research capabilities (Gallacher, 2007). Legal research programs have tried to address this by moving from a passive learning model to a more active one (Crawford, 2008), with a variety of techniques used to try to make students more aware of their legal research inadequacies (Brown, 2010). Techniques range from fill-in-the-blank and matching exercises and games, to video clips, applying legal lessons to current events, and using tools such as clickers to gauge student understanding (Brown, 2010).

Since its inception in 2008, RAW classes taught by the Library team have incorporated active learning techniques, evolving through student feedback and teacher experience. Scenarios used in classes are based around current events and court cases, and incorporate exercises, group work, laptops, YouTube clips, and discussion, placing the emphasis on the students rather than the teacher. The learning skills adviser brings extensive teaching experience and professional

educational methodology to the team, while the librarians bring wide-ranging knowledge and experience of legal research tools and processes from their backgrounds in industry and academia. The team's collaboration draws on this experience and knowledge to inform class design. In RAW, the team teaches nine 90-minute classes over 11 streams, each of approximately 45 students, covering such areas as critical reading and developing an argument, academic integrity, research processes and skills, and how to effectively incorporate research results into legal writing.

Students are given practical examples illustrating concepts and are expected to contribute to class discussion and work on developing their skills. For example, an online "avoiding plagiarism" quiz is used in class and the effects of academic misconduct in the legal profession are discussed, thus connecting students' conduct at law school with their future professional lives. To emulate legal research in practice, a research scenario forms the basis for practical class exercises. Group work within the lecture theatres, using student laptops connected to the wireless network, allows students without laptops to work with those that have laptops, while simultaneously learning how to work in teams and communicate results. The teaching and assessment components of the course emphasise step-by-step skills development and prompt feedback to meet the transitional needs of students in the early stages of the LLB. These students are developing their understanding of the discipline of law and its unique research and writing requirements, which are quite different from requirements students may have experienced at school or within other disciplines.

To assess the success of this approach, a brief survey was given to RAW students in 2009, at the conclusion of the series of Library-run research and writing classes. Results showed that 85% agreed or strongly agreed that their research skills had improved as a result of the classes, and 78.5% were satisfied or highly satisfied with the quality and content of the class on good academic writing. Qualitative comments were also obtained on the question, "What did you find most valuable about these classes?" and "What could be improved", with many responses positive about the practical advice provided in the classes and the experiential nature of the exercises. Central university unit evaluations from 2008 to 2010 have also shown improvement in overall satisfaction and positive comments regarding the research skills classes. However, it is generally not until later in the degree that students realise the importance of this teaching, as shown via informal feedback received from later year students. A longitudinal study of student results over the degree and when entering the workforce would be the next step if funding and time permit.

6. Teamwork

Team dynamics and techniques are important elements of building successful classes. Law Library team members develop classes together, rather than merely developing and presenting elements of the class individually. This team approach starts by combining the skills of research and argument development – skills which are inextricably linked. The research requires a purpose beyond mere location of information, namely, to use it to support an argument. Developing an argument needs not only the information itself but also the ability to relate the information to a cogent line of reasoning and to anticipate the counter-arguments. For example, if students are asked to write a legal memo, both research and writing skills are needed. The points to be used in the written task emerge during the research process, so by being familiar with the initial and ongoing research, the learning skills adviser can help students to select relevant and significant information which will then be used to develop an argument. By doing this, students identify points where counter-argument is needed, and consequently carry out further and more in-depth research to find the primary materials, usually court judgments, needed to distinguish argument points. This leads to a much deeper analysis of the problem, and a more rounded approach than that of taking the completed research and then using it for a written response. Moreover, this approach emphasises the iterative nature of both research and writing, and confirms their interdependency.

The team is inter-professional, drawing on many of the same skills as successful interdisciplinary teams. These team characteristics can be best explained by using research from

other areas. Botterill and de la Harpe (2010) analysed interdisciplinary teams, where "members represent different disciplines, discourses and communities of practice" (p. 79). Although the Law Library team is concerned primarily with the discipline of law, it does represent different discourses and communities of practice, ones which frequently work closely together, but not necessarily collaboratively, to inform each other's discourse and practice. Methodology has evolved from earlier teaching practice, where a guest presentation by a subject librarian was delivered into a lecture, informing students on research methods and applicability, followed by a separate presentation from a discourse specialist, explaining how to use the research in a particular assignment. Such presentations would usually be discrete, with little in common between the subject matter and styles of the respective experts. In contrast, the Law Library team frequently uses a dual presentation, where each presenter draws on the points made by their co-presenter in order to clarify the relevance of the material and improve the students' understanding of the required tasks.

Consequently the operating style is closer to that of an interdisciplinary team, which comprises a "group of people ... who consciously try to co-ordinate and integrate their expertise in the pursuit of a common goal" (Boterill & de la Harpe, 2010, p. 79). The co-ordination and integration are certainly deliberate, in that lesson planning is a collaborative group exercise, usually with lively discussion and the ready acceptance of constructive criticism. This interaction is important in order to achieve optimum clarity and relevance of instruction for the students. In these planning sessions, roles change, with the discourse specialist being the uninformed participant (representing the student) when the research classes are being planned, and the research specialists then viewing the intended presentation on discourse elements, and suggesting links to research concepts or points to emphasise. Points requiring clarification emerge in this working pattern, so that the lesson plan can be amended to eliminate potential ambiguities. The final classes are based on both areas of expertise, which leads to the students gaining a better understanding of both research processes and written outcomes.

The team's working ethos has evolved to that of a "self-managed work team", defined by Frankforter and Christensen (2005) as "a self-determining, permanent, cross-functional group ... that shares the responsibility for a particular product or service an organization produces" (pp. 22-23). These points are certainly applicable to the core characteristics of the team, and its commitment to producing class materials of the highest quality possible. The decision to work as one group, co-ordinating and integrating respective expertise, was self-determined, arising from within the group itself, and has developed over several years of sharing class materials and preparation.

The Law Faculty is open to proposals from the Law Library team regarding the incorporation of research and writing sessions in the core units, and is confident in the team's expertise and ability to deliver. That the team meets Faculty expectations is demonstrated by the on-going high levels of co-operation and involvement. Within the broader university, the team was awarded the Vice-Chancellor's Award for Exceptional Performance by Professional Staff in 2009 for its innovative team teaching techniques.

7. Teaching frameworks

Given the partnerships described, writing is taught within a discipline framework. This allows greater use of genre analysis in order to focus on the specific styles required for legal writing, where "questions of '-ography' (i.e. writing in and for a discourse community)" emerge (Chanock, 2007, p. 274). The teaching must address "the relationships between the kinds of questions asked; the kinds of inquiry undertaken and the genres that evolve in response to these, with their different text structures, language choices and use of evidence" (Chanock, 2010, p. 270). For RAW, the writing component covers those discourse styles primarily used in legal practice, such as drafting memos and client letters. The learning skills adviser teaches some concepts of argument into the RAW classes, such as the specificities of using other writers' voices in various styles of writing.

Towards the end of the Library's series of RAW classes, the research and writing experts co-teach so that students have the opportunity to combine their acquired skills to respond to a new legal problem. This response, known as a "legal memo", is a fundamental task introduced at first year and used with increasing complexity in substantive law units at higher levels. In this very specific style of legal writing, students analyse a scenario to identify the legal issues (for example, whether the legal action to be taken arises from assault or battery, or both) and then discuss the relevant legal rules that apply. In its simplest form, there are five basic steps to analysing a legal problem (Milne & Tucker, 2010, p. 9): identification of the relevant facts; identification of the legal issues; identification and interpretation of the rules that govern the legal issues; application of the rules to the facts; conclusion. The memo should be legally succinct with a clearly defined pattern of argument.

There are numerous ways in which a legal argument can be structured. The structure currently used by Monash Law academics teaching Research and Writing is MIRAT, which expands to: Material facts (M), Issues of law and policy (I), Rule of law (R), Argument/Application (A), Tentative conclusion (T) (Wade, 1990-91). Consequently, this is the model used to frame the students' research and writing process.

However, merely learning the discourse format is insufficient. Arguments presented on both sides need a solid basis of research plus some creativity in applying the rules within defined limits. As Felsenburg and Graham (2010) argue, first-year students accustomed to being recognised as "good writers" may receive disappointing results despite mastering the model, because they over-emphasise structural and mechanical areas over using these to develop meaningful content. "The point we are stressing here is that many of the incoming students we surveyed seemed to recognize no distinction between analytical skills and mechanical skills, leading to a false confidence that mastery of the mechanics would equate to mastery of legal writing" (Felsenburg & Graham, 2010, p. 262).

The structure has to be seen and taught as a scaffold for the content, namely using both structure and information to build meaningful argument, allowing students to present an interpretation of this. Harner (2011) describes the key skills as "spotting and dissecting issues, identifying applicable tools and potential barriers, embracing ambiguity, and thinking creatively to resolve issues" (p. 392). In other words, students are learning to construct a legal meaning that will best assist a client, and go beyond the mechanics of the model. This legal meaning essentially reflects a legal identity, and as such is close to an academic literacies model, defined by Lea and Street (2006) as "concerned with meaning making, identity, power, and authority" (p. 369) and moreover one closely concerned with "what counts as knowledge", here, in a legal context.

This approach to knowledge-building helps to overcome the limitations noted in Felsenburg and Graham's 2010 study, where students focus on the mechanics of following the pattern to the detriment of the content and the expression. Instead, this approach allows for a "complex, dynamic, nuanced, situated" process that involves "both epistemological issues and social processes, including power relations among people, institutions, and social identities" (Lea & Street, 2006, p. 369). In this way, students' understanding of how to apply their legal research results and develop their analytic skills related to the scenario is improved.

Moreover, as Chanock (2004) explains, teaching writing needs an awareness of the purposes related to academic professionalism within each discipline, where the "meaning of each question is embedded in the meanings made by the discipline as a community of inquiry" (p. 25). Apart from familiarity with specific legal language usage, students need to know how to use the meanings created by the relevant legislation and court cases found in their research, in relation to the task to be addressed in the assignment. For first-year law students, this legal problem-solving response is a task which requires more than a formulaic application of the research to the structure while using language precisely and concisely; in other words, a response where structure and argument are affected by the underlying disciplinary assumptions about the nature of knowledge (Lea & Street, 1998, as cited in Bruce, 2008).

As discussed above, by applying a model to a legal problem-solving response, the model contributes to the communicative medium, and needs to be skilfully adapted to create a well

argued response. Many legal writing practitioners (Felsenburg & Graham, 2011; Campbell, 2010) focus on using an instructional style that fuses the model with content material so that successful writing depends on interpretation and presentation of argument points within this set structure. The Law Library team's teaching practice aims to combine the legal information acquired through research with the written outcome. As clarified by Lea and Street (2006), the shifts in genre and style needed at different points during the class need to be clarified to the students.

8. Skills frameworks

To build the skills needed by law students in their research and writing, the team has drawn on two sets of frameworks – the Research Skill Development (RSD) Framework (Willison & O'Regan, 2006) and the Australian Learning and Teaching Council's (ALTC) Threshold Learning Outcomes (TLOs) for the discipline of Law (Australian Learning and Teaching Council, 2010).

The RSD maps levels of researcher autonomy on one axis, with cognitive skills labelled "facets of inquiry" on the other. The levels of researcher autonomy range from students working on a limited and defined task, a "closed inquiry" with substantial guidance and structure at Level 1, to students working on an "open inquiry" with freedom to select the structure within the appropriate genres for the discipline at Level 5. Two further levels are possible for more advanced researchers. Students doing first-year units are more likely to need "closed" questions and require more guidance than students who are more familiar with academic genres and lecturer expectations. The first legal writing assignments are usually within the "closed inquiry" level, although the student is able to select from several alternatives. However, the task itself requires the same styles of presentation and argument.

The facets of inquiry axis is, however, not as useful for developing legal argument in that the critical thinking skills so important for academic writing are not as clearly delineated, and tend to be grouped together in the final steps. First-year law students working on legal problem-solving responses (as described above) require a specific application of cognitive skills (Hughes, 2011). Such students are expected to interpret the law by debating the legal issues and thoughtfully applying legislation and legal precedent within the framework established by the scenario. This requires a solid basis of research to find and apply the legal rules while using a set pattern of argument and reply, as discussed above. Students may experience difficulties in applying their research to the assignment question.

The second important framework, consisting of six Threshold Learning Outcomes (TLOs), aims to identify, embed, and assess skills more explicitly across Law curricula. TLO1 and TLO2 refer to legal knowledge and legal ethics, so are not explicitly included in the lesson plans for library classes. However TLO3, thinking skills, TLO4, research skills, and TLO5, communication skills, are more closely related to the Library's teaching objectives. TLO6, self management, is reflected in the higher levels of autonomy of the RSD, and is designed into the learning activities. The TLOs are in the process of being implemented into university curricula and will need to be taught and assessed in a transparent way. Law schools are taking this on board, along with other external requirements such as the Council of Academic Law Deans (CALD) standards, the Australian Quality Framework (AQF) and the Council of Legal Education (CoLE) requirements. The Monash Faculty of Law is in the midst of an extensive curriculum review with the TLOs playing centre stage. Library staff have a crucial role in working with the Faculty to both design and implement the teaching of these skills.

9. Conclusion

Taught as a cycle, the legal research process involves constant evaluation and re-assessment, using the skills of reasoning, research, evaluation and communication. These skills are all inextricably entwined, making the partnership and complementary expertise of law academics, librarians and learning skills advisers vital for students to experience the best learning

outcomes. Good academic writing is based on thorough and accurate research; conversely, academic argument and its expression are limited by inadequate research.

The integration of learning skills into the Monash University Law Library has been embraced by librarians, academics and students. This has resulted in a successful collaborative model based on close interaction amongst all stakeholders, so enabling us to come together to sit on the same bench in our efforts to improve teaching and learning outcomes.

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