

There are challenges also in the area of curriculum. One significant issue is the recognition of prior skills training and clinical experience obtained in the undergraduate course as part of the professional training stage of legal education. Another issue is the incorporation of lifelong learning skills into undergraduate education to meet the needs of an efficient and competitive workforce. There will also be continued pressure on PLT courses to find alternative funding sources to meet the costs of provision and to keep that cost within student capacity to pay.

In part two the article also contains a description of the PLT course designed by the University of Wollongong (of which the author is Director) and accredited in 1995.

RESEARCH

REVIEW ARTICLE

Starting practice: work and training at the junior Bar

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This final report is the culmination of a long-term research project designed to evaluate vocational training at the Bar in the United Kingdom (that is, for barristers as a separate branch of the UK legal profession to solicitors). The reason that this particular research commands more general interest is because it embodies an ambitious 3-year longitudinal study of a cohort group of junior barristers who were the first to commence a new bar vocational course in 1989/90. It thereby provides fresh insights into the early years of practice, which

can then be built back into the initial skills training program to ensure that it attains maximum relevance for the students. This is one of only a handful of studies that have attempted to validate a practical legal training program empirically.¹

There are three prior published interim reports, dealing with earlier stages in the study when research data were collected. The first phase involved questioning the junior Bar and some senior barristers about the types of work presented to pupils and new barristers and the problems they faced in practice. This led to a detailed specification of the types of skills they needed with the intention of feeding this information into the development of the new vocational course and to serve as a baseline when measuring future changes in the nature of the work for junior barristers.

The next stage was the collection of evaluative data from the student cohort group just before they took their final examinations, necessarily at a time when they could judge the strengths and weaknesses of the course itself but without the benefit of having experienced the realities of life at the junior Bar. The third interim report surveyed the same population when they were engaged in their second six months of pupillage.

This final phase of this three-year research project involved the collection of data from those of the same cohort group who had gone on to become independent barristers and is directed to finding out how

well the course and their pupillage prepared them for their first years of practice. This meant that, of the original group of 882 students who commenced the Bar vocational course three years earlier, only 334 qualified to participate in this last survey, of whom 159 returned the completed questionnaire, yielding a response rate of 48%. The role of continuing education for barristers and how it could be designed so as to supplement the vocational course were also examined in this stage.

Chapters 2 and 3 chart the progress of the students from the vocational course to pupillage and then to their careers at the Bar. The authors provide the usual demographic information about the cohort, as well details of their chambers, legal qualifications, previous experience, the work they were undertaking and any specialisations they had acquired.

Chapter 3 looks at the relevance of the knowledge and skills areas taught in the vocational course or gleaned during the pupillage periods in preparing these junior barristers for the sort of work they were carrying out. The respondents were asked to what extent they used, in their work, each of the skills taught and how relevant they were to their fields of practice, as well as where they obtained the knowledge of the substantive law required for their areas of practice. Pleasingly for the researchers, the vocational course was given strong endorsement by the respondents, with 85% replying that it prepared them to work as competent barristers. They were therefore able to declare with confidence that, although there were areas for improvement revealed by their research, the course fulfilled its overall aim.

¹ See AS Storch, *The Legal Practice Course: benefits in practice* 4 Leg Ed Digest 4, April 1996 pp 13-14 and J W Nelson, *New directions for practical legal training in the nineties*, Centre for Publication and Information, 1988.

The problems faced by junior barristers in getting started in practice, which are probably shared by the newcomers to any profession, are the subject of chapter 5. A great wealth of data was collected about problems experienced in such diverse areas as adequacy of legal knowledge, relations with solicitors' clients, chamber clerks and other professionals, dealing with ethical dilemmas, obtaining a sufficient range and volume of work, being able to ask senior chamber members for advice and whether they personally suffered discrimination. In the process the researchers have been able to compile a very detailed picture of the challenges confronting barristers at the outset of their careers at the Bar.

Although this description of the UK junior Bar today bears comparison with similar studies of the early years of practice for the other branch of the legal profession, solicitors, what is of particular interest to the bystander is not the specific research results as such, but the way this research project was designed in order to yield its findings. The great advantage of this project, which has obviously been generously funded, is that it is not merely one snapshot but a series of snapshots taken over a three year timespan. By tracking the experiences of the original cohort group, the researchers have been able to detect changes in the work patterns of junior barristers. They have also been able to gauge how the students' initial judgments of the value of their vocational training have measured up against the more rigorous standard of the demands of practice at the Bar.

Editor

SKILLS

Why do we moot? Exploring the role of mooting in legal education

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Mooting is widespread in law schools but rarely called into question. Mooting programs seem to exist because of tradition and their apparent correlation to legal practice. This article seeks to present valid educational and practical justifications for the continued existence of mooting. The three theoretical bases for mooting as a means of learning are constructivism, experiential learning and problem-based learning.

The genesis of moots can be traced to the establishment of the Inns of Court in medieval times where aspiring lawyers were required to perform moots over several years before being admitted as practitioners. Indeed, moots were one of the few formal features of legal education of the time. From the Inns of Court moots three key features of mooting have remained: (1) students assume the role of advocates before a simulated bench; (2) they argue points of law arising from a hypothetical scenario supplied to them; and (3) they are expected to answer questions from the bench relating to the arguments presented or any other relevant law that they may not have raised.

The different approaches taken in three university mooting programs are described. Because it involves a vast amount of administrative co-ordination and other resources, a law curriculum should not be criticised solely on the mooting opportunities it gives students. However, by examining the kind of learning which mooting seeks to foster, a clearer understanding can

be gained of its role in undergraduate education.

In terms of the educational theory moots represent a perfect example of assessment in law which involves a high degree of cognition and metacognition in an affectively charged context. Students are expected to respond and operate on a variety of levels. Mooting promotes constructivist learning, that is, learners construct their own knowledge, recognising that the teacher is not an omnipotent being capable of transferring knowledge to the student. It has also been observed that a key feature of effective experiential learning is the involvement of the whole person, that is intellect, feeling and sense. These appear to be a key factor in moots, so we can conclude that they are a good example of effective experiential learning. Because of the hypothetical fact situation element, moots also involve problem-based learning. They are a good example of a piece of assessment in legal education where the importance of the process applied in responding to the problem is at least equal to, if not more than, the emphasis on the actual solution reached.

Qualitative data relating to students' experiences and reactions to mooting were collected, with the aim being to describe the salient behaviours, events, beliefs, attitudes, structures, and processes occurring as a result of mooting. Four groups each of five students from Griffith University in Queensland, Australia, were interviewed. They were asked what their experiences of mooting were like, the features of that experience and whether they enjoyed it and would repeat it.

From an analysis of the group interviews emerged four *categories*