

# “Law academics probably would be a little bit embarrassed to do that”: Misconceptions of the role of ALL expertise by law academics, and what to do about them

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There are many disciplines and professions in which the ability to use and manipulate language is important. However, in law, language *is* the discipline and the profession, and words are a lawyer’s only tools of trade. This means that law schools must take responsibility to effectively support and develop their students’ writing skills. This study found that, whilst academics in Australian law schools appreciate that they have a responsibility to develop their students’ writing, they are reluctant to rely on the experts in their institutions who would best be able to assist them with this: academic language and learning (ALL) experts. There is a perception that law academics did not need to rely on ALL expertise; they are aware that such expertise exists but do not access it and might even be “embarrassed” to do so. Other studies have demonstrated that these views are commonly encountered by ALL experts in higher education. However, these views are particularly concerning when expressed by academics in the discipline of law, where language is the discipline. Additionally, the views expressed by law academics that the “Rolls Royce” of ALL expert was one with a legal background fundamentally misconceives the role of ALL expertise and should be challenged. Given these attitudes, the article concludes with some reflections about how ALL experts might find ways “in” to collaborate with law academics.

**Key Words:** academic language and learning (ALL) expertise, collaboration, legal writing, law academics.

## 1. Introduction

Much of the academic literature about collaborations between academic language and learning (ALL) experts and teaching academics within disciplines in higher education (HE) is written from the perspective of the ALL experts, as “outsiders on the inside” (Jacobs, 2005; Bak & Murphy, 2008; Einfalt & Turley, 2009; Clarence, 2012; Thomas & Cordiner, 2014; Curro, 2016). So, in the interests of full disclosure, I declare that my perspective on this topic is that of an “insider”; a discipline academic and former practitioner in one of the most text-centric disciplines of all: law. A common platitude about law school is that it teaches students to think like lawyers. However, as Mertz (2007, p. 3) has observed, thinking like a lawyer involves speaking, writing, and reading like a lawyer. The ability to use and manipulate language is important to success in many disciplines. However, in law, language *is* the discipline. Lawyers use words to prosecute and defend cases, advise clients, make agreements, and persuade judges and juries. A lawyer’s linguistic dexterity can mean the difference between a client’s commercial success or failure. It can result in

clients receiving significant redress for past wrongs or having to pay substantial compensation. It can mean the difference between liberty and incarceration for a client. These clients justifiably expect that law graduates can speak, read, and write like lawyers.

Over the past two decades, Australian law schools have faced the dual pressures of widening participation in HE generally, and the external imposition of quality assurance measures on universities. From 2001 to 2012, the number of law graduates from Australian universities doubled (Australian Government Productivity Commission, 2014, p. 245) and the proliferation of law schools in Australia is well documented (Barker, 2013; Lamb et al., 2015, p. 28; Australian Government Productivity Commission, 2014, p. 245). Studies in transition pedagogy indicate that Australian law students now come from a wide variety of backgrounds, bringing with them a variety of prior learning experiences (Sanson & Armstrong, 2014). Greater diversity in the law student population leads to greater diversity in the legal profession, and in a number of countries this has been linked to increased access to justice for marginalised groups (Pearce & Naseri, 2012; Levin & Alkoby, 2012; Foley, 2014; Khan, 2017; Asian Australian Lawyers' Association, 2015). It also means that law schools can no longer assume common “cultural understandings, associated identities and ... language capacities of students” (Moraitis & Murphy, 2013, p. 161).

Being able to write like a lawyer is the key to success at law school (Clark, 2013) because writing is the primary method of assessment (Hardy, 2005, citing Gale 1979-1980; Knight et al., 2018). However, it is quite clear that the legal profession in Australia and elsewhere is less than impressed with the way law schools develop their students' writing skills (Hanley-Kosse & Butler-itchie, 2003; Greenbaum, 2004; Peden & Riley, 2005; De Vos, 2010; Webb et al., 2013; Law Institute of Victoria, 2015, p. 8; Legal Practice Board of Western Australia, 2018; Crocker, 2018; Millar, 2019; Noakes, 2020). Consequently, this article reports on some of the findings of a broader empirical study concerning the practices of Australian law schools in relation to how they support their students' writing skills. Australian law schools have been provided with a guide to good practice (Wesley, 2011). However, it appears that we do not necessarily adhere to good practice. We do not appear to base writing support on an understanding of how students develop academic literacy, nor do we appear to understand the purpose of consulting those within our institutions who *best* understand student literacy: ALL experts.

This article first outlines the importance of writing in the Australian law school curriculum. It then discusses the main recommendations of a good practice guide (GPG) for writing (Wesley, 2011), and explains how the GPG recommendations in relation to student writing are supported by an Academic Literacies frame. The article will outline the methodology used for the broader study of law school practices relating to writing support, and analyses the findings of this study relating to whether writing support is based on literacy theory, and the views of law academics concerning collaboration with ALL experts. The benefits of constructive collaborations between teaching academics as discipline experts and ALL experts have been demonstrated in the literature. However, this message does not appear to have reached Australian law schools. This is a serious concern in the heavily text-based discipline of law, particularly given that it appears that in many Australian law schools, the responsibility of developing student writing rests with the law academics as discipline experts. The article will finally make some recommendations concerning how ALL experts might find ways “in” to discuss literacy support with law academics and explore the potential for constructive collaborations to support law student writing.

## 2. Situating writing in the law curriculum

In Australia, since the 1960s, legal education has typically occurred at three levels: an academic level at university,<sup>1</sup> where students acquire subject matter knowledge about law and its theoretical

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<sup>1</sup> The exception to this is the Diploma in Law offered by the Law Extension Committee via the Legal Profession Admission Board in NSW.

underpinnings via a course of either undergraduate (LLB) or post-graduate Juris Doctor (JD) levels; a period of practical legal training at post-graduate level, which must be undertaken by law graduates who wish to be admitted to legal practice; and continuing legal education, which must be undertaken by all practising lawyers as a requirement of continued participation in the profession (Lamb et al., 2015, p. 26).

The curricula of law schools in Australia are influenced by a number of external factors. First, whilst not all law students will go on to become practising lawyers (Australian Government Productivity Commission, 2014), the authorities that admit law graduates to legal practice in Australia have considerable influence over the curricula of law schools, as they determine the academic requirements for admission to legal practice (Rundle & Griggs, 2019). Since 1992, Australian law schools have been required by these admitting authorities to provide a curriculum based on certain core academic knowledge requirements known as the Priestley 11, which students must study in order to be admitted to legal practice.<sup>2</sup> Secondly, law schools need to ensure that their curricula meet the accreditation requirements of the *Higher Education Standards Framework (Threshold Standards) 2015* (Cth). Since 2009, authorities regulating quality standards for HE in Australia have required “that discipline communities develop clearly articulated standards for their students” (Galloway et al., 2011, p. 4). For law schools, these standards are in the form of Threshold Learning Outcomes (TLOs). The TLOs for law were developed in 2010 by the Australian Learning and Teaching Council (Kift et al., 2010; Juris Doctor: Threshold Learning Outcomes, 2012), and are set out in Appendices to this article. These TLOs are relevant for law schools’ course accreditation by the Tertiary Education Quality and Standards Agency (TEQSA) (*Higher Education Standards Framework (Threshold Standards) 2015* (Cth), pt. A cl. 1.4.2, pt. A cl. 3.1.1.e, pt. A cl. 5.1.2, pt. A cl. 5.3), and all Australian law schools have adopted them, as has the Council of Australian Law Deans (CALD) (Law Admissions Consultative Committee, 2019, p. 1).

Whilst the Priestley 11 has dominated the curricula of Australian law schools for some time, there is also recognition that legal education at university should focus on “what lawyers need to be able to do”, rather than just on “what lawyers need to know” (Huggins, 2015, p. 270; Kift, 2008; Barker, 2014). There is certainly an expectation that law students develop communication skills whilst at university, and for law schools to include them in the curriculum. This emphasis on law students’ communication skills is reflected in TLO 5 (Communication and Collaboration), which requires that law graduates must be able to communicate in ways that are “effective, appropriate and persuasive for legal and non-legal audiences” (Kift et al., 2010, p. 20). The CALD Standards also require law schools to have a curriculum which seeks to develop communication skills (Council of Australian Law Deans, 2013). However, how this is achieved is left to each law school.

### 3. Good practice to support law student writing: the theoretical framework

Australian law schools have been given some guidance as to how to support their students’ writing skills. In 2011, the Law Associate Deans Network issued a series of Good Practice Guides to accompany the TLOs for LLB degrees. The Good Practice Guide (Bachelor of Laws: Communication (TLO 5)) (GPG) makes four key recommendations in relation to the implementation of TLO 5 in terms of law student writing:

1. “[Writing] instruction should be based on the non-linear process adopted by successful writers that focus on understanding the issues to be discussed, effective communication of

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<sup>2</sup> For an example of academic requirements for admission based on the Priestley 11, see: *Legal Profession Uniform Admission Rules 2015* (NSW) sch 1- Academic Areas of Knowledge. <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2015-0240#sch.1>

that understanding to the reader, and persuading the reader to respond ... writing instruction needs to be embedded within classes with discipline content. Separating writing from content removes context and devalues writing. Instruction should begin early in the degree program and be followed up by advanced classes later in the degree ...” (Wesley, 2011, p. 13).

2. “An understanding of how students learn literacy is required including the role of appropriate instruction, practice and expert feedback.” (Wesley, 2011, p. 14).
3. “Methods to help students transfer skills from one context to another are required” (Wesley, 2011, p. 14).
4. Further interdisciplinary collaboration is required in the form of literacy academics and law academics working together to “make explicit tacit discipline knowledge and develop an understanding of legal discourse that can be understood by students” (Wesley, 2011, p. 16).

A number of these GPG recommendations find support in the Academic Literacies (AcLits) framework of student writing in HE, articulated in the seminal work of Lea and Street (1998). For example, the GPG recommends that the teaching of writing should be “embedded within classes with discipline content” (Wesley, 2011, p. 13). AcLits views writing in HE as a socially constructed practice, rather than a decontextualised, autonomous skill (Lillis & Scott, 2007; Flowerdew, 2020). The GPG recognises that writing practices in HE are discipline specific; that there is no “one size fits all” method of writing support which is appropriate in HE. Additionally, it implies that writing should be taught by academics as discipline experts, as it is likely that the classes “with discipline content” will be taught by law academics as discipline experts. The observation in the GPG that “separating writing from content removes context and devalues writing” (Wesley, 2011, p. 14), is also supported by AcLits, which positions writing as not only representing knowledge but also constructing what counts as knowledge within a discipline (Lillis & Turner, 2001; Tuck, 2018).

The GPG also recommends that “[writing] instruction should be based on the non-linear process adopted by successful writers” (Wesley, 2011, p. 13). It also recommends that “[i]nstruction should begin early in the degree program and be followed up by advanced classes later in the degree” (Wesley, 2011, p. 14). These statements capture the two senses in which writing is a non-linear process. The narrow one is the non-linear process of preparing an individual piece of writing: planning, drafting, re-drafting and editing. The broader concept of writing as a non-linear process reflects the idea that apprenticeship into a discipline involves a “two steps forward one step back” journey for students; as students are developing as writers, their progress may be non-linear, that is, they may regress for a while in some areas of their writing while they develop in new ones (Greenbaum & Mbali, 2002; French, 2018). This broader concept of writing is supported by the AcLits view that learning to write in a discipline is a process of apprenticeship into a community of practice (Costley & Flowerdew, 2017).

The GPG also rejects a deficit model of student writing, a common theme of the AcLits model (Russell et al., 2009; Lillis et al., 2015; Baker & Irwin, 2016). The fact that it recommends that writing be taught to students with discipline content must result in writing support being provided for all students. There is no suggestion that writing support in law be provided in “remedial” classes or via an external learning support unit. What is recommended is a model of inclusivity.

The concept expressed in the GPG that students need assistance to transfer writing skills across contexts is also familiar from AcLits theory. This requires students to develop a meta-awareness of language in their discipline and HE generally. The AcLits model suggests students who are able to conceive of academic discourse as one of many discourses, and who can switch between various “codes” of discourse, are best able to critique the dominant discourses of HE, and utilise their critical meta-awareness to their advantage (Preece, 2010; Devlin, 2013; Priest, 2009; Moraitis & Murphy, 2013).

The GPG also seems to place responsibility on law academics to communicate their expectations about writing in law, and to narrow the gap between what academics expect and what students understand about effective writing in law. First, it recommends that writing instruction should be informed by an understanding of how students learn literacy. Law academics delivering writing support for students will be better able to communicate their expectations if they have some pedagogical grounding in how literacy is developed. As discussed above, AcLits theorists emphasise the discipline-specificity of writing in HE (Lillis & Tuck, 2016; McGrath & Kaufhold, 2016). This discipline specificity would suggest that discipline academics *should* be the best people to teach it. However, AcLits examines critically the extent to which academics as subject matter experts *can* do this. AcLits proposes that, often, academics are so enmeshed in their disciplinary discourse that they are unable to clearly articulate or make explicit the literacy practices and norms of the discourse (Lea & Street, 1998; Lillis & Turner, 2001; Lillis, 2001; Haggis, 2006; Elton, 2010; Wingate, 2015). An understanding of how students learn literacy may assist law academics to see the gaps between what they think is obvious in terms of writing in their discipline, and what students do not understand, another common theme of AcLits research (Lea & Street, 1998; Lillis, 2001; Wingate, 2015, pp. 104-106; Lillis & Tuck, 2016).

More significantly, the GPG recommends collaboration between literacy academics and law academics working together to “make explicit tacit discipline knowledge and develop an understanding of legal discourse that can be understood by students” (Wesley, 2011, p. 16). This is an acknowledgement that there are matters relating to writing at law school that need to be made explicit to students; that it is not something that they should just know how to do. AcLits theorists have suggested that collaboration between discipline academics and ALL experts may be a way out of the dilemma that, whilst those with discipline expertise are the best placed to apprentice students to the discipline, they may be unable to do it because its norms are invisible to them (Jacobs, 2005; Jacobs, 2007a; Jacobs, 2010; Jacobs, 2015; Wingate, 2015).

The recommendations of the GPG in relation to embedded writing support and collaboration with ALL experts are not unique to law, nor are they unique to Australia. Embedded language support has been recognised as best practice in a number of disciplines worldwide (Greenbaum & Mbali, 2002; Wingate, 2011; Donahue, 2011; Hocking & Fieldhouse, 2011; McWilliams & Allan, 2014; Wette, 2019). Academics outside of Australia have also observed that law students perceive writing as having greater status and importance when it is taught by discipline academics (Crocker, 2018), and the benefits of collaborations between law academics and ALL experts have been well documented in South Africa (Jacobs, 2005; Clarence, 2012; Gottlieb & Greenbaum, 2018).

However, whilst theory about student writing in HE has supported an AcLits approach, practice has not (Hocking & Fieldhouse, 2011; Wingate, 2006; Wingate, 2007; Lea, 2004; Hathaway, 2015; Clarence, 2019). French (2018) notes that “[d]espite the diversity of the contemporary student body, a broadly ‘acculturation’ model often underpins traditional higher education approaches to academic writing development” (p. 411). One of the matters that I explored was the gap between good practice, as recommended by the GPG, and the practices of Australian law schools in relation to law student writing.

#### 4. Methodology

James (2013) observes that, in Australian law schools, there is resistance to the discourse of educationalism, which he defines as “a higher education discourse characterised by an emphasis upon student learning and upon teaching by academics in a manner informed by orthodox educational scholarship” (p. 783). Therefore, inviting all law schools to respond to this study may have resulted in responses only from those interested in law student writing, leading to qualitative data that were not representative of the population (Jupp, 2006, pp. 322-323). Consequently, the law schools were first categorised to obtain a more representative pool of interview participants.

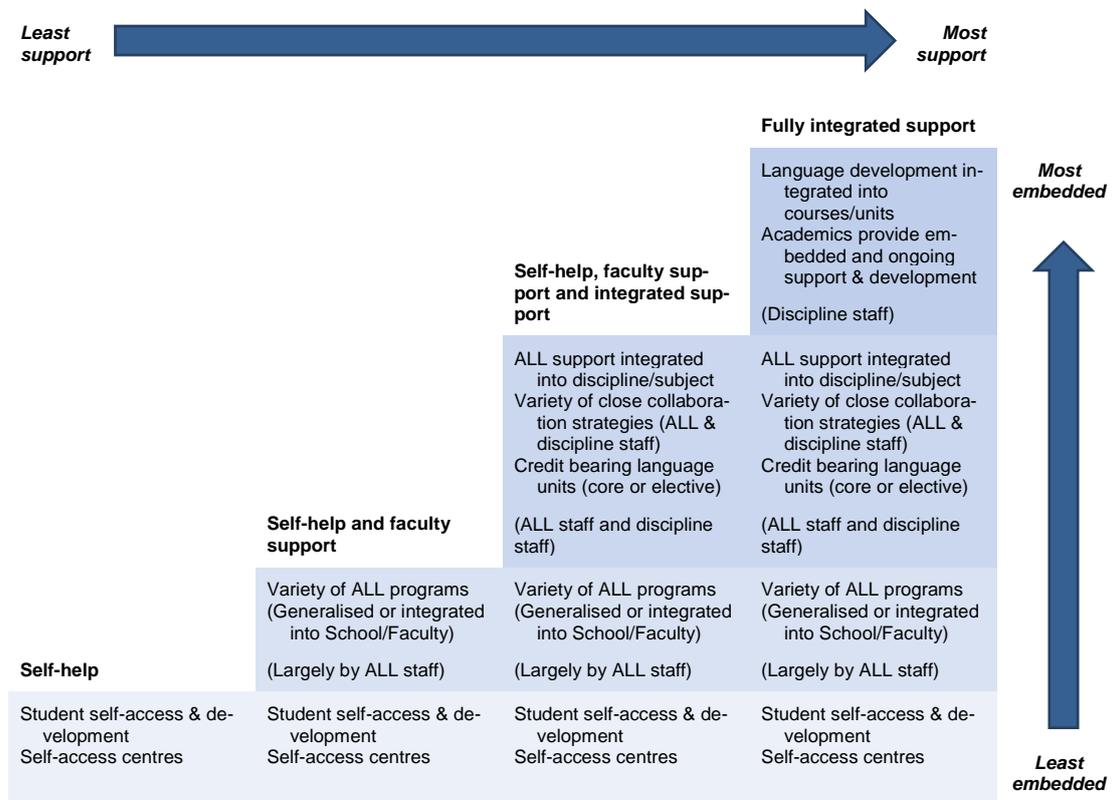
Employing a similar methodology to that used by Wingate (2015) to survey the practices of academic literacy support in the UK, I first conducted documentary analysis of publicly available information on law school websites to determine the extent to which law schools appeared to embed writing support, based on Briguglio and Watson’s (2014) categories of language support in Australian HE. There were 38 institutions in this dataset.

**4.1. Briguglio and Watson’s typology**

Briguglio and Watson’s (2014) research provides a graphical typology of academic language and learning (ALL) support for students in higher education institutions (HEIs) in Australia (Figure 1).

**A MULTI-LAYERED MODEL OF LANGUAGE DEVELOPMENT PROVISION (MMLDP)**

**EMBEDDED LANGUAGE DEVELOPMENT AND SUPPORT CONTINUUM**



ALL = Academic Language and Learning

**Figure 1.** Briguglio and Watson’s (2014) typology of ALL support. The types of support discussed are referred to in this article by the top box in each column in the Figure. Type 1 is Self-help support, Type 2 is Faculty Support, Type 3 is Integrated Support and Type 4 is Fully Integrated Support. (This table was first published by Briguglio and Watson (2014) in the Australian Journal of Language and Literacy and has been republished here with permission from the Australian Literacy Educators’ Association.)

I used directed qualitative content analysis of publicly available information on the websites of the HEIs in the dataset, based on the categories of language support from the vertical access of Briguglio and Watson’s typology (Hsieh & Shannon, 2005). Unlike conventional qualitative content analysis, where the themes of the data collected are not pre-determined but developed from the data collected, directed qualitative content analysis is appropriate where there is an existing theory or prior research “about a phenomenon that is incomplete or would benefit from further

description” (Hsieh & Shannon, 2005, p. 1281). Data are coded based on pre-determined themes developed in prior research or theoretical frameworks. “Data that cannot be coded are identified and analysed later to determine if they represent a new category or a sub-category of an existing code” (Hsieh & Shannon, 2005, p. 1282).

The limitations of directed qualitative content analysis are acknowledged; in particular, this type of analysis tends to confirm a particular model or theory, rather than to confound or challenge it. However, the reliability of this method of data analysis can be strengthened by obtaining feedback on the analysis from stakeholders who are the subject of the research (Snell et al., 2014). Consequently, feedback was obtained for this study via the presentation of the findings to the Legal Education Conference at the University of NSW (Noakes, 2017; Maharg, 2017). This feedback confirmed my overall findings in relation to the categorisation of the law schools. Furthermore, Briguglio and Watson’s (2014) categories of embeddedness were not employed to confirm or challenge their model of ALL support. Rather, their model was employed as a starting point to identify the law schools who would be approached to participate in interviews, and as a way of quantifying the number of law schools who appear to adopt the methods identified by Briguglio and Watson. In addition, the documentary analysis of the law school websites found additional or at least refined categories of writing support in the dataset.

#### 4.2. Categories based on website analysis

The analysis based on Briguglio and Watson’s categories (Figure 1) yielded six groups as indicated in Table 1.

**Table 1.** Law school categories based on Briguglio and Watson’s typology of ALL support.

Category	Description	Institutions
1	Appear to provide all 4 types of support OR appear to provide Types 1, 3 and 4 support, with evidence of comprehensive/systematic embedding of skills (including writing) across degree.	Edith Cowan University Bond University Flinders University
2	Appear to provide at least 3 types of support, but less evidence of comprehensive embedding of skills (including writing) across degree in Type 4.	Curtin University Murdoch University Deakin University University of Notre Dame Victoria University University of NSW University of the Sunshine Coast
3	Appear to provide Type 1 and Type 4 support, with evidence that writing is supported in Type 4 support.	Australian National University Charles Darwin University Griffith University La Trobe University Monash University Newcastle University University of Queensland University of Tasmania University of Technology Sydney University of Western Australia Western Sydney University

Table 1 continued.

Category	Description	Institutions
4	Appear to provide Type 1 and 3 support, with evidence that writing is supported in Type 3 support.	Australian Catholic University James Cook University Queensland University of Technology Southern Cross University Canberra University University of New England University of Southern Queensland University of Wollongong
5	Appear to provide at least 2 types of support, but no evidence from publicly available data that writing is supported as part of Type 3 or 4.	RMIT Adelaide University Melbourne University University of South Australia University of Sydney Central Queensland University
6	Appear to provide only one type of support.	Macquarie University Law Extension Committee (LPAB) TOP Institute

### 4.3. The interviews

I next selected at random, two schools from each of the six categories and emailed the academic identified on the law school's website as having responsibility for oversight of teaching and learning in the law school. The email contained a Participant Information Statement and requested an interview with that academic or the person within the law school whom the academic believed was the appropriate person to be interviewed. Non-responders were followed up once with an email or phone call. If there was no response within a reasonable time frame, another law school was selected at random from the relevant category. This process was repeated until academics from two law schools within each category had been interviewed, or the pool of law schools in the category had been exhausted. This process resulted in interviews with academic staff from two law schools in Categories 1, 3, 4, 5 and 6 and one law school from Category 2.

Semi-structured interviews were conducted during 2017 and early 2018, with 13 academics from 11 different law schools, concerning how, if at all, the law school supported the development of students' writing skills. The interviews were each approximately one hour's duration, and were audio recorded. Of the 13 interview participants, six held positions that involved some type of oversight of teaching and learning within their law school, six were responsible for teaching a first year subject in law and/or oversight of the law school's first year program of study, and one taught in a later year legal research and writing subject. The participants' teaching experience in HE ranged from 3–22 years, with an average of 12 years. Five of the interviewees indicated that their research interests included legal education. The audio recordings were transcribed and coded using Nvivo software. Data were again coded using directed qualitative content analysis, based on the GPG recommendations. Again, feedback that confirmed the findings from my qualitative data was obtained at the Global Legal Skills Conference hosted by the John Marshall Law School at the University of Melbourne in December 2018 (Noakes, 2018).

## 5. Discussion and analysis

### 5.1. Law academics' knowledge of literacy theory

It was possible to identify from the website analysis that writing was supported in a majority of the law schools via what Briguglio and Watson (2014) characterise as Type 3 (Integrated Support) and/or Type 4 (Fully Integrated Support). According to Briguglio and Watson, Type 3 support

involves “ALL support integrated into the discipline/subject,” a variety of close collaborations between ALL and discipline staff, and “credit bearing language units” (Briguglio and Watson, 2014, p. 68). Type 4 Support is characterised by language support integrated into courses or units of study, and the discipline academic having carriage of them (Briguglio and Watson, 2014, p. 68).

The most common model of Type 3 support for law students was a stand-alone credit-bearing skills subject, with 18 law schools adopting some variation of this model. In 13 of these law schools, it takes the form of a first year stand-alone subject devoted to legal skills; for example, legal research, statutory interpretation, case analysis, problem solving and legal writing. Whilst not discipline specific, another model in this category is a compulsory stand-alone first year communication skills subject that all students are required to undertake. Two institutions, Bond University, and the University of the Sunshine Coast, adopt this model. Four law schools appear to have a later year law-specific stand-alone skills subject which includes a writing component.

The website analysis indicated that a fully embedded, Type 4 model of writing support is adopted by 20 law schools. This was most commonly embedded in a first year “introduction to law” subject, which typically introduces students to the Australian legal system, and covers foundational concepts such as the rule of law and the doctrine of precedent. A less common approach is the integration of the teaching of writing within other substantive law subjects.

In the interviews, eight law schools identified that writing support was embedded into a substantive law subject. In seven of these instances, this embedded writing instruction occurred in a first-year law subject. In one instance it was identified as occurring in a later year elective subject.

This is significant because, whether in the form of Type 3 or Type 4 support, it is likely that writing is taught to students by law academics. In the stand-alone “legal skills” (Type 3) model, given that these subjects usually entail teaching of legal research, case analysis and statutory interpretation, it is likely that they are delivered by law academics. In the case of Type 4 (embedded) support, these subjects would also be taught by law academics, because they involve the teaching of legal doctrine and/or theory. It would be hoped that law academics ground their writing support in pedagogic theory relating to student academic literacy, as promoted in the GPG recommendation that writing pedagogy should be underpinned by “[a]n understanding of how students learn literacy” (Wesley, 2011, p. 14). However, the interview data suggested otherwise.

Murray’s observation that teaching academics “have very little knowledge of existing academic scholarship on academic writing” (Murray, 2006, p. 125) was borne out in the interview data in my study. Interviewees were asked whether they thought writing instruction and support provided to students in their law school was based upon pedagogical theory concerning how students learn literacy. One academic, whose law school adopted a Type 2 model of support by situating a legal skills unit within the law school, confidently claimed that writing support was grounded in literacy theory. Two other interviewees stated that they believed their law school based its writing pedagogy on theory about how students learn literacy. However, when asked to describe those theories, these academics drew on their own personal experience as students and teachers. All remaining interviewees said that they did not think that writing support in their law school was based on any kind of literacy theory.

My broader study of Australian law schools’ compliance with the GPG recommendations indicated that this lack of familiarity with pedagogical theory concerning how students learn literacy had quite significant implications for the way writing is taught in law schools. It impacts where writing is situated in the law curriculum. It affects law academics’ perceptions of what constitutes writing in law school. It impedes the ability of law schools to assist students with skills transfer. It affects the types of feedback provided to students, and it influences the use of instructional texts on legal writing.

The GPG also emphasises the need for inter-disciplinary collaboration between ALL experts and law academics. However, a strong theme that arose from law academics' lack of understanding of pedagogical theory about how students learn literacy was misconceptions about the need to consult ALL expertise and the purpose of collaboration with ALL experts.

## 5.2. Collaboration with ALL experts

The GPG acknowledges that, whilst it has been recommended that law academics should teach legal writing to students, “this model is dependent upon the pedagogy of the law teacher” (Wesley, 2011, p. 6). Even in cases where a law academic is a willing participant or even an initiator of an embedded writing program, research indicates that teaching academics often struggle to make explicit the literacy requirements of their discipline. As discussed above, discipline experts should be best placed to apprentice students in their particular academic discourse. However, academics become so enmeshed in their discourse that they are unable to clearly articulate the literacy practices and norms of that discourse. The problem is that academics then simply enculturate students to the language requirements of the discipline, and this pedagogy does not afford students the ability to critically evaluate what they are being taught (Russell et al., 2009). Law academics as discipline experts are “insiders”, for whom the literacy practices of their discipline are often so familiar that they have become naturalised, normal and, ultimately, invisible.

One solution to this problem may lie in successful collaborations between teaching academics and ALL experts. It has been demonstrated that these collaborations benefit discipline academics because collaboration can reveal to them tacit norms about how to write in their discipline, that they may not articulate to their students (Bak & Murphy, 2008; Jacobs, 2005; Lea & Street, 2006; Jacobs, 2010; Bean, 2011; Donahue, 2011; Clarence, 2012; Thies, 2016). The ALL expert also develops an insight into how to best integrate writing support strategies in a particular context (Jacobs, 2005; Jacobs, 2010; Horne & Peake, 2011; Thies, 2016).

The key benefit of collaboration identified for students is the acquisition of a meta-knowledge of the language requirements of the particular discipline. Real and liberating academic literacy does not come from mimicking the discourse of an academic discipline, but from the ability to critique its accepted practices and norms (Gee, 1989). Collaboration between discipline experts in law and ALL experts provides students with a meta-knowledge concerning the language of the discipline (Jacobs, 2005; Jacobs, 2010; Moraitis & Murphy, 2013). The role of the law academic as discipline expert is to apprentice students in the new discourse, and the role of the ALL expert is to provide the discipline expert with the tools to make explicit the language requirements of the discipline, including the way knowledge is constructed in the discipline through writing. This allows students not only to access the language of power within their relevant discipline, but to stand outside of it and critique it. It is *this* skill, argues Haggis, that allows students to transfer skills from one context to another (Haggis, 2006, p. 532).

However, this important role of ALL expertise is not always understood by teaching academics, and the literature is replete with examples of attempts by ALL experts to carve out their place in the disciplines in HE, almost to the point of having to justify their legitimacy (Chanock, 2007; Stevenson & Kokkinn, 2007; Strauss, 2012; Percy, 2015; Ding & Bruce, 2017; Zappa-Hollman, 2018; Malkin & Chanock, 2018; Tran et al., 2019). Elton (2010) has observed that “seldom is there a constructive collaboration between equals—discipline specialists and writing specialists—in the interest of students” (p. 151). There is also evidence of resistance by discipline experts to the contributions of ALL experts (Clughen & Connell, 2012; Clarence, 2012; Thies, 2016; Bayerlin & McGrath, 2018; Jaidev & Chan, 2018; Wingate, 2018) or at the very least, a lack of “buy in” by discipline experts to collaborative projects with literacy experts (Harran, 2011; Winberg et al., 2013; Huang, 2017).

Interviewees were asked whether their law schools sought the advice and/or assistance of learning support or academic skills staff within their institutions in relation to writing support for their

students, and were asked to provide examples of how this was done. Very few interviewees in this study had engaged ALL expertise to help them develop writing support for their law students:

*[I] haven't [consulted with ALL experts]. Probably because I've had really good guidance and really good materials that my colleague, [another law academic], developed. He ran this course for five years, so he had a lot of time to source really good material. So I picked his brain and the brain of other people who have taught the unit but I haven't actually been to the study skills people to talk to them. I always give the students information about how to use those services but actually haven't liaised with them myself. (Academic A, Law School 1)*

*I've never been approached by them, I haven't approached them myself. I do kind of know that they exist but that's it. (Academic C, Law School 2)*

*If [engagement with ALL experts] does happen I don't think it's done in any formalised way. I'm not aware of it being formally done though. (Academic J, Law School 9)*

*[Law academics] probably would be a little bit embarrassed to do that. (Academic H, Law School 7)*

*But actually to be honest, a lot of the stuff we use now is what I taught when I was in the States and then relied on a bit of institutional knowledge but also some books like – I'm probably quite influenced by someone like Brian Garner and then I throw in a bit of my own stuff from Stanley Fish "How to Write a Sentence". So that's where I focus on things like subject, object and malleability of the possible sentence you can create with adding adjectives etc. (Academic D, Law School 3)*

*I brought in some of the things that I was taught in my writing training for my PhD, particular for the Honours guys, but also for the general undergrads. Some of those tools and techniques that I learnt actually at the postgrad level I brought in because they really seemed to be finding the instruction of the nitty gritty of how to write an essay very helpful. (Academic A, Law School 1)*

*My PhD is in English and so I do base, theoretically, I base a lot of my instruction on materials coming out of literary studies rather than student literacy I have to admit, and that's very much framed around some of the theories of close reading and rhetoric that have come out of literary studies, so understanding how an argument works and really focusing on the value of close textual reading and evidentiary support from close textual reading. (Academic B, Law School 1)*

One law academic commented that, whilst their institution mandated teacher training for new academics, there was limited emphasis on the role that could be played by ALL experts in assisting discipline experts:

*[W]hen we start here, unless we already have quite a lot of teaching skills, we all have to do [an introductory course]. That is kind of effectively how they have everyone on board. That's a limited exposure to ... learning development, across the board, but it's a one off you do before you start basically of your first semester, but it's not specifically about students' writing, it's more about "how do I handle the classroom" what to change type of thing ... this is a resource we are forced to do. (Academic C, Law School 2)*

There may be a number of reasons why law academics may not engage with ALL experts within their institutions to assist them to develop their students' writing. As indicated in the comments above, some participants preferred to rely on their own knowledge and experience concerning

what it meant to write well in law. Murray (2016) notes that discipline experts tend to believe that “teaching of language is not a particularly skilled activity but rather one in which almost any native speaker of English is able to usefully engage” (p. 440), as is reflected in the interviewees’ comments. Zappa-Holman (2018) notes “the service type mission typically ascribed to academic language and literacy instruction, coupled with a view of the language teaching field as primarily being strategy driven ... contributes to the inferior positioning of language teaching within HE” (p. 602). Academics may also be reluctant to open up their teaching practices to examination by ALL experts. The teaching academics in Wette’s (2019) study of a collaboration to embed writing into a health sciences course expressed reluctance to relinquish control of the course content and to expose their courses to “scrutiny by the library and learning services” (p. 42). Wette also observes that discipline experts “might be unwilling to spend time establishing this kind of relationship with non-disciplinary staff, or to have any kind of involvement in academic literacy skill development” (p. 42). The comment from Academic H, Law School 7 that law academics would be embarrassed to seek this type of help is also consistent with the findings of Malkin and Chanock’s (2018) study of the status of ALL experts in Australian universities. The authors observed that, whilst teaching academics might be willing to engage literacy experts to assist them to “fix” problems with student literacy, they are “reluctant to consult” ALL experts for help with curriculum development, because “it might reflect badly on their competence as teachers” (Malkin & Chanock, 2018, p. A22).

Another reason may be that law academics perceive this type of assistance as an intrusion on their “turf”. After all, the comments above certainly indicate confidence in our ability to teach our students to write. Jacobs’ (2015) reflection on her extensive studies of collaborations between ALL experts and discipline experts found that the more constructive collaborations occurred where the discipline expert’s speciality was a *non-text based* discipline. Certainly, in the text-based discipline of law, the attitudes expressed by the interview participants show that law academics consider language support for law students to be a matter of common sense, not necessarily requiring the assistance of ALL experts, and something for which they would not normally seek assistance. ALL experts are there to help the students, rather than the law academics, as evidenced by the comment of Academic A that, “I always give the students information about how to use those services but actually haven’t liaised with them myself.”

### 5.3. The “Rolls Royce” of ALL expert

A number of interviewees perceived the value in having an ALL expert assist with a writing program in law, but only where the ALL expert also had discipline expertise in law:

*I also think that legal writing is completely different ... I’m not sure to what degree [ALL expertise] would really help writing, apart from actual students that have English as a second language who might need some support in actual basic English skills. (Academic C, Law School 2)*

*I mean we do the learning and teaching stuff and some people might go for course design or the use of resources and whatever but I think largely probably with the writing – and to be honest I think it’s probably the right way, we’re legal academics and so we love writing so we should be the ones who kind of take the forefront. (Academic D, Law School 3)*

*[W]hether it’s justified or not, I think there is this perception where “well you’re not legally trained so you don’t quite understand what we do and you can’t just apply the same method that you would to writing a management essay to a legal type context”. So I think part of it is that “we know what we’re doing and therefore don’t want your input”. I think there is a lot of that ... I think that there is though largely that attitude of “we know best” and I’m not saying that we necessarily do, but I think it’s that attitude of “well they’re law*

*students, we're training them to be lawyers, we're lawyers and therefore we know". (Academic J, Law School 9)*

*Staff members ... know that [the law school's ALL expert] has all the legal training, that even if her focus is teaching students how to learn and how to write for assessment and things like that, that she still does have that background in law herself. I think it does help the level of acceptance and the respect that her services would get from other academics. (Academic F, Law School 5)*

*I think the Rolls Royce thing that we were doing but we lost the person who was doing it for us and I found it hard to find the right person to do it again, ... someone who is a language teacher, that they need to have a legal background to really successfully work with law students. We've had a couple of failed experiments because the people just haven't been right. But the Rolls Royce thing where we had a lawyer, very experienced, law teacher, also great personal interest in grammar, big background in Latin – and we used to run a program where it was a lecture and then a series [of] tasks that were individually marked, and by marked, I mean just for feedback, there was no course marks attached – of a theory that everybody's difficulties are individual and also that they need to be shown their individual difficulties. (Academic M, Law School 4)*

With respect (and this is a lawyer's way of signalling that what comes next is somewhat disrespectful), the perception that the ALL expert should also possess discipline expertise to effectively assist law academics to design and deliver writing programs *fundamentally misconceives* the role of the ALL expert. Jacobs' (2007b) studies of successful collaborations between ALL experts and discipline academics found that, where the ALL expert adopted the role of discipline expert, it resulted in the ALL expert dominating the collaboration and undermining the teaching academic. This compromised the integration of academic literacy in the discipline. Jacobs concludes that it is not the task of the ALL expert to induct themselves into the discipline, or to be a discipline expert. Their job is to "lift the discipline experts outside of their discourses by asking questions that a novice to the discipline would" (Jacobs, 2007b, p. 76). Marshall et al.'s (2011) study also demonstrates the benefits of the ALL expert *not* having disciplinary expertise. However, the observation of Academic M that an ALL expert with law expertise is the "Rolls Royce" of ALL experts is also reflected in Wilkes et al.'s (2015) study of a collaboration between library staff, an ALL expert and an academic in an environmental engineering course at an Australian university. They suggest, however, that the ALL expert's discipline expertise does not necessarily mean that the ALL expert is better able to advise the academic. All it really means is that the discipline expert is more likely to respect the work of the ALL expert! This redresses "the often stifling constraint of power asymmetry seen between [discipline] academics and [ALL] staff" (Wilkes et al., 2015, p. 171). Malkin and Chanock (2018) similarly note the lack of academic status of ALL experts within HE as a barrier to collaboration with discipline academics "for whom academic status confer[s] credibility" (p. A20).

Where interview participants had collaborated with ALL experts in the manner recommended by Jacobs, they acknowledged how it had assisted them to make more explicit what was required of students in terms of writing in law:

*[With] my annotated exemplars, ... I was only a co-author in those. I gave the marked up paper at this certain level to [the ALL specialist] and then I annotated it myself explaining why I thought this was good and why I thought that was poor or insufficient or needed further development and then she overlaid that with direct articulation of the requisite [learning outcomes for the subject] and she asked me a lot of questions, we had a lot of to-ing and fro-ing. So that annotation went through a lot of permutations until we got to the one*

*that I released to students and that was really educative for me ... Because I looked at my essay and then it forced me to re-examine my criterion standards. For example, "Why have I asked them to do that? Do I need something a bit different?". So looking at my examination and how I have been marking it and how I have been valuing and the performance then got me to reconsider in a reverse engineering format the actual [learning outcomes] and also gave me deliberate assistance to how can I communicate to those students where they're all doing quite well and where they all really need to have more attention, and that then informs the way I can teach and pay attention to these things. (Academic L, Law School 11)*

*... that's where our educational learning designer was great. We had one in the school. She's now been taken up to the university level. We don't have her engagement [now], and that's where I think our educational learning designer is very valuable. I would rather have that than a legal skills officer or something. (Academic G, Law School 6)*

Some interviewees also recognised the misconception that the ALL expert needed to also be a discipline expert in law to collaborate effectively to support law student writing:

*I don't think [many academics in the law school] consult [the ALL expert] ... but I will say that when [the ALL expert] was here for a couple of years we were together, she came in not a law person and of course was resisted ... I think that's just how law people are ... We are "special" ... you know what I mean. I mean we tend to sort of have that reputation around a university too. But really it's the way we approach things, and we think we've got a particular way of doing things and others don't understand. (Academic G, Law School 6)*

Thies' (2016) study of collaborations between teaching academics and ALL experts concludes that such collaborations are more successful when the teaching academics have some understanding or appreciation of pedagogical theory relating to how students develop literacy. Marshall et al. (2011) further note the necessity for the ALL expert and the discipline expert to possess a shared understanding of their roles as discourse teachers. The law academics' lack of understanding of pedagogical theory relating to how students develop literacy skills in a new disciplinary context may also contribute substantially to their lack of effective engagement with ALL experts at their institution, and the perception that the ALL expert also needs discipline expertise to effectively assist in the development of law students' writing.

## **6. Reflections and recommendations**

So, if law academics are reluctant to seek out ALL expertise, then how do ALL experts get us to see the value that ALL expertise could add to our development of student writing?

First, if you have no history of engagement with law academics, start at the grass roots. The HE sector globally has been described as "volatile, uncertain, complex and ambiguous" (Bolden et al., 2015, p. 39). In such an environment, discipline specific collaborations may not remain in place for a sufficient length of time to assess their effectiveness, which then may have a chilling effect on substantial re-design of subjects or courses to accommodate them. Limited re-design and collaboration at subject level is therefore appropriate. In particular, seek out teaching academics in first year subjects in the law course at your institution. My broader research found a consistent theme that writing support was the responsibility of academics teaching first year law subjects. This was confirmed by both the website analysis, and also in the interviews, with a number of interviewees who taught first year subjects recounting how they endured academic staff meetings silently gnashing their teeth in frustration while their colleagues complained about the standard of writing of fourth and fifth year law students, demanding to know why this had not

been “sorted out” in first year. Whether justified or not, writing support at law school is seen as a “first year gig”, so it is more likely that an academic teaching a first year law subject is going to be open to advice about how they could best support their students’ writing. Invite them to investigate ways in which existing material and resources for student writing could be adapted and embedded into their first-year subjects, to support them and their students. This should not involve providing them with generic support material and leaving them to work out how to use it. As a starting point, for example, a fruitful activity may be unpacking and clarifying their assignment questions and working out how to make the existing support materials relevant for the particular assignment question.

Secondly, find law academics who may have already developed their own set of teaching materials in relation to writing support for their students. Again, my broader study of law schools’ compliance with the GPG demonstrated that, because of the dominance of the Priestley 11 in law school curricula, law academics tend to operate in subject matter silos, and develop their writing support in these silos too. There may be opportunities to expand and adapt those materials across a law program.

Thirdly, avoid trying to dazzle us with pedagogical theory. As this study demonstrates, we do not think we need it, and we are quite prepared to bluster our way through without it. Instead, give us practical examples of strategies that have worked in other disciplines, or within our own. After all, this is one of the strengths of ALL expertise; the ability to see the commonalities as well as differences between disciplines (Chanock, 2007; Pourshafie & Brady, 2013). In my broader study, the law academics nominated a lack of time to focus on issues of pedagogy generally as an impediment to compliance with the GPG and expressed a desire for concrete examples of how others had approached the teaching of writing.

And finally, find opportunities to research and publish on the experiences of collaborations with us. The need for further exploration of the impact of collaborations between discipline academics and ALL experts has been noted in the literature (Briguglio, 2007; Briguglio & Watson, 2014; Jacobs, 2015). In addition, whilst Wingate (2018) has recently identified Australia as a leader in relation to collaborations between ALL experts and discipline experts to support student academic literacy, the studies cited by Wingate do not primarily relate to the discipline of law. The experience of such collaborations in law is not an issue which has been extensively explored, and the research in this area comes mainly from South Africa (Jacobs, 2005; Clarence, 2012; Gottlieb & Greenbaum, 2018). Consider also the opportunity to introduce student voices into this research (Noakes, 2020). If law academics see via evaluation that the involvement of an ALL expert has been helpful in developing student writing and confidence, they might realise the benefits of constructive collaboration.

## 7. Conclusion

The GPG recommends that interdisciplinary collaboration is required in the form of ALL experts and law academics working together to “make explicit tacit discipline knowledge and develop an understanding of legal discourse that can be understood by students” (Wesley, 2011, p. 16). This study highlighted perceptions that law academics do not need to rely on the ALL experts in their institutions, that they were aware that such expertise existed but had not accessed it, and even that law academics might be “embarrassed” to seek assistance. Whilst such views about ALL expertise are not unique to law schools, they are particularly concerning when expressed by law academics, who know that language is the discipline of law, and where it appears that writing support is being provided by law academics based on their own experiences rather than sound pedagogical theory about student academic literacy. The view expressed by some interviewees that the “Rolls Royce” of ALL expert was one with a legal background also misconceives the role of the ALL expert in any collaboration with a discipline expert in law. One of the crucial benefits of an ALL expert as an “outsider” to the discipline is their ability to ask the questions that a novice to the discipline

might ask; to challenge assumptions made by discipline experts about the norms of meaning making through language in their discipline. Interviewees in law schools who had accessed the support of ALL experts to assist them to challenge these norms indicated that this was not always a comfortable process; that it required rethinking about how things were done in law. Further research relating to the impact of collaborations between ALL experts and discipline experts in law may serve to debunk the somewhat arrogant perception that, as members of a profession that derives its existence from the use and manipulation of language, law teachers are more than competent to teach writing to law students; that we are “special” and do not need the assistance of “outsiders”.

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## **APPENDIX 1. THRESHOLD LEARNING OUTCOMES FOR THE BACHELOR OF LAWS**

### **TLO 1: Knowledge**

Graduates of the Bachelor of Laws will demonstrate an understanding of a coherent body of knowledge that includes:

- (a) the fundamental areas of legal knowledge, the Australian legal system, and underlying principles and concepts, including international and comparative contexts,
- (b) the broader contexts within which legal issues arise, and
- (c) the principles and values of justice and of ethical practice in lawyers’ roles.

### **TLO 2: Ethics and professional responsibility**

Graduates of the Bachelor of Laws will demonstrate:

- (a) an understanding of approaches to ethical decision-making,
- (b) an ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts,
- (c) an ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and in service to the community, and
- (d) a developing ability to exercise professional judgement.

### **TLO 3: Thinking skills**

Graduates of the Bachelor of Laws will be able to:

- (a) identify and articulate legal issues,
- (b) apply legal reasoning and research to generate appropriate responses to legal issues,
- (c) engage in critical analysis and make a reasoned choice amongst alternatives, and
- (d) think creatively in approaching legal issues and generating appropriate responses.

### **TLO 4: Research skills**

Graduates of the Bachelor of Laws will demonstrate the intellectual and practical skills needed to identify, research, evaluate and synthesise relevant factual, legal and policy issues.

### **TLO 5: Communication and collaboration**

Graduates of the Bachelor of Laws will be able to:

- (a) communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences, and
- (b) collaborate effectively.

**TLO 6: Self-management**

- (a) learn and work independently, and
- (b) reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.

The Threshold Learning Outcomes for the Juris Doctor are comparable in scope, but set at a standard appropriate to a post-graduate degree. TLO 5 is identical for the LLB and JD degrees.

## **APPENDIX 2. THRESHOLD LEARNING OUTCOMES FOR THE JURIS DOCTOR**

**JD TLO 1: Knowledge**

Graduates of the Juris Doctor will demonstrate an advanced and integrated understanding of a complex body of knowledge that includes:

- (a) The fundamental areas of legal knowledge, the Australian legal system and underlying principles and concepts, including international and comparative contexts;
- (b) The broader contexts within which legal issues arise;
- (c) The principles and values of justice and of ethical practice in lawyers' roles; and
- (d) Contemporary developments in law, and its professional practice.

**JD TLO 2: Ethics and professional responsibility**

Graduates of the Juris Doctor will demonstrate:

- (a) An advanced and integrated understanding of approaches to ethical decision making (b) An ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts;
- (c) An ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and in service to the community; and
- (d) A developing ability to exercise professional judgment.

**JD TLO 3: Thinking skills**

Graduates of the Juris Doctor will be able to:

- (a) Identify and articulate complex legal issues;
- (b) Apply legal reasoning and research to generate appropriate jurisprudential and practical responses to legal issues;
- (c) Engage in critical analysis and make reasoned and appropriate choices amongst alternatives; and
- (d) Demonstrate sophisticated cognitive and creative skills in approaching legal issues and generating appropriate responses.

**JD TLO 4: Research skills**

Graduates of the Juris Doctor will demonstrate the intellectual and practical skills needed to justify and interpret theoretical propositions, legal methodologies, conclusions and professional decisions, as well as to identify, research, evaluate and synthesise relevant factual, legal and policy issues.

**JD TLO 5: Communication and collaboration:**

Graduates of the Juris Doctor will be able to:

- (a) Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences; and
- (b) Collaborate effectively.

**JD TLO 6: Self-management**

Graduates of the Juris Doctor will be able to:

- (a) Learn and work with a high level of autonomy, accountability and professionalism; and
- (b) Reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.

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