

Graduate Attributes and Legal Skills: Integration or Disintegration?

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I INTRODUCTION

Graduate attributes may be broadly defined as the qualities, capabilities and understandings of a graduate which a university community agrees students should develop during their time at the institution, both for their future professions and to make a contribution as ordinary citizens.¹ This article examines the benefits and disadvantages of an integrated and incremental approach to developing these attributes, and to teaching the generic and legally specific skills that underpin them in an undergraduate law program. The progress toward the integration of both generic and lawyering skills within the undergraduate law program at the Queensland University of Technology (QUT) will be used as the exemplar for this article.

LEGAL EDUCATION TO DATE: NATIONAL AND INTERNATIONAL PERSPECTIVES

Traditionally, educators of undergraduate lawyers-in-training have approached curriculum planning from the perspective of what law graduates “need to know”. This approach will usually lead to graduates having very good technical skills but lacking some of the necessary generic skills desired by employers. The Australian Law Reform Commission in its recent report *Managing Justice – A Review of the Federal Civil Justice System*² cited the American report *Legal Education and Professional Development – An Educational Continuum*,³ and concluded that legal education should

be orientated around “what lawyers need to be able to do”.⁴ This also reflects feedback from employers and graduates. Nevertheless, the mainstream Australian educational focus remains anchored in outmoded notions of “what lawyers need to know”.

Both the report released in 1987 by the Pearce Committee, which examined legal education in Australia’s then law schools,⁵ and the subsequent report by Craig McInnis and Simon Marginson⁶ noted that movement toward skills development within law schools has been slow and that, crucially, there was no blueprint or taxonomy for the development of skills programs. Educators generally have recognised that skills training must be embedded within the process and content of learning to ensure that learning objectives are met. Educational commentators have also identified the desirability of developing teaching and learning approaches and assessment methods in an authentic learning environment.⁷ The imperative to produce legal graduates with readily transferable skills has been recognised at an international level, both in the United States and in England.

The MacCrate Report examined and reviewed the status of legal education in the United States. It formulated the following list of fundamental lawyering skills and professional values and recommended that all law schools aim to instil these within their graduates:

- problem solving
- legal analysis and reasoning
- legal research
- factual investigation
- communication
- counselling
- negotiation
- litigation and alternative dispute resolution
- organisation and management of legal work
- recognising and resolving ethical dilemmas.⁸

The MacCrate Report led a majority of US law schools to redesign their curricula to entrench a clinical legal education model for their law courses.⁹ An important element of each program is the focus on ethics as an integral element of each of the substantive law units, the emphasis being on exposure to real life problems and issues in which ethical dilemmas are a large component.

English universities have also been engaged in projects to integrate the development of graduate or professional attributes into undergraduate curricula in many disciplines, including law. The UK Centre for Legal Education has undertaken several projects of relevance to law. One is Benchmark Standards for Law,¹⁰ another is General Transferable Skills in the Law Curriculum.¹¹ In both cases, the projects are prefaced on the expectation that, in any discipline, students will go through several changes of career in their working lives. The emphasis in tertiary studies should therefore focus on developing students' ability to transfer skills from one context to another. The report on General Transferable Skills in the Law Curriculum concluded that formal curricula were not addressing various skills required by employers (for example, oral communication, teamwork, written communication, leadership, personal drive and commitment, and business awareness).¹² Each of the universities within the United Kingdom networks has addressed the issue of attributes and skills by:

- 1 determining a university wide policy for the integration and development of graduate attributes
- 2 setting out a list of abilities, skills and personal transferable skills for each university
- 3 considering the issues surrounding universities to ensure that students achieve comparable experiences and standards of ability.¹³

The Benchmark Standards for Law report¹⁴ details the areas and levels of performance required of a law graduate, and identifies the nature of general transferable skills developed through and alongside specific legal skills to enable students to present their learning achievements more effectively and in a wider employment market.

Australian universities are likewise concerned with the issue of transferable graduate skills. The Australian Technology Network¹⁵ is currently involved in a large teaching and learning project aimed at designing a systematic and explicit strategy to cultivate and evaluate the development of relevant generic attributes. The project recognises that, while universities may generally view their graduates as having acquired certain implicit attributes, any structured development of those attributes is either non-existent or left to skills-based units divorced from the mainstream curriculum. The ATN Project suggests that generic attributes should be seen as

inextricably linked with the learning of disciplinary content in an explicit rather than merely implicit manner.¹⁶

THE WHOLE OF UNIVERSITY APPROACH

In the past, universities have considered themselves to be responsible only for the development of technical knowledge and the inculcation of the graduate's ability to be able to criticise, question and search for justifications. However, it is now apparent that universities should also be concerned to ensure that their graduates are equipped with the skills necessary to be able to use that technical knowledge effectively in order to succeed in a global and ever-changing workplace.

To a significant extent, the ability of individual courses to foster and develop transferable skills within their curricula will be affected by the commitment of the university as a whole to the concept. Where the university is committed to the explicit development of transferable generic skills within its curricula, individual faculties should find the transition to an explicit skills approach easier: the likelihood of funding for such changes increases and the university will, no doubt, have formulated a list of generic graduate attributes for faculties to adapt to their discipline context.¹⁷ Any categorical statement of an identified list of generic attributes will also signal the university's commitment to producing a certain kind of graduate to key stakeholders (employers, students, staff, government).

Both the Australian ATN Project and the university networks established in the United Kingdom encourage a systematic approach to skills teaching within a discipline at university level. Vital components of such an approach include:

- the identification of university-wide generic attributes
- the development of a framework for faculties to use to facilitate the adoption and incorporation of these attributes within their courses
- the provision of resources
- the provision of funding for faculties to make the transition.

IS SKILLS INTEGRATION NECESSARY IN LAW?

Overwhelmingly, contemporary educational thinking suggests that universities should not be content to provide students only with good technical knowledge: a university education should also

inculcate the skills necessary to utilise that knowledge in an ever-changing global workplace. As the Australian Law Reform Commission recommended,

... properly conceived and executed, professional skills training should not be a narrow technical or vocational exercise ... rather it should be fully informed by theory, devoted to the refinement of the high order intellectual skills of students, and calculated to inculcate a sense of ethical propriety, and professional and social responsibility.¹⁸

The acceptance of this philosophy is becoming more widespread in the general university community, as evidenced, for example, by the ATN Project and the international initiatives outlined earlier. But the move to a broader vision for university education comes not only from within university hierarchies, it is also being vigorously promoted by employer groups and students.

Traditionally, lawyers and law teachers have been resistant to change, claiming either that skills “training” is already included within law courses or that specifically legal skills (legal reasoning and problem solving, legal research) are more important than generic skills (such as communication), which may be acquired in other contexts. The latter view is clearly neither held by the wider university community nor by employer groups. In 1998 Vignaendra¹⁹ identified the most frequently used skills by law graduates in *any* type of law-related employment as communication (both oral and written), time management, document management, and computer skills. Legally specific skills, while important to private professional practice, were not the most frequently used. The recent report *Employer Satisfaction with Graduate Skills* commissioned by the Department of Education, Training and Youth Affairs highlights skill deficiencies amongst graduates in the areas of creativity and flair, communication skills, and problem solving.²⁰

While not the particular concern of this article, it is of interest to note that Practical Legal Training (PLT) in Australia is also undergoing a significant review at a national level. The Australian Professional Legal Education Council (APLEC) and the Priestley Committee are currently reconsidering competency standards for pre-admission training. Skills considered necessary in this context include personal skills, client-relations, letter writing, drafting, interviewing and communication skills, negotiation and dispute resolution, problem solving, legal analysis, research, statutory

interpretation, and advocacy. The nature of the PLT competency standards is being influenced by a belief that the PLT curriculum should be designed to produce practitioners who are prepared to be lifelong learners, rather than merely competent in particular legal tasks at the time of admission to practice.²¹

All of this highlights the critical issue of the responsibility law courses should assume for teaching transferable generic skills. As mentioned, many legal academics would say that they already incorporate “skills” (whatever is meant by that term) within their curriculum. While it is true that specific skills training is incorporated to a generous extent within some law school curricula in *specific* skills units (such as legal research, advocacy, negotiation), very few substantive or core law units aim expressly to teach generic skills such as communication, time management or computer skills. Nevertheless, if asked, the majority of legal academics would say that a skill such as effective oral communication, for example, is obviously necessary to successfully complete a law degree. The simultaneous (though inconsistent) expectation is, however, that the student will acquire the skill more by osmosis than by instruction.

The solution to the mismatch between graduate preparation and workplace demands lies in the acceptance that procedural knowledge is just as important as conceptual knowledge and that a curriculum which successfully integrates and fosters the development of a combination of personal qualities and meta-cognitive functions (particularly self-reflection) will produce a highly desirable graduate.²²

The challenge to provide a coherent framework for the teaching of both conceptual knowledge *and* transferable generic and legal skills has been taken up by the Faculty of Law at QUT as part of a Large Teaching and Learning Grant project. The aim of the project is to develop an authentic learning environment for students through the adoption of appropriate learning objectives, teaching and learning approaches, and assessment methods, which take into account the global workplace, social and ethical values, and the development of lifelong learning skills. Through such a learning environment, students will be given the opportunity to develop both the generic and specific legal professional and ethical skills and attributes they will need to practise as reflective practitioners in changing and challenging work environments. This will include

equipping students with the appropriate level of skills to allow a seamless transition from the academic to the professional environment.

OUTLINE OF THE QUT LAW FACULTY PROJECT

The project's focus is on establishing a teaching, learning and assessment framework for an integrated and incremental approach to the development of generic and discipline specific attributes in law. The term "attributes" has been chosen to reflect QUT's involvement in the ATN Project. If one analyses an attribute, one can identify the generic and/or specific legal skills which make up its components. This is explained and exemplified further below.

In building the framework, the Law Faculty project will move through four stages:

- 1 The *first* involves the identification of generic and discipline-specific attributes for law utilising feedback from employers and graduates and various studies. These attributes take into account the global workplace, social and ethical values, and the inculcation of lifelong learning skills. This stage has already been completed.
- 2 During the *second* stage the emphasis is on identifying those skills and their competency levels that a legal graduate will need to attain the desired attributes. A preliminary table of attributes and related skills has been developed and is explained below.
- 3 *Third*, the current undergraduate law course will be reviewed with a view to:
 - (i) Integrating the identified skills within the processes and content of existing LLB units.²³
 - (ii) Developing appropriate tools and mechanisms for assessing competency levels within each of the skills.
 - (iii) Establishing an appropriate reporting procedure to enable students to track their development. This will involve the documentation of skills attainment (at the various levels of competency) through a reflective process that will lead to the development of a "student attribute profile".²⁴
 - (iv) Creating and implementing a staff development model to enhance instructors' abilities to facilitate, assess, and guide attribute development in students.

- (v) Compiling resource material for teaching generic attributes for the benefit of staff.
 - (vi) Utilising the on-line facility for course development which is in the process of being progressively introduced into the Faculty.
- 4 The *fourth* and final stage will involve the utilisation of developed skills within a real world context. This will be achieved by enhancing legal clinic components of faculty courses.

STAGES 1 & 2 – WHAT ARE THE NECESSARY ATTRIBUTES AND SKILLS FOR A LAW GRADUATE?

The table of desirable attributes for law graduates developed by the project team takes into account data from the Vignaendra Report,²⁵ the list of skills and values in the MacCrate Report,²⁶ the generic attributes identified by the University, and the skills previously identified by the QUT Law Faculty for incorporation within the course.²⁷ In the first instance,²⁸ the project team decided to utilise and re-interpret the generic attributes set out by the University in its Manual of Policies and Procedures.²⁹ From this list, the project team identified six desirable attributes of a law graduate. Each is designed to encapsulate broad descriptors of graduate quality and is expressed in terms of the abilities a graduate will be expected to possess upon graduation:

Discipline Knowledge

Graduates will possess detailed and comprehensive knowledge of Australian legal principles and statutory regimes, knowledge of legal systems and influences outside Australia, an understanding of the latter's relationship with the Australian legal system and a fundamental knowledge of extra-legal factors impinging upon substantive law.

Ethical Attitude

Graduates will possess a sense of community and professional responsibility and will be able to identify and offer appropriate solutions to ethical dilemmas.

Communication

Graduates will be able to clearly, appropriately and accurately communicate, both orally and in writing, having regard to the appropriate language for a variety of contexts.

Problem Solving and Reasoning

Graduates will possess critical thinking and problem solving skills, to enable effective analysis, evaluation and creative resolution of legal

problems.

Information Literacy

Graduates will be able to use current technologies and effective strategies for the retrieval, evaluation and creative use of relevant information as a lifelong learner.

Interpersonal Focus

Graduates will be able to work both independently and as a productive member of a team, practise critical reflection and creative thinking, be socially responsible and inclusive, and be able to work effectively and sensitively within the global community in continually changing environments.

A graduate who possesses the nominated attributes would generally be able to demonstrate a variety of skills. Therefore, from this list of attributes, a list of generic and legally specific skills for incorporation within the course was identified, categorised broadly as:

- attitudinal skills
- cognitive skills
- communication skills
- relational skills.

The specific skills within each category as identified by the project team are:

Attitudinal Skills	Cognitive Skills
<ul style="list-style-type: none">• Ethical orientation• Creative outlook• Reflective practice• Inclusive perspective• Social justice orientation• Adaptive behaviour• Pro-active behaviour	<ul style="list-style-type: none">• Problem solving• Legal analysis• IT literacy• Legal research• Document management• Discipline & ethical knowledge
Communication Skills	Relational Skills
<ul style="list-style-type: none">• Oral communication• Oral presentations• Advocacy• Legal interviewing• Mooting• Negotiation• Written communication• Drafting	<ul style="list-style-type: none">• Work independently• Teamwork• Appreciate race, gender, culture and socio-economic differences specifically and diversity generally• Time management

There are two core elements upon which the structured development of skills is prefaced. The first is the acquisition, understanding, application and critique of substantive legal knowledge. It is within the context of legal principles, doctrines and theories that students will be provided with the environment for the development of contemporary generic and legal skills. The second element is that of legal ethics. The development of an ethical attitude, the identification of ethical issues, and the offering of resolutions to ethical dilemmas are to be incorporated at each stage of the degree. By the project's conclusion, the ultimate objective of the QUT LLB will be to have developed the identified legal and generic skills that together will constitute the identified graduate attributes within the context of discipline knowledge and ethics.

For example, the attribute of "ethical attitude" encompasses (at least) the following skills of "ethical orientation" and "discipline and ethical knowledge" which have both generic and legal applications:

Ethical Attitude
1 The graduate is able to value and promote truth, accuracy, honesty, accountability and ethical behaviour.
2 The graduate possesses knowledge of and an understanding of the nature and sources of ethical standards and their enforcement.
3 The graduate recognises and applies possible processes for resolving ethical dilemmas.

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Each of the identified skills has been de-constructed to produce a draft *Table of Core Skills*. This table identifies the following in order of detail:

- the broad *skill category*: from the four categories set out above
- the *specific skills* within those categories: from the more detailed table above
- the *course objectives*: that is, the level of competency expected of a graduate regarding the specific skill by the end of his or her course
- the *demonstrated abilities* of the graduate for each of the skills: that is, to meet the (final) course objective for the specific skill, the graduate will have demonstrated these particular abilities.

While the draft *Table of Core Skills* sets out each of the skills

separately, none of the identified skills should be viewed in isolation: many skills draw upon others to demonstrate effective acquisition of a particular skill, while some skills are so fundamental that they permeate the application of nearly every other skill.

Having developed the initial taxonomy, each specific skill is also broken down into three broad levels of progression or development. For each level, certain compulsory units in the undergraduate law degree will be indicated as units in which the skill is developed. Each of the levels of progression relate broadly to the notion that a student should move through various stages in the attainment of a skill (as adapted from the ATN Project):

- 1 *Scope* – defining the scope of the skill by the teacher. This may be achieved by direct instruction and/or by the provision of resources to students.
- 2 *Practical* – providing an environment within the context of a particular area or discipline of law for the student to practise the skill.
- 3 *Relational* – an understanding of the relation between the use of the skill and its context.

In the specific terms of the undergraduate degree, this may be represented as follows:

- *Skill Level 1* – At this level (notionally year 1), the student will be instructed on the theoretical framework and application of the skill, usually at a generic level. The skill may be practised under guidance and feedback provided. Assessment will usually include a critique of the skill as practised.
- *Skill Level 2* – At this level (notionally year 2), a degree of independence is required of the student. This may involve some additional guidance at an advanced level of the skill, an environment in which to practise the skill in a real world legal scenario, and feedback to students on their progress. Students will be encouraged to reflect on their performance and on ways to improve. At this level, individually or within a group, a student should be able to complete a task utilising a range of skills in relation to a simple legal matter.
- *Skill Level 3* – At this level (notionally years 3 and 4), students should be able to draw on their previous instruction and transfer the use of the skill to a variety of different circumstances and contexts without guidance. Students should be able to adapt and be creative in the ways they approach the context and use particular skills. Reflection on performance will be a key aspect. At this level, individually or within a group, a student should be able to complete a task utilising a range of skills in a complex legal matter for a knowledgeable and critical audience.

At each level of progression, students will be assessed on their level of attainment. These levels then provide the framework for the reporting procedure utilised for the development of the student attribute profile. The progression from each level to the next also works as an aid to student understanding and provides opportunity for student reflection on skill attainment.

STAGE 3 – INTEGRATION OF SKILLS INTO THE CURRICULUM

The third stage of the process, which is currently underway, requires a significant cultural shift in approaches to teaching and learning law within the Faculty. While a radical overhaul of units comprising the course may not be necessary (other than the first year program which was completely revised for Year 2000 implementation), the significantly content-based approach used in many units is no longer feasible. This is not to say that large amounts of content need to be abandoned. Rather, a different focus needs to be developed to ensure that an authentic learning environment is created for the teaching and learning of skills *in parallel* with the substantive law.

This presented some particular difficulties for the development of an integrated first year, especially given the considerable diversity of backgrounds and varying life skills of students entering the course. The following issues arose and will be considered further below:

- What approach should be adopted to ensure that *each* student could meet the competency benchmark by the end of the first year in order to be able to progress to the next level?
- Assessment practices would need to be reviewed to ensure appropriate skills assessment (both formative and summative).
- Assessment should also be linked with the reporting or recording of graduate attribute development.
- Students should be able to utilise their assessment to assist them both to record their competency level and to encourage self-reflection on strategies for improvement. Facilitation of student choices about how to progress the development of their skills through the course options open to them should also occur.

Integration with Substantive Units – Course Level

The majority of projects and research in the area of graduate attributes recognises that the most effective way of developing skills within a graduate is to embed those skills within the curriculum. Encouraging skills development throughout the course allows graduates to develop their attributes over time, maximising the opportunity for an advanced level of skills attainment. The “one shot” or inoculation model of teaching, which is commonly characterised by having one skills unit at the beginning of the course and a “booster” unit/shot at the end, does not allow for the incremental development of skills over a period of time.³⁰ For the law degree as an entity to provide the learning environment necessary for students to develop skills in parallel with the substantive law, it becomes necessary to match identified skills with units that are appropriate for their development.

As part of this process the following two matters require particular consideration:

- Each of the skills needs to be developed systematically through a process of explicit instruction, practice, feedback and final assessment, ranging across the whole of the degree. It is not necessary for each unit to take on the responsibility for the whole of the development process for a particular skill: it may be necessary (and indeed desirable) to spread the students’ experiences across a number of units (particularly, for example, in a multi-faceted skill such as written or oral communication).
- Each of the skills needs to be developed as an integrated package *horizontally* across the particular year of the degree and then *vertically* through the remainder of the course.

First year example

Students are advised in their first year course materials that the Faculty’s philosophy is to provide an education which makes available to the graduate-in-training the broadest possible range of generic and legally specific skills, developed within the context of discipline knowledge and understanding, and a professional and ethical attitude. One of the specific objectives of the first year program is to encourage students to access and analyse information through practising generic skills which will be reinforced throughout the rest of the course.

In particular, there is an express acknowledgement that students will commence the course with varying skill levels, in the same way that they will have varying levels of legal knowledge. The first year

curriculum as a whole is designed to assist students to reach a common level of competency in relation to certain skills.

Students are informed that, in accordance with the policy of the University, the Faculty has identified several skills that fall within three generic graduate attributes. The link between the generic attributes and the skills to the real world and professional practice is made explicit to enhance motivation.

Through tuition and practice of nominated skills during first year, students are expected to achieve a *basic level of development* in the generic attributes of:

- *information literacy*, which includes the following skills:
 - computer skills
 - information technology literacy – e-mail, use of the World Wide Web, use of library cd-roms, word processing
 - knowledge of database structures
 - library and research skills
 - problem solving
 - critical analysis skills
 - oral communication
 - written communication
- social and relational skills, which include:
 - _ ability to work independently
 - _ ability to be a productive member of a team
 - _ ability to recognise and appreciate cultural and gender differences
- an ethical attitude:
 - _ an ethical attitude involves knowledge of ethics, knowledge of the basic ethical rules, an ability to offer appropriate solutions to ethical dilemmas, and generally conducting oneself in an ethical manner.

The skills to be explicitly developed as part of the first year program have been “distributed” between the various (core) first year units, in each case ensuring students have instruction on the skill itself, opportunity to practise the skill, feedback and assessment:

- *Legal Institutions and Method* (1st semester, all students) specifically develops:
 - _ oral communication – speaking clearly and logically, conveying ideas in group, and active listening
 - _ comprehension and analysis #1
 - _ problem solving #1
- *Law Society and Justice* (1st semester, all students) specifically develops in a socio-legal context:
 - _ critical thinking #1
 - _ oral communication – oral presentation
 - _ ethical and attitudinal awareness #1
- *Legal Research and Writing* (2nd semester, all students) specifically develops:
 - _ information literacy – Australian, comparative and international legal research

- _ problem solving #2
- _ written communication – writing skills and plain English
- _ computer skills
- *Contract* (full year, first year full-time students) specifically develops in the substantive law of contract:
 - _ comprehension and analysis #2
 - _ problem solving #2
 - _ written communication – letter writing
- *Laws and Global Perspectives* (2nd semester, all students) specifically develops in a cross-cultural context:
 - _ critical thinking #2
 - _ information literacy – international electronic research
 - _ team work
 - _ ethical and attitudinal awareness #2
- *Torts* (full year, first year full-time students) specifically develops in the context of the substantive law of torts:
 - _ comprehension and analysis #2
 - _ problem solving #2
 - _ oral communication – interviewing
 - _ written communication – formal writing.

There is also a range of skills that are developed implicitly within the unit *Legal Institutions and Method* as a foundation for other units.³¹ The focus here is on skills which are necessary for successful completion of a law degree and which students should begin to use and practise as early as possible, but which time and resources dictate cannot be extensively or explicitly taught within the first semester of the course:

- *Time management*
Students are referred to the necessity for time management skills and to the indicia of independent workers by information made available on the on-line site for the unit *Legal Institutions and Method*.
- *Independent work*
This desirable skill is constantly referred to in lectures and seminars, while the teaching and learning approach in the unit has been chosen to foster independent learning (that is, one hour “lecture forum” in the nature of an “overview” or “briefing” on the assumption that pre-reading has occurred and that learning is facilitated in two hour seminars).
- *Ethical behaviour*
Students are referred to specifically developed *Student Conduct Guidelines* which set out certain expectations relating to the conduct between students and lecturers, and between students and administrative staff; student conduct generally; and e-mail and voice mail etiquette. This standard of appropriate conduct is reinforced in the students’ seminar performance assessment, where one of the criteria is specified as compliance with the student guidelines in relation to seminar or small group conduct.
- *Computer skills and information technology*
In its first offering in Semester 1, 2000, *Legal Institutions and Method* has been offered in a combination of face-to-face and on-line teaching.

One of the specified objectives of offering the unit on-line is to “allow [the student] to learn and practise skills concerning the use of information technology”. All students are required to be familiar with and access the university’s on-line information system, “QUT Virtual”, to have access to and use e-mail accounts, to be able to access a limited range of legal information sites on the Internet, and to use the on-line site for the unit. To encourage and assist students to use technology, a number of strategies were put in place. First, as part of their seminar program, students are taken to the computer lab, instructed on how to use the on-line system and shown various useful internet sites. Second, students are required to submit a copy of an e-mail notice sent to them early in the semester for the express purpose of “ensuring that all students have at least the basic level of computer literacy skills of accessing their e-mail account”. Third, external students are encouraged to participate in on-line discussion forums representative of the locality in which the students live. Students are informed:

The purpose of this discussion forum [in this unit] is to provide external students with the opportunity to communicate with each other and to practise using a discussion forum. Participation in discussion forums will be optional for external students in *Torts* and compulsory for external students in *Laws and Global Perspectives* [in Semester 2]. The academic staff in *Legal Institutions and Method* will not participate in the forum but it will be monitored to ensure the guidelines concerning etiquette are followed.

Students’ information literacy and computer skills are then further developed and assessed in the unit *Legal Research and Writing* and in *Laws and Global Perspectives* in 2nd semester of first year.

Teaching and Learning Approaches – the Unit Level

The teaching and learning approach of any unit deciding to integrate skills within the course should take account of a range of important issues at unit level.

The Existing Competency Level of Students Entering the Unit

Where the unit is taught in first year, competency levels may vary depending on the demographic of the student cohort. In later years of the course, teachers should be able to gain guidance from the objectives of units in the earlier part of the course regarding skill development.

First year example – QUT

The diverse range of skill levels of students entering a law course over

the last few years makes the development of a first year program particularly challenging. A fine line must be tread to ensure that the first year program embraces the different skill levels of the commencing student body but nevertheless brings all students to some level of parity by the completion of the first year.

In 1999 the commencing student load for law was distributed as follows:

Age – 1999

<i>17-24</i>	<i>24-30</i>	<i>31-36</i>	<i>37-42</i>	<i>43-50</i>	<i>50+</i>
54%	20%	15%	6%	5%	0.5%

Admission basis – 1999

<i>Prev HE</i>	<i>TAFE</i>	<i>Senior</i>	<i>Alt Ent</i>	<i>Q-Step</i>	<i>Ood</i>	<i>Other</i>
59%	7%	19%	8%	2%	2%	3%

Key:

- Prev HE* Previous Higher Education
- Senior* Grade 12 qualifications
- Alt Ent* Alternative Entry
- Q-step* Entry program for students from low socio-economic backgrounds
- Ood* Aboriginal and Torres Strait Islander

This did not change dramatically in 2000 with the following student distributions:

Age – 2000

<i>17-24</i>	<i>24-30</i>	<i>31-36</i>	<i>37-42</i>	<i>43-50</i>	<i>50+</i>
67%	17%	6%	5%	4%	1%

Admission basis – 2000

<i>Prev HE</i>	<i>TAFE</i>	<i>Senior</i>	<i>Alt Ent</i>	<i>Q-Step</i>	<i>Ood</i>	<i>Other</i>
56%	6%	29%	4%	2%	1%	2%

Sex – 2000

<i>Male</i>	<i>Female</i>	<i>No Answer</i>
32%	59%	9%

The development of an integrated skills program must therefore take into account the varying life skills of students entering the course. Students who have already studied at university or completed another degree will possess, on the whole, a more varied and developed set of generic attributes than students entering straight from secondary school. On the other hand, the latter students, on the whole, may possess more advanced computer and information technology skills. With knowledge of these diversities, the entire first year program has been redesigned to ensure that all students will have attained at least basic competency levels for the

targeted skills. This is desirable for a number of obvious reasons (many of which have already been described) and is critical for providing the solid platform on which second year skills teaching and learning can be built.

Additional issues arise in the context of diversity. In one of the first year units, students were asked to rate themselves on the skills of problem solving, comprehension and oral communication using the following five point scale:

- 1 – Quite poor; needs considerable improvement
- 2 – Only moderate; needs improvement
- 3 – Quite good, but still scope for some improvement
- 4 – Competent; only fine tuning required
- 5 – Excellent

In general, the results indicated that the 17-24 age group tended to rate themselves as either “competent” or “excellent” across the skills, while the older age groups were more critical of their own ability. This would seem to highlight a lack of self-reflection on the part of younger students which requires specific attention on our part. The current feedback from tutors across the particular first year unit suggests that the younger students’ skills are not as developed or advanced as they believe. It is anticipated that the formative feedback on their comprehension tasks in seminars, together with the summative feedback on the assessment exercises, will provide a basis for better informed and tutor-facilitated self-reflection.

Apart from the stark breakdown between male and female enrolments, other interesting findings from the survey were the particular areas in which the female cohort tended to be more critical of their ability than their male counterparts. The most dramatic contrast occurred in the area of conflict management and resolution. This may lead us to include conflict management training within the first year program.

The most significant variations in results are shown in the table below.

Question	Male – Competent & Excellent Responses	Female – Competent & Excellent Responses
<i>Listening skills</i> – remain calm in the face of threatening situations	58.8%	37.1%
<i>Oral skills</i> – deal appropriately with threatening situations	61.8%	37.9%
<i>Body language skills</i> – make appropriate eye contact with others	60.3%	70.9%
<i>Problem solving skills</i> – identify an issue within a given fact situation	53.7%	42.7%
<i>Problem solving skills</i> – generate alternative solutions to the problem	58.8%	38.7%
<i>Problem solving skills</i> – implement the plan	54.4%	44.6%

Review of Learning Objectives for the Unit

The learning objectives for each unit should clearly indicate the skills to be developed, the methods used to develop the skills, the competency level expected of the student upon completion of the unit, and the methods for assessment of the skill. While generic skills have often been “taught” implicitly in the past, it is obviously preferable and more effective that they be taught by explicit identification of the skills in unit descriptions and assessments. Students need to be informed very early in their studies how and

why they are going to be taught generic skills, how these skills preface the development of legally specific skills, and what part they, as students, should be playing in developing these skills.

First year example

In the 1st semester, 1st year unit, *Legal Institutions and Method*, as mentioned above, the skills specifically concentrated on are:

- _ oral communication
- _ comprehension and analysis
- _ problem solving.

The Study Guide for the unit, which is produced each year by the teaching team, deals specifically with why *these* skills have been chosen as the focus, what level of achievement is expected for each skill on completion of the unit, how the skills will be developed through the course of the semester, and how all of this relates to the first year course as a whole. This is reinforced in the very first lecture, where the bigger picture (through to graduation) is presented, and again in the first seminar in the unit. The *Legal Institutions and Method* Study Guide sets out the detail of this information as follows:

Why these skills?

Each unit in the first year program will take responsibility for the development of a certain number of the identified skills for the Faculty. The skills chosen for *Legal Institutions and Method* are intended to provide the platform for development of higher level skills in the second semester of first year and later years in your degree.

What is the level of achievement expected for each skill on completion of the unit?

Oral communication

You will be expected to be able to speak clearly and logically within a seminar group and to convey an idea or issue to another person within your group. You will be expected to use appropriate language and demonstrate active use of listening skills.

Comprehension and analysis

This will involve a two step process. First, you will be expected to be able to analyse a short piece of writing or case so as to answer set questions. The second step in the process is the development of analytical skills. You will be expected to be able to analyse a piece of work by answering set questions. The skill of analysis will be developed further in *Laws and Global Perspectives* in second semester.

Problem solving

You will be introduced to basic problem solving. You will be expected to use the approach to problem solving in *Legal Institutions and Method* and in your other units, including *Torts* and *Contract*. By the end of this unit you will be expected to be able to use a simple problem solving approach. Problem solving will be developed to a higher level in *Legal Research and Writing*, *Torts* and *Contract*.

How will each of the skills be developed?

Each of the skills will be developed through a process of instruction, practice, formative feedback, reflection, and summative assessment.

Oral communication

You will receive feedback in relation to your performance in seminars from the tutor. Prior to each seminar you should use the questions posed under “Assessment Criteria for Seminar Performance” in 8.5 of this Introductory Guide as a checklist. Following the seminar you should again address the questions listed for seminar performance and consider how your performance could be improved.

Comprehension and analysis

Instruction will be given in small group discussions in relation to comprehension skills and you will be given the opportunity to practise those skills as part of the seminar program. The tutor and other students will provide feedback on your attempts during the sessions. The comprehension exercise will provide feedback in relation to the improvement of your comprehension skills. Following this exercise you will be required, as part of the small group discussion, to reflect on how your performance could be improved. You will be given a further opportunity to practise your skills in light of your reflection in seminar program. The final assessment of your comprehension skills will occur in the exam.

Problem solving

You will be introduced to basic problem solving through the Study Guide and in lectures. You will be given the opportunity to practise your problem solving techniques during the small group discussions. In particular, you will be required to apply the problem solving technique to solve statutory interpretation questions. You will also be able to practise your problem solving technique in *Torts* and *Contract*. Feedback will be given during small group discussions. Your problem solving skills will be assessed in the exam.

How does this relate to the first year curriculum as a whole?

In the first year of your studies you will be given the opportunity to develop a basic level of competency in each of the three generic attributes detailed above. This will be achieved by an integrated and developmental approach across the whole of the first year curriculum. You will be required to use and build on the skills acquired in *Legal Institutions and Method* in your second semester units and in the later years of your degree. For example, you will be expected to use and develop your problem solving skills in *Legal Research and Writing*, *Torts* and *Contract*. You should not assume that just because you were assessed on that particular skill in *Legal Institutions and Method* that you will not need to use it again.

Review of Teaching Strategies

Depending on the level of skill to be achieved, teaching strategies should aim to put the skill within the context of the unit content and to give the skill a real world meaning. This should be made feasible by an appropriate matching of the skill with the unit content. Again, the linkage should be made explicit to students.

First year example

In *Legal Institutions and Method*, one of the skills developed is that of comprehension and analysis. The emphasis on “comprehension” is not accidental. One of the commonly identified skill deficiencies in first year law students is an inability to comprehend, not just legal writing, but any piece of even mildly sophisticated prose. The positioning of basic comprehension and analysis skills in this unit is appropriate, given the place of *Legal Institutions and Method* in the degree as the foundation unit and “comprehension and analysis” as the generic foundation of legal reasoning.

Students are provided with “Comprehension Guidelines” which progress from a basic level of instruction through to the more difficult aspect of analysing that which has been comprehended. The Guidelines are practised and reinforced in seminar exercises where the examples used are writings on unit content introduced in lectures. Case noting exercises and statutory interpretation instruction are presented as legally specific examples of generic comprehension: the ability to navigate a statute and a case report, and then to analyse and interpret cases and statutes in response to specific questions posed, are put in the context of the generic skill of comprehension and analysis.

Review of Assessment

Assessment methods for each unit should be revised to ensure appropriate assessment tasks for both substantive content and skills.

First year example

In the Study Guide for a unit such as *Legal Institutions and Method*, each piece of assessment in the unit is explicitly linked to the unit objectives (as you would expect) and the skills being developed by the particular item.

For example:

_ The external exercises develop written communication skills, comprehension and problem solving skills. At the end of the semester, students should be able to solve simple problems, to convey clearly in writing relevant legal principles, and to analyse and interpret case law.

Performance is measured against:

- _ presentation
 - _ clarity of expression, grammar and spelling
 - _ use of plain English
 - _ demonstrated ability to properly acknowledge sources and cite cases and legislation
 - _ demonstrated understanding of relevant principles
 - _ demonstrated ability to apply relevant principles.
- One of the objectives of seminar performance is to assist in the development of oral communication skills. At the completion of the semester students should be able to demonstrate an ability to speak clearly and logically within the seminar group and use appropriate language and listening skills.

The criteria upon which performance is assessed are:

- _ Attendance – this concerns physical attendance at seminars
 - _ Participation –
 - _ Preparation; demonstration to the tutor of preparation by being involved in the discussion. (Has the required reading been done?)
 - _ Has there been an attempt to answer the questions for the week?
 - _ Is the student involved in the discussions that are occurring, whether it is by listening, speaking, asking questions, or noting what is going on?
 - _ Are good listening skills demonstrated?
 - _ Did the student allow other students to contribute to the discussion?
- When asked a question was the student able to provide an answer that demonstrated knowledge and understanding of the material for the small group discussions?
 - _ Did the student comply with the student guidelines in relation to seminar or small group conduct?
 - _ Has the student submitted all items of work required by the tutor?
 - The comprehension exercise is particularly aimed at the development of comprehension and analytical skills. Upon completion of the unit, it is expected that students will be able to demonstrate an ability to comprehend and analyse a simple article, case or statute.

The criteria against which performance is measured include:

- _ presentation
- _ clarity of expression, grammar and spelling

- _ use of plain English
- _ demonstrated understanding of principles articulated in the article, case or statute
- _ demonstrated ability to discern relevant legal and factual issues as required
- _ demonstrated ability to interpret and analyse the article, case or statute, and to answer set questions clearly and coherently.

Reporting Attribute and Skill Attainment and Competency – The Graduate Profile

Any reporting procedure on students' attributes, skills and progress should have a two-fold purpose. First, students need to be able to track their own development and document their skill attainment (at the various levels of progression) through a reflective process. Second, students need to be able to use the record for employment purposes. These purposes are satisfied by the development of a student attribute profile. At QUT the development of a student/graduate attribute profile is occurring at a university level as part of the ATN Project. The Law Faculty project aims to utilise the system developed by the ATN Project for the recording of graduate attributes.

Issues that have been identified for the development of such a system include:

- How will students record their initial skill level? Will this be by way of self-assessment only, or will some objective test be undertaken? Is this even necessary?
- How will a student be able to assess any changes in the development of their skills? Will the assessment within each of the courses need to be adapted to specifically provide assessment on the skill and the content that can be transferred straight to the graduate attribute profile?
- How will the student recording of the skill be validated? Is it necessary for a staff member to review the student profile at various points within the course and provide feedback? Will the profile be a university-approved document? Validation of entries will be crucial from an employer perspective.

IMPLICATIONS AND ISSUES

The final part of this article will raise, as discussion points, some of the implications and issues that arise for legal education when it embraces an explicit skills approach. The purpose is not to

suggest absolute solutions to these problems but to raise an awareness of some of the difficulties that may be encountered when embarking on this wholesale curriculum change.

Change in Paradigm

The development of an authentic learning environment for the delivery of skills teaching and learning requires law academics to change their teaching focus:

- *from* content-driven *to* attribute attainment
- *from* teacher-focussed *to* student-focussed
- *from* teaching students *to* providing the environment for students to learn.

This may result in teaching staff wanting to focus upon more easily assessable skills (such as library and computer skills) and disregarding the more complex skills of team work, oral communication and research.

Staff Development

Many staff may consider that they do not possess the necessary skills that are now expected of their students on graduation. Likewise, some staff may not consider themselves competent to teach or assess many of the skills. These concerns need to be addressed as part of staff development. In particular, there is a need to address the generation of a staff development model designed to enhance the instructors' ability to facilitate, assess and guide generic attribute development in students. This may require other academics who are expert in the particular skill to provide staff training, *or* for the expert academic teacher to become a member of a particular teaching team for the purpose of assisting existing team members to develop the skill. In either case, the emphasis should be on collaboration between staff members. Staff development will also be assisted by the compilation of readily available staff resources for the teaching of generic attributes.

Staff Commitment

The level of staff commitment may be affected by a number of factors:

- concerns staff may have in relation to their own abilities

- concerns academic staff may have about how this project, when implemented, will impact on their academic freedom, and whether it will dictate how they teach “their” units in terms of teaching and learning approaches and assessment strategies
- the commitment evidenced by the university to the development of skills across university curricula
- the commitment of Faculty management to the development of skills as evidenced by resource and workload allocations.

It is important that barriers such as these are appropriately recognised and overcome. It is clear that there is a need for academic and support staff to collaborate in the development of workable guidelines and policies to implement skills development. It is equally necessary that a collection of practical resources to integrate generic skills across curricula is made available at a university level and is accessible to all staff. These various issues require substantial goodwill on the part of all involved and a “whole of university” commitment to the validity of skills training as discussed above. To ensure that staff ownership of units is not lost, staff should be active participants within the process from an early stage, particularly in the development of the curriculum.

Resources and Workload

The Faculty needs to give careful consideration to the issue of resources and workload. The shift in teaching paradigm necessary for the successful inculcation of skills within an existing curriculum places increased burdens on staff members in terms of reconceptualisation, assessment methodology, and marking. The Faculty should be prepared to allocate resources to assist staff in making the transition and in sustaining the learning environment for students. This may necessitate a reconsideration of workloads and a creative allocation of resources.

The supply of “hard” resources is also necessary, particularly in the area of information technology. Sufficient hardware (and software) needs to be provided for both students and staff to enable development of computer and information technology skills. IT support is also an important issue, given generally increased workloads.

Student Response

Student response to a change in focus *from content to skills* development embedded in content may be mixed. While all students may see the ultimate benefit in developing their skills at university, many may consider they already possess sufficient levels of skills competency. Others may perceive skills attainment and improvement to be too confronting and as having the potential to pull down their marks in a very competitive student environment.

Strategies to engage students in the validity of skills learning might include:

- creating “Faculty Maps” which chart the accommodation of generic skills within units and programs within the Faculty and which show how the generic relates to the legally specific “real-professional-world” skill
- including skills explicitly in the curriculum and alerting students to the skills they are expected to develop
- making it clear to students that they share responsibility for acquiring these skills (that is, to develop as independent, self-directed learners – highly sought after by potential employers)
- providing avenues for students to gain skills outside the discipline context.

CONCLUSION

This article has sought to demonstrate that an integrated and incremental approach to embedding generic and legally specific skills in an undergraduate law curriculum is a challenge that must now be embraced. At the very least the call cannot be ignored. University hierarchies, employers, graduates, students and other informed professional bodies are all demanding that law school curricula equip their law graduates with the appropriate level of skills attainment to enable a seamless transition from the academic world to the professional, global and ever-changing workplace.

While meeting such a challenge may be laborious and burdensome, and will certainly require enormous effort and commitment on the part of all stakeholders, it is nevertheless a cause deserving of our allegiance. To decline the challenge will lead ultimately to the irrelevance of law teaching as a discipline and to the disintegration of the value of the professional degree.

APPENDIX

QUEENSLAND UNIVERSITY OF TECHNOLOGY GENERIC SKILLS

Knowledge/Problem-solving

QUT graduates should –

- possess coherent, extensive, theoretical and practical knowledge in at least one discipline area
- be able to define and solve problems in at least one discipline area
- be able to retrieve, evaluate and use relevant information
- be able to use current technologies to advance their own learning
- be equipped for lifelong learning, intellectual development and critically reflective and creative thinking
- be able to adapt to an unfamiliar culture and operate in a socially and culturally diverse environment
- possess effective written and oral communication skills
- know how to manage time and prioritise activities
- be aware of their own strengths and limitations.

Ethical/Attitudinal

QUT graduates should –

- possess a sense of community and professional responsibility
- value and promote truth, accuracy, honesty, accountability and ethical standards
- be confident about their ability to learn independently and interdependently
- desire continued intellectual development
- be willing to deal with ambiguity and to initiate and participate in change as appropriate
- appreciate differences in gender, culture and customs.

Social/Relational

QUT graduates should –

- be able to work independently
- be able to fill the role of a co-operative, productive team member or leader

- accept responsibilities and obligations, assert individual rights and respect the rights of others
- be able to participate in social commentary and contribute to intellectual, social and cultural activities in the local and international community
- be able to work effectively and sensitively within the Australian and international community.

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©2001. (2000) 11 *Legal Educ Rev* 207.

† The authors wish to thank other members of the QUT Law Faculty Teaching and Learning Large Grant Project Team for their contributions, in particular Natalie Cuffe, the Project's Consultant Librarian; and Annette Marfording for her detailed and helpful comments.

¹ For this definition, we have drawn on J Bowden et al, *Generic Capabilities of ATN University Graduates* ATN Report (Sydney: Teaching and Learning Committee, Australian Technology Network, 2000) <<http://www.clt.uts.edu.au/ATN.grad.cap.project.index.html>>.

² Australian Law Reform Commission, *Managing Justice – A Review of the Federal Civil Justice System* Report No 89 (Canberra: AGPS, 1999) [referred to as ALRC Report No 89] para 2.21.

³ American Bar Association, *Legal Education and Professional Development – An Educational Continuum* (Chicago: ABA, 1992) (MacCrate Report) [referred to as MacCrate Report].

⁴ ALRC Report No 89, *supra* note 2, at para 2.21. The relevant recommendation of the ALRC was: “Recommendation 2. In addition to the study of core areas of substantive law, university legal education in Australia should involve the development of high level professional skills and a deep appreciation of ethical standards and professional responsibility”: *id* at para 2.89.

⁵ Commonwealth Tertiary Education Commission, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (Canberra: AGPS, 1987) (Pearce Report) [referred to as Pearce Report] 30-31, 90-91.

⁶ C McInnis, S Marginson & A Morris, *Australian Law Schools After the 1987 Pearce Report* (Canberra: AGPS, 1994) 168-70, 387-91.

⁷ G Hart, J Bowden and J Watters, Graduate Capabilities: A Framework for Assessing Course Quality (1999) 24(2) *Higher Education in Europe* 301-08. See also B de la Harpe et al, Quality and Generic (Professional) Skills, unpublished paper, Curtin University of Technology, 1999, at 3.

⁸ MacCrate Report, *supra* note 3, at 138-41.

⁹ For example, New York University, Berkeley, William and Mary College and Boston University.

¹⁰ National Centre for Legal Education, *Benchmark Standards for Law Degree in England, Wales and Northern Ireland* (Warwick: UK Centre for Legal Education, 1998) <<http://www.ukcle.ac.uk/news/lereports.html>>.

¹¹ J Bell and J Johnstone, *General Transferable Skills in the Law Curriculum* (Warwick, UK Centre for Legal Education, 1998) <<http://www.ukcle.ac.uk/news/ldnreport.html>>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Supra* note 10.

- ¹⁵ Involving the Queensland University of Technology, RMIT, University of Technology Sydney, University of South Australia, Curtin University [referred to as ATN Project].
- ¹⁶ Bowden et al, *supra* note 1.
- ¹⁷ Prior to the ATN Project, Queensland University of Technology had already developed a set of generic attributes for all students graduating from the university: see the Appendix.
- ¹⁸ ALRC, *supra* note 2, at para 2.85.
- ¹⁹ S Vignaendra, *Australian Law Graduates Career Destinations* (Sydney: Centre for Legal Education, 1998) (Vignaendra Report) [referred to as Vignaendra Report] 39.
- ²⁰ AC Nielsen Research Services, *Employer Satisfaction with Graduate Skills* (Canberra: Department of Education, Training and Youth Affairs, 2000) <http://deet.gov.au/archive/highered/eippubs/eip99-7/eip99_7pdf.pdf>
- ²¹ A Lamb, Preparation for Practice: Recent Developments in Practical Legal Training in Australia, paper presented at the Commonwealth Legal Education Association Conference “Innovation in Legal Education”, University of Adelaide, April 2000, at 16.
- ²² Hart, Bowden and Watters, *supra* note 7, at 301-08.
- ²³ It has been recognised that an appropriate balance between skills training and acquisition of substantive knowledge will need to be achieved. Some strategies developed to facilitate this include:
- the identification of appropriate units in which to position the development of the various skills and the articulation of those skills within other units throughout the degree
- a reconsideration of learning objectives, teaching strategies and assessment methods for each unit to include a balance of substantive content and skills
- a re-assessment of the modes of delivery of units in order to achieve an authentic learning environment for the development of skills within the course.
- ²⁴ It is anticipated that, ultimately, a system developed by the university will be used.
- ²⁵ Vignaendra Report, *supra* note 19, at 39.
- ²⁶ MacCrate Report, *supra* note 3, at 138-41.
- ²⁷ F Martin, The Integration of Legal Skills into the Curriculum of the Law Degree: The Queensland University of Technology Perspective (1995) 13(1) *Journal of Professional Legal Education* 45.
- ²⁸ It must be pointed out that each and every table the team has produced has been modified a significant number of times. Further, each is still treated as work-in-progress.
- ²⁹ Appendix.
- ³⁰ de la Harpe et al, *supra* note 7, at 3.
- ³¹ In 2001, it is proposed to distribute these skills also between the core first year units, utilising a bank of on-line resources for skills instruction.