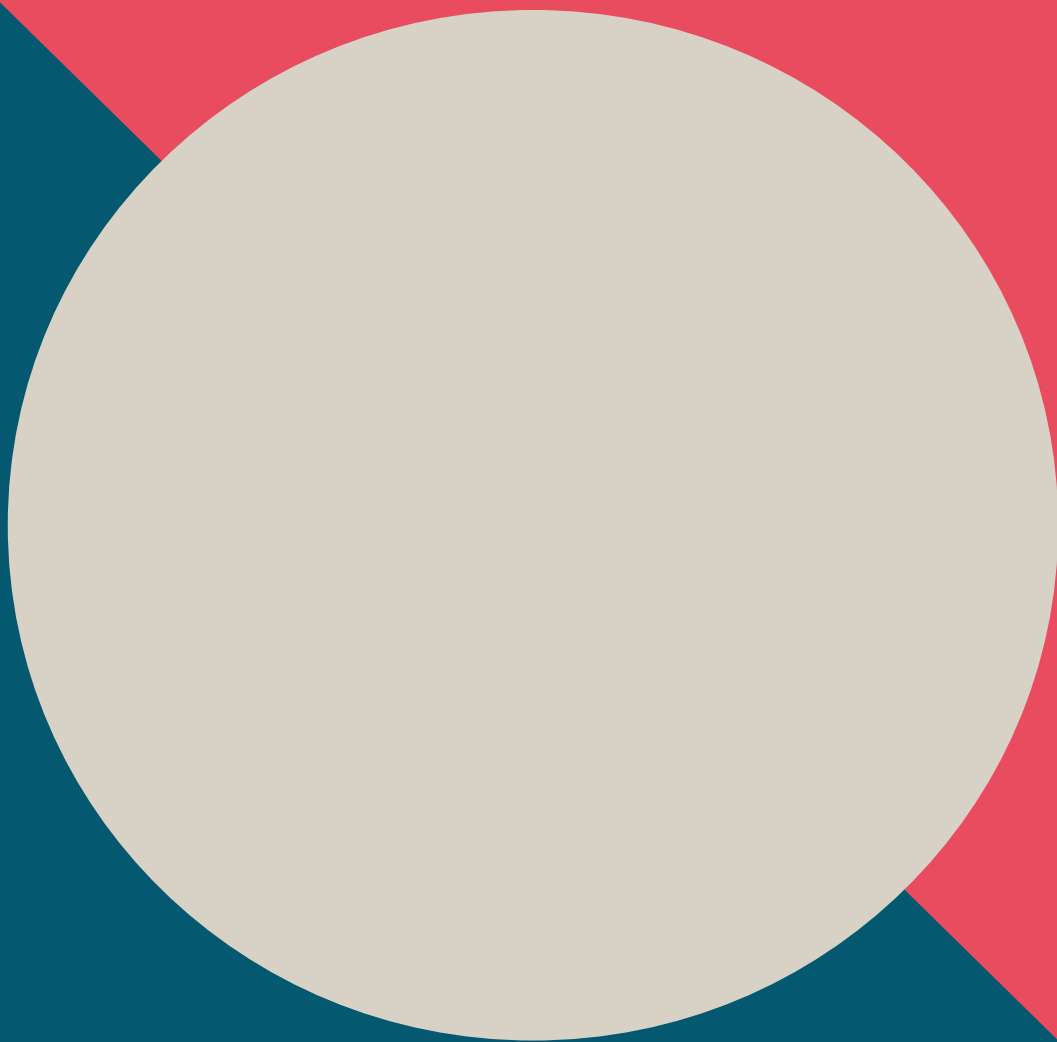


Assessment and Feedback in Law

Case studies from the sector

Patrick Baughan



In Memory of David Christopher Bradley, 1989-2021.

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Editor's note and acknowledgements

This publication comprises nine case study papers written by colleagues working at Law schools, or in the field of Law, within (UK-based) higher education institutions. The focus of the publication is assessment and feedback, and each paper considers a relevant issue or innovation, in Law, connected to the institution concerned.

The publication came about as a result of an Advance HE Collaboration Project which took place between 2020-2021, and, therefore, during the Covid-19 pandemic. Advance HE collaboration projects involve colleagues at multiple institutions working with facilitators at Advance HE and together, to address a common theme. This project, which I led with the help of a number of other experts, focused on assessment and feedback in Law. Eleven institutions joined the project, which was all undertaken online due to the aforementioned 'pandemic context', and we worked together through a number of stages in what was both a successful and, it should be added, enjoyable process. The events included two collaboration days and some 22 bespoke workshops, with two workshops facilitated for each institution. The workshops were varied and fascinating, and covered areas including: key principles in assessment; developing consistent, student-focused, dialogic feedback; equality, diversity and inclusion (EDI) in assessment and feedback; (and) assessment, feedback and awarding gaps. Based on the evaluation responses that we received, it would be fair to say that this was a worthwhile and fulfilling experience, in which we all – facilitators included – learned from working together. It was also pleasing to note the attention being given to EDI issues in assessment and feedback in Law.

We decided to develop this linked publication for two reasons. First, to provide institutions involved with an opportunity to profile-raise their own, related work in assessment. Second, we felt that the project warranted an output for the sector, so that some of the ideas could be shared more widely. As a result, the nine papers here address some pertinent issues including assessment in the pandemic context, new and alternative assessment methods, online and digital assessment, feedback ideas and practices, and blended approaches. Some of these are linked closely to work we undertook in the project itself whilst others discuss different assessment initiatives and innovations.

We hope that readers, both in Law and in other disciplines or areas of activity, find these case studies useful. We recognise that the papers share a UK focus, but some of their recommendations will be applicable more broadly. And do, if you would like to, let us know what you think!

I would like to take the opportunity to thank all authors and other colleagues involved in the publication. My thanks to colleagues involved in the collaboration project too, including our guest speakers and facilitators Thom Brooks, Ben Brabon, Jess Moody, Dawn Jones and Lynn Ellison, our survey organiser, Jonathan Neves, and colleagues who provided technical support, including Natasha Culver. In particular, I would like to acknowledge the help of my friend and colleague Sally Bradley, who was closely involved in the collaborative days, and was due to co-edit the publication with me. Tragically, Sally lost her son, David, earlier this year, and it is for this reason that we mark David's life and his own important contributions to teaching and pedagogy on the opening page of this work.

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Opportunities to improve the process of 'assessment unpacking' resulting from the Covid-19 pandemic

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Abstract

'Assessment unpacking' is a collaborative process between tutor and student designed to encourage the student to explore and articulate their understanding of the assessment task and the assessment rubric. This process is followed by guidance from the tutor to confirm, guide in terms of approach and resources, correct misunderstandings and ensure that the students are aware of exactly what they are being asked to do. Due to the Covid-19 pandemic, all teaching in the 2020-21 academic year was moved online. An unexpected benefit of this was that assessment unpacking developed, through necessity, in a way that resulted in unanticipated improvements. The nature of online teaching meant that a range of asynchronous materials were created, including recordings of synchronous online teaching, resulting in a wealth of resources that could be incorporated into the demystifying process to provide specific and focused guidance for students. The nature of these resources allows the students to have 24/7 access which, when coupled with directed discussion forums, creates an environment that encourages active participation with the opportunity to explore understanding of the assessment task. This article examines the nature of assessment unpacking, the literature on asynchronous resources and our experiences of delivering guidance during the lock-down period where no on-campus face-to-face teaching took place. This will demonstrate that the modification made to our approach has developed and enhanced our assessment practices in Law and improved the assessment literacy of students.

Introduction

This paper will consider the purpose of assessment unpacking, mechanisms for its effective use and examine how the Covid-19 pandemic afforded opportunities to develop the process. The term 'assessment unpacking' is explained in more detail later, but broadly it offers students the opportunity to test their understanding of the approach required by the assessment type based on the level of study and rubric-specific requirements and for the tutor to confirm, guide and ensure understanding of the task requirements. The paper will also consider how unpacking interacts with, and adds to, the development of a student's assessment literacy. The assessments considered related to undergraduate and postgraduate Law modules in a 'post-1992' UK university Law school.

Why do we 'unpack' assessments?

What is the purpose or the value of assessment unpacking for students or academics? To answer that it is necessary to consider why we assess students. Most would agree that students are expected to show learning, the acquisition of knowledge and the meeting of the learning outcomes. Is it as simple as expecting A (the assessment) to lead directly to B (the student submission) evidencing C (knowledge and the meeting of learning outcomes)? It is widely accepted that there should be alignment in a module between the learning outcomes, the activities and feedback that will allow students to achieve those outcomes and how they are going to demonstrate that achievement through assessment (Bell, Mladenovic and Price et al, 2013).

Why do we assess?

The justification for assessment is that it evidences whether the intended learning has been successful and, if correctly aligned and signposted, the assessment shows students what the learning aims of the module are: "In making our objectives clear it is essential that we unpack and make explicit the meanings we want our students to address" (Biggs, 2012, 47). A "learning-oriented assessment" (Carless, 2015, 976) is one that goes beyond simply an assessment that identifies how much knowledge a student has retained, it aligns teaching with a student's ability to evaluate and reflect on learning and to adopt feedback provided during the process. Have the seminars in a Law module prepared the student to deal with a problem-based assessment, an evaluative essay, a skills portfolio, or whichever type of assessment is appropriate to that Law module? Are the learning outcomes reflected in the module and the assessment, is there constructive alignment? (Biggs, 2003).

Why unpack?

Is it reasonable to expect that all students, regardless of educational background, will have the same experience and understanding of how to approach the assessment to best demonstrate the knowledge acquisition and the learning outcomes without some form of unpacking? "In a massified higher education sector where tutor-student ratios have gradually been eroded, students can remain confused about what is expected of them in assessment" (Higher Education Academy, 2012, 7).

It is standard practice at many UK universities to provide generic student guidance on assessment unpacking.¹ This assistance recognises the different approaches needed by students when entering and progressing through higher education. However, different disciplines have specific academic requirements that should be addressed at subject level. The learning of the academic approach needed for the assessment task in any Law module should pervade the teaching of that module and therefore assessment unpacking should also pervade the module. This is the approach that has been taken in the Law School that the authors are a part of, but the pandemic necessitated an adaptation of the delivery of this approach to make it suitable for online teaching.

¹ Examples include [University of Birmingham](#), and [University of Wolverhampton](#)

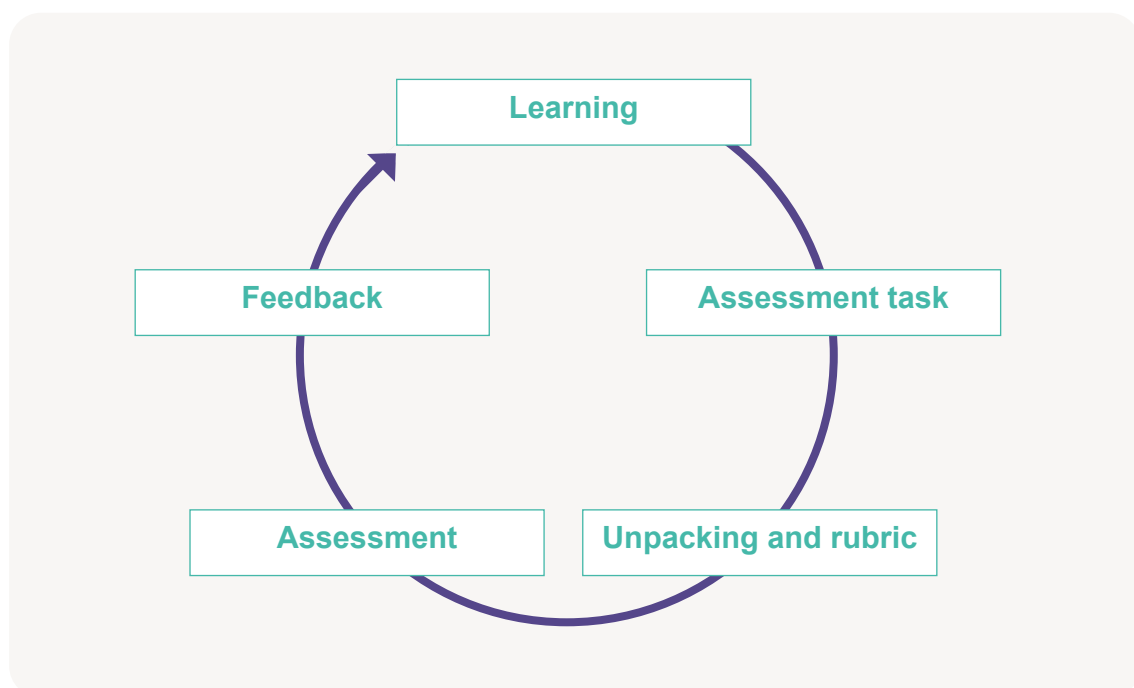
What is assessment unpacking and where does it fit in terms of improving assessment literacy?

Assessment literacy

The Higher Education Academy (2012, 13) has explained assessment literacy as being the “understanding of the language of assessment and assessment processes” and emphasised the importance of creating ways to help students to understand both the relationship between their learning and the assessment, the principles of that assessment and also the basis on which that assessment will be marked. This view is echoed by Price et al (2012) with the addition of the use and purpose of feedback as an essential aspect of assessment literacy.

Viewing assessment literacy in a holistic way, we can see that it is most effective when all the essential components are present and are connected in a transparent way. It is a wheel that needs to keep moving forward to be at its most effective. It starts with learning outcomes for the module and teaching aligned to those outcomes, moving to the assessment task which should be appropriate to the level of study and the outcomes of the module. Assessment unpacking fits into assessment literacy by linking learning to the assessment task and then to the rubric used to determine grades. Finally, truly effective feedback will identify whether those outcomes have been met based on the assessment task and rubric, while also providing direction for the improvement of future academic performance.

Figure 1: Assessment literacy wheel



Assessment rubric

For students to be able to fully articulate their understanding of the assessment task, they must be furnished with clear instructions that will allow them to identify the expectations of the module (Toa and Liub, 2018). An assessment rubric has been described as “a tool used in the process of assessing student work that usually includes Popham’s (1997) three essential features: evaluative criteria, quality definitions for those criteria at particular levels and a scoring strategy” (Dawson, 2017, 349). Rubrics were often used in a way that excluded students, as a mechanism to grade a student assessment that was applied only after the work had been submitted (Dawson, 2017). The approach taken by the authors and the Law School is to use the rubric as a collaborative tool to facilitate discussion between tutor and student and, in turn, to align this with the process of unpacking the specific assessment task.

Alignment

Assessment unpacking should not be about telling a student how to pass an assessment or providing too much guidance on the content required for a successful outcome. Instead, it should be about allowing the student to develop an understanding of what the assessment is assessing, how the learning outcomes can be evidenced, how the achievement of those outcomes can be demonstrated and how the requirements of the rubric can be met. This is at the heart of the aim of assessment unpacking, providing the students with the tools to allow them to produce the highest standard of work possible and to show that the learning is aligned to the objectives of the module (Biggs, 2012). The unpacking process encourages the students to explore and confirm what the assessment is asking them to do, identify and articulate what is meant by key words and phrases in the question and to align this with the assessment rubric provided.

It is therefore necessary to unpack the learning outcomes of the module and align these with the assessment brief and the rubric. Research shows there can be a misinterpretation of language used in the assessment brief by students but that, understandably, lecturers assumed that the briefs were clear. Without the opportunity for the student to unpack the brief before attempting the assessment, their hard work could be thwarted at the outset by their own misunderstanding or a misunderstanding shared by their peers (Oldham and Dhillon, 2012).

4.4 Dialogue

The final stage of the assessment unpacking process is the dialogue between tutor and students around the assessment rubric itself. Whether a course has an integrated approach or whether each module adopts an approach appropriate to the specific assessment, research suggests that engaging students with the process of assessment unpacking, either in groups or individually, combined with discussion with the lecturer, leads to a better understanding by the student of what is expected from the assessment. Active student participation in the assessment unpacking process has also been identified as having considerable success in reducing the attainment gap between Black, Asian and minority ethnic and white students (Cureton et al, 2017).

The combination of active student participation in the process of understanding assessment tasks, identifying the requirements of the rubric, evidencing an accurate interpretation of language used in the assessment task and articulating an appropriate approach to meeting the learning outcomes through the assessment, has the potential to improve student assessment literacy, not just for the one module but for all future assessments. This literacy can be improved and broadened throughout a student's academic studies by using these building blocks consistently.

"A greater emphasis on student engagement with assessment, its guidance and feedback, is also likely to reduce student frustration when faced with low grades. Involving students in assessment has the potential to help them understand the nature of complex professional judgement, grasp the required standards of their discipline and better recognise their own levels of achievement" (Higher Education Academy, 2012, 9).

Using assessment unpacking in an online module

Asynchronous resources

Much has been written about the benefits and detriments of asynchronous resources (Chen and You, 2007), but most of this is in the context of offering such resources in place of live face-to-face teaching. This results in an 'either/or' comparison where the efficacy of online resources, as contrasted against the in-person, on campus experience, falls short. For example, in the case of students with lower attainment, there is evidence that swapping live lectures for recorded lectures produces a negative impact (Horn, 2020). Research has found that use of recorded lectures may encourage surface learning and have a negative impact on assessment attainment (Trenholm et al, 2019). However, pre-pandemic, the research has often concentrated on the replacement of live session attendance with an over-reliance on recorded resources (Cilesiz, 2014). Where asynchronous materials are used, there are a range of resources that will fall into the category, ranging from reading materials to testing resources and audio-visual resources. The latter is preferred by students (Gómez-Rey and Barbera, 2018) who tend to become overwhelmed by text-based resources alone.

The effect of the Covid-19 pandemic

The use of asynchronous materials during the pandemic was not, in many cases, a matter of choice and design, but rather of necessity. Our focus here is on the use of teaching material that was always asynchronous (quizzes, directed reading, discussion boards, glossaries and recorded/narrated lectures), but also in the recorded synchronous teaching of a one-hour live online lecture catch-up session and a two-hour online live seminar per week. By continuing to host live sessions rather than simply uploading narrated PowerPoint presentations (Crawford, 2020), we avoided the pitfalls that a rush to online learning during the pandemic can produce.

In previous years, at the point of revision, the material available online would have been limited to lecture materials (PowerPoint presentations in a non-narrated format, perhaps some additional notes) and seminar materials (questions without answers). Assessment unpacking sessions were delivered face-to-face and the student who had missed attending any of the above would have 'missed the boat' in terms of what was said or done in those sessions. Students who missed these live sessions would have the written rubric to rely on and the assessment literacy they had developed to that point but would need to rely on peer understanding of the specific assessment task and approach, which may not always be reliable. In contrast, the pandemic produced a wealth of resources that still existed at the end of the module and were able to be referred to directly during the unpacking sessions. Rather than stating, for example, that a student studying criminal Law should revise murder, we were instead able to give very specific instructions that when revising murder, the information can be found in the narrated lecture in week three, the corresponding recording of the accompanying week three one-hour live session, the third glossary, the directed online reading from the e-book, the linked discussion board and quiz, and the recording of the live online seminar in week four. It resulted in the alignment between the learning, rubric and assessment task being much clearer for the students. Although there is evidence that revisiting a recording of a lecture previously attended may be of limited benefit (Palmer, 2019), some students were not in attendance at the live session and the resources were not limited to lectures alone. For example, the usefulness of using online quizzes has been documented (Hochstein, 2019), especially in terms of using quizzes for knowledge assessment rather than learning course content (Di Meo, 2020), and the combination of the various forms of resources made for the ability to deliver very comprehensive advice.

Bearing in mind that students benefit from live interaction with a tutor, unpacking sessions were delivered live online and recorded for those who were unable to attend. This had the benefit of tutor/student interactions for those who were in attendance and removed the uncertainty of students feeling unable to locate resources without the tutor's presence (Öztürk, 2021), with the ability to ask questions in person or via typing into the chat function, plus the tutor's use of polls to gauge understanding. The literature demonstrates that in situations where asynchronous resources are supplemented with synchronous video-casting, students are less likely to feel disconnected from the tutor (Han, 2013) and to develop a stronger sense of social presence (Yamagata-Lynch, 2013). It is clear that simply transferring what would have been a live session into an asynchronous instruction would not have worked in this context. However, inevitably there were some students who, due to issues with the pandemic, caring responsibilities or other situations, were unable to attend the synchronous sessions. Although this put them at a disadvantage in terms of being able to ask questions in real time, they nonetheless had access to recordings of the sessions that they previously would not have had when such sessions took place on campus and were not recorded. Writing in the context of the pandemic, Fazilov notes that 91% of students "felt that using anytime, anywhere and constant access to materials were advantages of the platform" (Fazilov, 2021, 1597) and we found the same. Our students appreciated the fact that the materials were there to revisit, as evidenced by their feedback in the unpacking sessions and end of module evaluations.

Conclusion

Despite the pandemic creating challenges in terms of teaching, we have also identified that it has created a wealth of positive opportunities in terms of assessment unpacking and the acquisition of greater assessment literacy. A by-product of the move to online resources is that we now have a bank of asynchronous materials that we can weave into assessment unpacking, allowing us to facilitate students' active participation in the process. There is a wider implication in terms of equality and diversity in that the availability of resources outside of the traditional teaching timetable, and our ability to direct students to those resources, means that students are provided with equal access regardless of their individual circumstances.

The analytics available on our VLE confirm that the unpacking resources have been widely accessed by the majority of students during assessment preparation, in comparison to previous years where unpacking will have been offered in a live lecture slot, which would not have been recorded, held at the end of a module and often poorly attended. The approach during the pandemic has allowed us to use the assessment literacy wheel in a way that has much greater impact for more of our students.

Implications and recommendations for practice

One added benefit for us as teachers is that the bank of asynchronous resources may be referred to during the resit period as well as the initial assessment period, which avoids duplication of workload in terms of assessment unpacking. It was often the case that a student had missed some of the original teaching causing them to mitigate the assessment which meant that at the resit period very few resources were available to them. These students can now be directed to the existing resources, giving them the opportunity to fully engage with all appropriate materials before attempting the assessment.

As we continue to move further into the digital age, it is recommended that VLE resources are presented in a student-friendly and coherent format. We have created our VLE around pedagogic principles that support student learning, which includes creating readily accessible links to all key content. This allows us to link required content to communication relating to assessment unpacking, which in turn allows students to navigate the appropriate asynchronous resources with ease.

Our experience of teaching and assessment unpacking over academic year 2020-21 has led us to conclude that we should not return to the pre-Covid norm of delivering live sessions without some form of asynchronous back up, principally achieved by recording the live session.

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Online open-book assessments: a case study

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Abstract

This case study charts the experience of staff and students in the School of Law at Keele University in adopting online, open-book assessment (OOBA) as an alternative to traditional in situ examinations during the restrictions imposed during the Covid-19 pandemic. It considers the apparently successful first use of OOBAs in May 2020, and their subsequent deployment in 2020-21. This case study then offers a frank evaluation of the development and implementation of OOBAs at Keele based on the experience of staff and students, who provided feedback in a variety of formal and informal settings. Anticipating a proposed programme-level review of assessment strategy and practices in Keele's Law School, it identifies and reflects on some of the significant problems that have emerged with the use of OOBAs, before articulating points for further discussion by the school and the sector.

Introduction

The impossibility of holding invigilated, in situ examinations (a staple mode of assessment for Law schools) following the imposition of the first Covid-19 lockdown in March 2020 saw the emergency introduction of some form of timed, online open-book replacement by the School of Law at Keele University in common with many institutions across the sector (Wood and Gibbs, 2020). With some reflection and modification, online open-book assessment (OOBA) has continued to be used across the school at Levels 5 and 6, mostly in core modules. Its salient features are a 24-hour window within which to complete the questions, a liberal 3,000-word limit across all levels of study, an extension by default for students with reasonable adjustments, and a more tolerant approach to the usual Oxford Standard for the Citation of Legal Authorities (OSCOLA) referencing requirements compared with traditional assignments (essays).

With little hint of a return to in situ exams, it seems that this form of alternative assessment will survive in the longer term and that future Law graduates may not experience a traditional, closed-book exam. This, together with some cogent criticism levied at OOBAs by students and staff, has prompted deeper reflection within the school as to what, when, how and why we assess. This reflection is informed by (and seeks to contribute to) the growing scholarship directly concerned with transitioning away from the traditional exam (Wood and Gibbs, 2020), adapting assessments (Buckley, 2020), the changing landscape of assessment (Brown and Sambell, 2020a) and the impact of surveys capturing crucial experiential feedback, such as the three discussed by Da Silva and Robertson (2020).

The Keele context

After more than a full academic year of the pandemic, it is incumbent on the school to reflect critically on its experiences and to consider and learn from so rapid a shift in assessment practice. With student success at the forefront of our thinking, we are in a crucial period for 'learning and inclusion' (Baughan, 2021). However, it is important to acknowledge that the pandemic is not the sole trigger for educational innovation and change within the school. We were already implementing the principles of flexible digital delivery of education (Jones-Devitt, 2020) and beginning to recognise the implications of this for assessment. More broadly, in March 2020 the school was enjoying an exciting period of curriculum development, rolling out a more streamlined undergraduate core curriculum (enhancing the student experience with a more enticing and coherent range of elective choices) and a new Professional Legal Practice pathway for students intending to enter the legal profession. Some years in the making, this curriculum innovation was the result of considered policy changes that responded directly to the challenges faced by our graduates in developing their skills and employability.

To complement this work, the school is now entering into a year-long programme-level review of assessment, with the aim of 'making change for good' (Brown and Sambell, 2020d, 2) to ensure that assessment is aligned constructively to the curriculum (Biggs, 2003) and that it is truly assessment for learning (Sambell, McDowell and Montgomery, 2012). Assessing students during a pandemic has added impetus to the project, with the future of the Ooba as one of the key matters to be addressed. It is now more important than ever that our assessments:

"minimise stress for students, boost their sense of authenticity ... while at the same time making them manageable for staff, authentic, as well as reliable and valid ... maintaining the assurance of standards."

(Brown and Sambell, 2020a, 19)

Phase 1: emergency response

The decisions taken about assessment in March 2020 were necessarily swift, with 24-hour online open-book assessment soon emerging as a viable alternative to in situ exams. There was, of course, little opportunity to consider systematically or comprehensively all the possible alternatives; a replacement form of assessment needed to be developed and implemented quickly. However, the proposals proved acceptable to school staff and so guidance and rubrics were speedily produced in consultation with Keele's Institute for Innovation and Teaching Excellence (KIITE) to ensure that our approach was fair and pedagogically sound. The need for the assessment to be inclusive and to cater for students in different time zones or with limited connectivity, as well as students with challenging home circumstances, was a major influence on its final form: a 24-hour window for the assessment to be returned, with a recommendation that students should expect to spend about three hours actually answering the questions. The 24-hour period was automatically extended for students with reasonable adjustments in place to offer additional flexibility and to ease anxiety.

A major concern in this emergency response phase was that student achievement would be reliably assessed (Brown and Knight, 1994), and that students would be provided with the support they required to undertake meaningful preparation for a novel form of assessment. The need to offer students practice of what will be asked of them in an examination is stressed as a principle of effective assessment (Bloxham and Boyd, 2007), but there were limited opportunities available to do this. However, existing revision and assessment preparation materials were refined, including reworking examples of past student answers and, to a more limited extent, helping students apply the assessment criteria through formative, self-assessment opportunities. As part of a coordinated school approach, a carefully considered set of FAQs was published at programme level, with module-level advice for individual assessments.

Phase 2: reflection, review and forward planning

The data on degree classification for 2020-21 suggested that online assessment had a beneficial impact on degree attainment, reducing the awarding gaps for key access and participation plan (APP) cohorts (for example, 11% in the case of Black, Asian and minority ethnic Law students) and eliminating some gaps entirely (as was the case for our students with disabilities). Indeed, the school reached early consensus that online, open-book assessment offered a better measure of students' all-round abilities than conventional in situ exams. This was a significant moment. Traditional exams have long been subject to compelling criticism (Brown and Knight, 1994, Wood and Gibbs, 2020), but the collective desire to change direction was a truly new experience. Critiqued as "deeply inauthentic", and a format that "should never again be adopted as a dominant approach" (Brown and Sambell, 2020d, 2), the chorus of voices calling for a fundamental and enduring shift in assessment practice resonated loudly.

From staff and student feedback, however, it was clear that work was required to improve assessment literacy and that expectations (staff and student) needed to be better understood and managed. This was, in part, reflected in the decision to jettison the misleading moniker that formerly emphasised the 'exam' and '24 hour' features of the assessment. A school-wide consultation identified areas we needed to address, including: how to communicate an agreed set of expectations to students (the inappropriate use of internet sources coupled with poor in-text referencing was identified as a common issue across modules); the suitability of pre-seen questions for the OOBAs format (pre-seen scenarios might be permissible, but not the questions themselves); how to apply the assessment criteria to OOBAs (the perception, endorsed by external examiners was that we should be marking OOBAs more rigorously than traditional, unseen, examinations), and a range of issues around fairness and inclusivity, including digital poverty and access to support.

Some of these issues appeared easier to address than others, but all received attention during the academic year. In hindsight, this second phase ('reflection, review and forward planning') proved only partially successful, but it was characterised by enterprising work with which both students and staff engaged.

Working with staff

Prior to Semester 1 assessment, a workshop was scheduled for module leaders to address the ostensibly different approaches to marking OOBAs that had emerged. Working through the University's Generic Assessment Criteria we sought to reach a common understanding of what to look for in the different marking bands. Meeting 'takeaways' were drafted and made accessible to all teaching staff, to be used as a guide in preparing students for assessment and to achieve a higher level of consistency in approaches to marking. Boud et al speak of the need to 'induct' students into the assessment practices and cultures of higher education in order that they might become "independent and self-managing learners" (2010, 2). Nowhere is this more pressing than where assessment practice and culture changes. The workshop sought to facilitate that much-needed induction.

Working with students

All module leaders offered some form of tailored assessment preparation to students this year. Students were especially positive about the use of small group sessions in some modules, where students interpreted and applied the assessment criteria together, charting how a marker's expectations might be different for online open book assessment. The literature supports this form of collaborative working, which helps students to develop their self-confidence and sense of personal responsibility (Boud, 2009), their evaluative judgement and (it is to be hoped), their performance in assessments (Villarroel et al, 2018).

Reflecting on the academic year

Ultimately, these seemingly supportive and pedagogically informed efforts seem to have been insufficient. Although assessment performance reflected the positive outcomes experienced a year earlier, some of the feedback from students was surprisingly negative. While some students clearly benefited from the advantages of open book and online assessments identified in a number of studies, including that of Kent-Waters, Seago and Smith (2018), it was the perceived disadvantages that were expressed most vocally in formal and informal meetings between students and staff. The Ooba form of assessment was described by students as "horrendous", "unbelievably stressful" and "a brand-new thing for me. I didn't know too much what to do". The final comment, in particular, reveals the limited impact of our induction efforts. There was evidence that some students had misunderstood their brief, while others were simply not prepared to engage with the guidance and support provided. Whatever the reason, we failed to dispel the palpable sense of anxiety beginning to characterise OOBAs. Module evaluation feedback from Level 6 students suggested that we had also failed to deal with the problem of communicating our expectations. One student lamented working to an "incredibly restrictive word limit", then to be "penalised for lack of detail". Another queried the assumption that students could produce a better quality of answer in the three allotted hours of an Ooba compared to a two-hour examination in an exam hall. They claimed to be "spending 15-16 hours producing that piece of work [their Ooba submission], well into the early hours of the morning". This account of student experience is concerning and would appear to lay bare a problem with markers' expectations, both perceived and real.

Staff, too, have been troubled by OOBAs, with some contemplating alternative forms of assessment for their modules in 2021-22. In our awayday discussion in July 2021, for example, it was felt that further refinement was required in articulating precisely what we expect from students and in the guidance to staff when drafting questions and marking. Also, both the 24-hour window and the word limit were increasingly viewed as problematic. We had intended the word limit of 3,000 words as a guide to students to guard against overlong responses, a ceiling that students should not write beyond without incurring penalty. What remained unclear (to students, staff and external examiners) was whether students should write to that limit. Opinion was divided. Unfortunately, the Ooba seems to occupy a grey area between exam and assignment (neither one thing nor the other) with uncertainty as to how to respond to answers of varying length.

A further emerging problem, perhaps less unanticipated, is the increased incidence of plagiarism and collusion, something of concern to staff and students alike. For example, some students alerted the school to the use of WhatsApp groups by their peers during the 24-hour period of various OOBAs. These students perceived such groups as a threat to the fairness of the assessment. Commentators note the need to “build on the heightened awareness of academic integrity risks resulting from the pandemic accommodations” (Pitt and Quinlan 2021, 27), but it is much less clear how that might be achieved, not least because the boundary between collaboration and collusion is far from clear (an issue which is not unique to OOBAs). Potential technology-based solutions are outside the scope of the school’s resources. Further, proctoring software that would monitor candidates and serve to protect the integrity of online assessment (were it to be available) is fraught with ethical challenges. One possible response is to render collusion less productive by confining OOBAs to tasks that require analysis and evaluation of issues and arguments (a sensible measure in any event), thus targeting questions towards “higher-order thinking skills” (Wood and Gibbs 2020, 2). Shortening the window for completion would focus student efforts on their individual answers albeit at the risk of heightened anxiety and loss of inclusivity.

Phase 3: making change for good

As mentioned above, the school is primed to engage in programme-level review of assessment and assessment strategy in order to ‘make change for good’. Our experience with OOBAs confirms that assessment design and review must be conducted at programme level. Only in this way can we ensure (particularly post-Covid) that modes and components of assessment are fair and inclusive, that assessment is manageable and efficient, varied, authentic and robust, and that assessment in the school is fit for purpose.

The programme-level review of assessment offers the school an invaluable opportunity to rethink the provision and sequencing of formative and summative assessment and to ensure that assessment feedback becomes a prominent tool that is used effectively by students in their learning. Some form of online open-book assessment is almost certain to be one of the portfolio of assessments adopted for the programme. Their advantages for students and staff in terms of learning and demonstrating that learning effectively are well attested (if not always recognised by the students themselves); further, employers should be able to expect that graduates can successfully engage with time limited, computer-based tasks. However, the final form of such assessments must respond to the points that have emerged from experience of OOBAs at Keele. These points are summarised in the final section of this case study.

Recommendations

Although online open-book assessment was first adopted as a convenient (and appropriate) emergency alternative to traditional exams in the spring of 2020, it must now be treated as a method of assessment in its own right. Due consideration must be given to the learning outcomes for the module, and the legal and academic skills to be targeted, before online open book assessment is used in a particular module. These factors must, in turn, influence the framing of questions and the approach to marking if authenticity of assessment is to be achieved.

The window for completion of online open-book assessment needs to reflect the aims of the assessment and the form of questions used (arguably, the conventional essay is nothing more than an extended form of open-book assessment).

Clear, consistent messaging to staff and students is essential at both programme and module level. Inconsistency will lead to confusion and stress for students and staff alike. This means establishing, and communicating, clear parameters, including those relating to length, referencing and consultation with peers (or staff) once the window for completion of the assessment has opened.

The need for clear messaging is not unique to online open-book assessment, but this form of assessment seems to provide, at least at Keele, special challenges. The feedback from students quoted above suggests that when under stress they tend to fall back on familiar models of approach, however inappropriate. It is important, therefore, that we help students understand the link between the online open-book assessment and the module being assessed. This, in turn, means considering how the choice of an online open-book assessment should influence all the teaching and learning activities on the module. Implicit messaging is at least as important as explicit instruction when it comes to preparing students for assessments, probably more so.

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Designing a framework for engagement-focused assessment on a block and blended delivery LLB

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Abstract

The move to delivering our undergraduate Law degree (LLB) in an intensive and blended format of six-week blocks, as a response to the challenges of the pandemic and the various UK lockdowns, required a review of the key means of engaging undergraduates. This article details the process of developing principles to support the design of incremental assessments for student success on the undergraduate Law degree. Three main types of assessments were implemented following the review: a) incremental assessment of five elements or more; b) incremental assessment of three elements; and c) single end-point assessment. Analysis of student engagement with individual modules, measured by their interactions with the university's virtual learning environment (VLE), demonstrated varying levels of engagement across these three categories of modules, with higher levels of engagement where there was incremental assessment.

Introduction

Manchester Metropolitan University (MMU) has more than 32,000 students in total and there are more than 1,200 undergraduates taking the LLB. Course delivery has, traditionally, been in person and on campus. For several years the university had maintained the policy that all undergraduate modules would attract 30 credits and would have no more than two points of assessment. As part of a Covid-proofing strategy for 2020-21 delivery, the institutional response at this large institution was to move all courses to a system of block delivery, to enable greater flexibility to move the student body from campus-based delivery to fully online, or to a hybrid model. It also provided the opportunity to redesign our assessment regimes.

Each 30-credit module would be delivered in a six-week block, with an 'assessment' week between blocks. Instead of the previous structure of four 30-credit modules running contemporaneously, students would study only one 30-credit module at a time. This intensive delivery also required a greater reliance on blended delivery to ensure the required level of directed study. This move, to be implemented over the summer of 2020, was a significant departure from the previous model of four, 30-credit, 'long, thin' face-to-face, paper-based modules. The timeframe to implement this was short: course changes to block delivery over the summer of 2020, and three weeks to respond to the institutional deadline for approval for assessment change. To this end we created a redesign framework, based on number of key principles focused on engagement through assessment, supported by training sessions, and one-to-one discussion with module leaders. The principles on

which the framework was based included engaging students via online interactions and assessment, the development of student self-efficacy and the limitation of any unnecessary stress, all of which are discussed further in the following article.

The issues inherent in a six-week block model were addressed with an overall redesign, supported by the module redesign framework, which focused on enabling module leaders to produce weekly cycles based on mastery learning (a model that enables students to obtain a high degree of knowledge of one area of a subject before moving onto the next, often by providing repeatable exercises, with suitable feedback), and weekly integrated, interactive VLE-based career and personal development, on meta-cognitive skills and self-regulated learning. An in-depth discussion of these concepts is beyond the scope of this paper, but they are mentioned here for context.

At the same time, professional legal education is undergoing significant change, with the imminent introduction of the Solicitors' Qualifying Examination (SQE), the first part of which will consist of 360 complex multiple-choice questions (MCQs). The traditional essay and problem (applying real Law to an imagined scenario) assessments are insufficient preparation for this change.

Assessment and student engagement

Engagement has long been recognised to be linked to student success and positive course outcomes; we note this on our LLB and in wider literature (Trowler, 2010).

The precise constituents of student engagement vary. At the broadest level, engagement is the interaction of students with their course and the resources invested by students in their studies, the reciprocal relationship with the institution (Kuh, 2009), and the time and effort students devote to “educationally purposeful activities” (Coates, 2008, 26).

Research has shown that increased levels of student engagement with educationally valuable activities are linked with high-quality learning outcomes (Krause and Coates, 2007). Further, the best predictor of learning and professional development is a student's level of engagement with educationally purposeful activities. Thus, engagement has been demonstrated to be a key predictor of academic success and achievement (Appleton, Christenson and Furlong, 2008).

Consequently, institutions have a responsibility to provide students with the resources and opportunities necessary to enable this range of ‘purposeful’ interaction, including “curricula and assessment that compel certain standards of performance” (Coates, 2005, 26).

Encouraging engagement was crucial in our new model of delivery. We needed to counter the potential for disengagement, which resulted from factors including the move to teaching at a distance, intensive delivery, reliance on technologies and the onus on students to engage earlier and more proactively than under the previous model. The range and scope for the different dimensions of engagement also changed due to these factors. Therefore, we wanted to engage our students using every available mechanism, including assessment.

Engagement through online interactions

Coates (2007) also notes the importance of careful construction of online interventions in supporting student engagement and the potential of VLEs for measuring levels of engagement. Research undertaken on the relationship between VLE use and final marks proposes that activities delivered through the VLE influence both learning outcomes and learning effectiveness (Mogus et al, 2012). Moreover, heavy VLE-users perform better in assessments (Stricker et al, 2011).

A variety of studies have investigated markers of VLE engagement: student success has been found to be related to the number of overall content interactions (eg Beer et al, 2010; Henrie et al, 2015) and indicates some positive correlations between VLE activity and module outcomes, although the strength of the correlation varies dependent on types of activities (Mogus et al, 2012).

For us, the VLE was changing from providing additional or further engagement to the primary means of engagement and, so, would be the key vehicle for provision of educationally valuable activities.

Consequently, our recommendation to the LLB team was to clearly delineate all tasks under the mastery model, so that the relationship between each one and the overall ILOs was clear and purposeful. This scaffolds assessment in an incremental way, rather than as a distinct practice, with the intention that it would become a prerequisite for learning through the VLE, rather than a measure of it (Havnes, 2012). We also asked module leaders to ensure that the instruction, practice or feedback loop was an integral part of their blended delivery, through the VLE.

Assessment and motivation

Well-motivated students have been shown to persist longer at tasks, expend more effort in new tasks, and perform better overall (Harlen and Crick, 2003; Pintrich, 2002).

As is common across the sector (Wass et al, 2015), many of our students are motivated by assessment and will focus their engagement for or around the assessment. Foster et al (2012) propose that even students who are generally disengaged from the course will engage with assessments.

Generally, assessments constitute extrinsic motivation for learning (Whitehead, 1984), which is believed to promote a shallower cognitive approach than intrinsic motivation (Walker, Greene and Mansell, 2003). However, students often use assessment as a key indicator of both their learning, and how they should evidence it (Sambell et al, 2012). As performance-dependent incentives provide information about levels of learning and proficiency, Frey (2007) proposed that assessments carrying significant weighting may support students in maintaining their task-specific motivation (Schunk et al, 2012), through the promotion of autonomy and competence, and thus can also actually underpin intrinsic motivation (Deci and Ryan, 1985).

Continuous, or incremental, summative assessment has been found to have several positive impacts on student motivation and learning (Trotter, 2006), including increasing student engagement (Holmes, 2015), improving examination performance (Van Gaal and De Ridder, 2013) and encouraging more consistent student effort through the year (Cole and Spence, 2012; Marriott and Lau, 2008). The enforced redesign of our LLB course brought with it the opportunity to include incremental assessment and confer all these benefits on our students. However, we did not make incremental assessment compulsory.

Studies on block delivery show that successful instructors break down larger assessments, typical of longer courses, into smaller, progressively developed assessment, to make this model more manageable for staff and students (eg Kops, 2012; Lee and Horsfall, 2010; Scott, 2003). This was the model we encouraged module leaders to adopt, but left the final choice of assessments to them.

The perceived value of a task also has an impact on students' motivation to engage with it (Sander and Sanders, 2006). It is well documented that low-stakes assessments, defined as those which have little/no weighting attached or no consequences in outcomes, fair badly in engendering motivation and engagement in a low-stakes versus high-stakes context (eg Wise and DeMars, 2005; Wolf, Smith and Birnbaum, 1995; Wolf and Smith, 1995). Eklöf (2010) noted that, if there are low or no consequences attached to performance, despite having the requisite skill, students may not have the will to demonstrate this. Unsurprisingly, research also suggests that students who are motivated and invest effort have better assessment outcomes than those who do not (Cole, Bergin and Whitaker, 2008). Thus, we recommended breaking down individual learning outcomes (ILOs) into elements, and setting elements with significant weighting and purpose, which form part of the overall, ongoing learning for the module.

Developing self-efficacy

Self-efficacy, which had long been one of our key goals for our students, who aspire to enter a high-pressure, competitive profession, became more crucial, given the decrease in time and tutor-led learning opportunities for each module. Self-efficacy is improved by instructional practices that convey to students that they are making progress and becoming competent learners, and has been found to improve motivation, persistence (Linnenbrink and Pintrich, 2002) and achievement (Schunk and Pajares, 2009).

The positive effects of student self-efficacy are demonstrated in its effect on student stress. Stress has been shown to have an adverse impact on self-efficacy and, in particular, on the performance of minority and non-traditional students (Zajacova et al, 2005), who comprise a large part of our student body. However, self-efficacy has been demonstrated to be the stronger factor, off-setting stress and anxiety (Pajares and Kranzler, 1995; Zajacova et al, 2005).

Accordingly, we asked module leaders to ensure that developmental opportunities that offered learners the chance to reflect on their progress and use feedback to improve performance were integrated into both teaching and ongoing assessment, to structure and scaffold early engagement in a way that motivated and allowed for the development of self-efficacy.

Limiting stress and anxiety

Research has also found that stress and anxiety have a negative effect on student engagement (Gan et al, 2007; Pascoe, Hetrick and Parker, 2019; Manikandan and Neethu, 2018). The drastic change in both pattern and model of delivery for our students, coupled with external factors related to both personal and global ramifications of the pandemic, created a situation in which we wanted to reduce assessment-induced stress as far as was possible. Further, traditional, high-stakes, end-point assessments are recognised as producing unacceptable levels of stress and anxiety among students (Connor, 2003; Kruger et al, 2007; Bennet, 2016). Therefore, we asked module leaders to consider moving beyond that format, disaggregating assessment into incremental elements and scaffolding learning and assessment to support self-efficacy, thereby offering the students some defence against the pressures of intensive delivery.

Design principles and outcomes

Drawing on the literature cited above, we developed a number of key principles, which we included in the redesign framework that staff were asked to use in the redesign of their assessment, supported by training sessions and one-to-one discussion with module leaders. These were:

- 1 Engagement
 - a Embed assessment into the learning as a prerequisite for the learning, rather than just a measure of it
 - b Scaffold support for the assessment through the VLE
- 2 Self-efficacy:
 - a Design blended learning cycles on a programme of mastery for the learning outcomes
 - b Scaffold the learning so that achievement of ILOs is gradual and assessment as part of the learning can be used by students to monitor their progress
- 3 Motivation:
 - a Make all tasks 'valued': design tasks so that each stage is visibly intrinsic to mastery of the ILOs and articulate this with relevance to the assessment
 - b Use weightings sufficient to promote effort and motivation

4 Alleviate unnecessary stress

- a Reconsider high-stakes assessment that can evoke unacceptable levels of stress and anxiety
- b Redesign in a sympathetic and supportive way, to allow the best and fullest achievement of the ILOs, through engagement, motivation, and self-efficacy

Outcomes and analytics

The module responses to the principles and redesign, can be broken down into three types:

- a incremental assessment of five or more points, including the end-point assessment (six modules)
- b incremental assessment of three points including the end-point assessment (seven modules)
- c single, end-point assessment of 100%, delivered in assessment week (seven modules).

Type (a) were mostly in the form of multiple choice questions (MCQs), which we used partly because of the incoming SQE and partly because this format ensured prompt feedback within the weekly learning cycle. Modules using MCQs aimed them at lower and medium order skills (typically knowledge demonstration, application and more basic problem solving), leaving higher order skills to the end-point assessment. In terms of weighting, type (a) modules, apportioned between 8-10% of the final grade to each of four or five elements, with an end-point assessment, a mix of exams and coursework, comprising the remainder of the weighting.

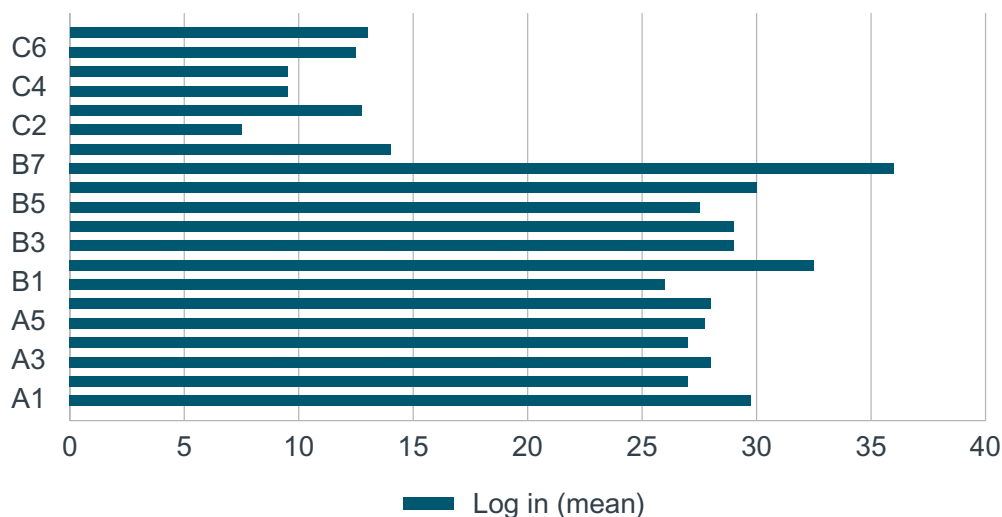
Type (b) modules used a wider range of alternative methods that responded to various parts of the module ILOS, thereby building up to complete coverage. Weightings were more uniform, with two smaller elements ranging from 15-30% and one larger element. Elements were all different, with a scaffolded format. While type (a) modules repeated ILOs, type (b) modules tended to address different ILOS with different elements. However, one type (b) module that did feature an assessment regime with identical ILOs in each of the three elements had by far the lowest engagement from that group overall; lower than any of the type (a) modules.

Type (c) were 100% end point. Two used essays and the rest exams. Exams used a combination of problem questions and essay questions.

Engagement was measured for each of these types, using data from the module VLE sites, across each week, including assessment week: 1) weekly log ins; 2) and proportion of weekly, directed learning activities accessed by each student, in each learning cycle.

Graph and Table 1: weekly log ins per module and standard deviation of weekly log in per module

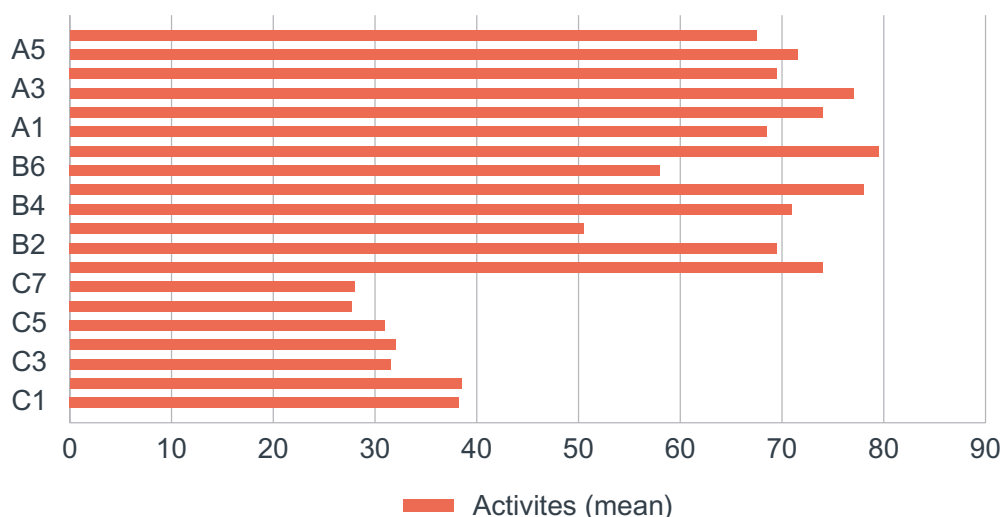
Weekly log ins (mean) per module



SD		SD	
A1	0.96	B5	1.99
A2	0.82	B6	1.22
A3	1.53	B7	2.29
A4	2.05	C1	1.81
A5	1.58	C2	2.64
A6	1.46	C3	2.88
B1	8.74	C4	2.90
B2	4.54	C5	3.27
B3	2.90	C6	2.86
B4	1.94	C7	2.29

Graph and table 2: percentage of weekly activities accessed per student, and standard deviation per module

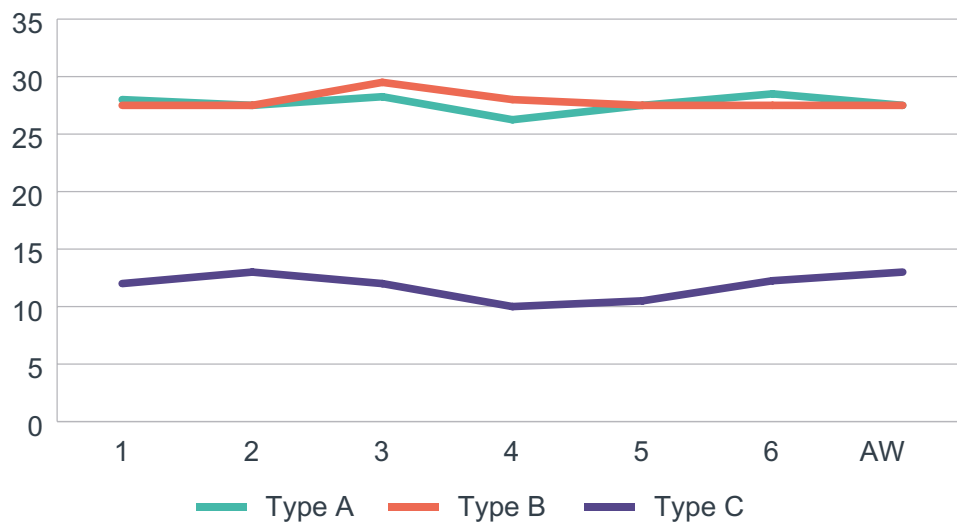
% activites accessed per student



SD		SD	
A1	5.69	B5	3.39
A2	3.28	B6	1.83
A3	6.46	B7	6.26
A4	3.34	C1	12.64
A5	4.21	C2	6.68
A6	2.68	C3	11.56
B1	5.58	C4	14.72
B2	5.38	C5	7.72
B3	10.45	C6	17.05
B4	5.31	C7	12.04

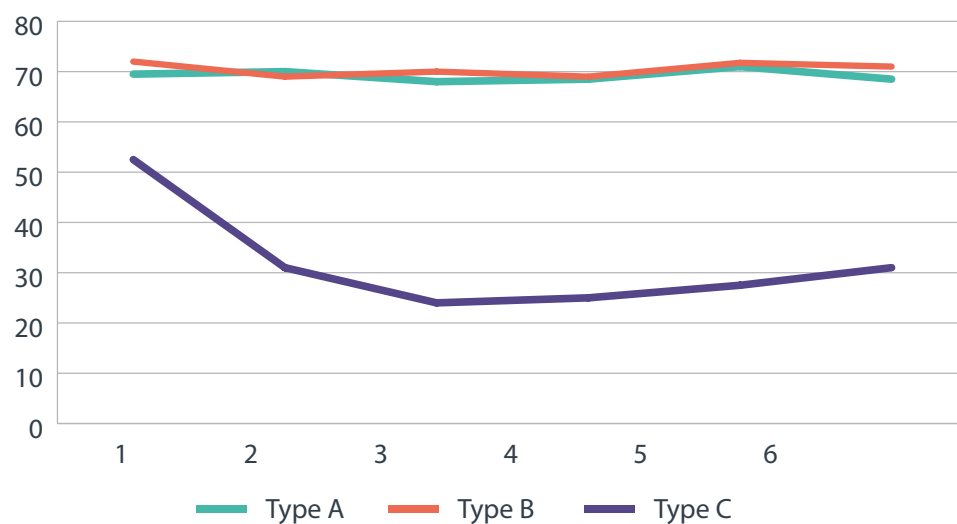
Graph 3: mean weekly log ins per assessment type.

Mean weekly log ins per type



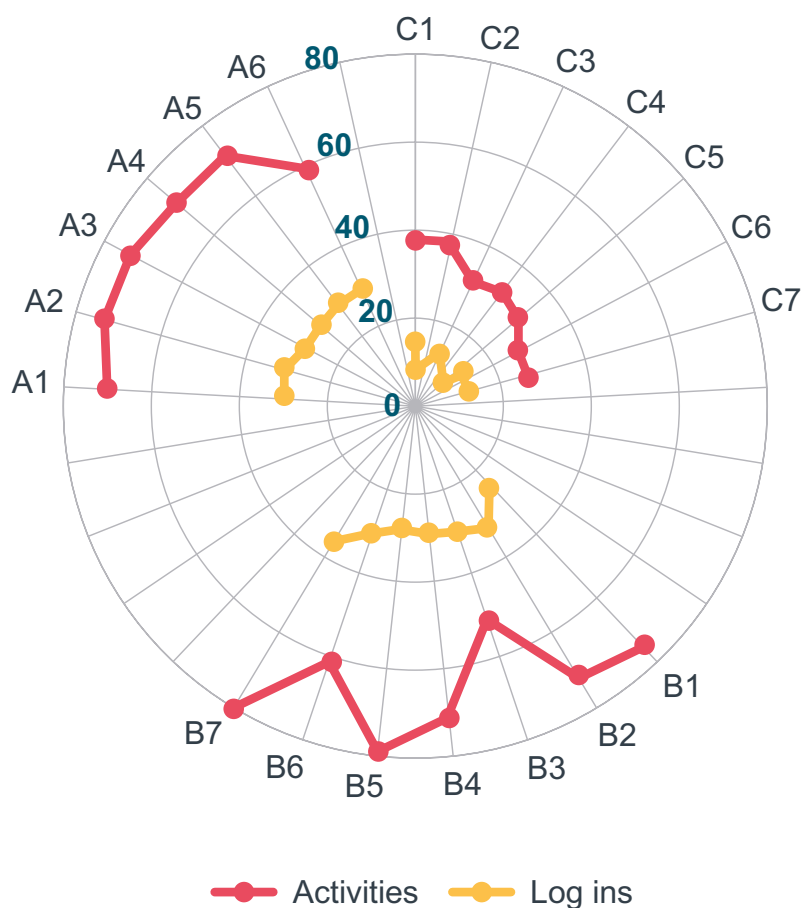
Graph 4: percentage of weekly activities accessed per type.

Level of activities accessed by students



Graph 5: percentage of weekly log ins and weekly activities accessed per student.

Weekly log ins/activities per student



Type (c) had much lower levels of engagement than the other two categories, even considering the increased number of students who logged on in assessment weeks.

Discussion

Engagement with type (a) modules was marginally lower than type (b) so, although incremental elements prompted higher levels of engagement, it is not the case that more points of assessment will mean more engagement. Modules in which incremental assessment was used, but was repetitive of ILOs, had slightly lower levels of engagement overall than modules where the elements were different. However, type (b) also had the greatest variation in engagement across the type: it used the widest range of assessment methods, including case summaries and analyses, employability-focused assessments, annotated bibliographies, reflective pieces and ongoing problem scenarios. From this, we can see that method of incremental assessment also affects engagement, supporting the hypothesis that students will expend more effort where they find assessment intrinsically interesting (eg Attali and Arieli-Attali, 2015). Interestingly, the type (b) which had by far the lowest engagement from that group overall, and lower than those from type (a), featured an assessment where the ILOs were repeated exactly in each of the three elements, but which introduced new knowledge to each assessment instead, again suggesting variation and scaffolding in assessment elements has an impact on engagement.

Type (c) had lower engagement in all weeks than the other two types, indicating that assessment type had a negative impact on engagement. This was the case where the module was delivered either blended or fully online. Such high-stakes assessment is known to be linked to stress and anxiety among students (eg Gan et al, 2007) which, in turn, is known to impact on engagement. Further work on this is needed to assess whether this, combined with intensive delivery, has impacted disproportionately on non-traditional and minority groups (Zajacova et al, 2005).

As Table 2 illustrates, the standard deviations for the proportion of weekly activities accessed varied much more for type C, indicating very wide disparities of access across the cohort, with some students engaging intensely, and others not at all, and few consistently. Conversely, the other two types, while also having much greater proportion of activities accessed, generally also had lower standard deviations, indicating that whole cohorts were engaging much more consistently. The impact of module approach is made particularly visible when comparing two consecutive modules with exactly the same cohort of students, using different types of assessment, as can be seen with B1 and C1, or C3 and A1, which further highlights the disparities between behaviours in the same groups of students.

Modules with scaffolded assessment content and disaggregated ILOs had higher levels of engagement overall. Modules where the activities had an instruction/practice/feedback loop had highest levels of engagement, indicating that even if we cannot determine through this whether self-efficacy has developed, the scaffolding of material to support it will encourage engagement. More work is required to investigate why students responded differently to the different elements of incremental assessment, and if and how repetitive elements of assessment might support the development of self-efficacy in this content, and which of the two is better at 'off setting' stress (Pajares and Kranzler, 1995).

Further analysis of the assessment project is ongoing, and will also examine module outcomes, as well as qualitative work on the student experience, including perceived stress and anxiety regarding assessments and scaffolding of support.

Although any interpretation of data should be treated with caution, our recommendations for designing assessment to increase engagement in intensive delivery courses are:

- + use staggered elements to disaggregate and gradually scaffold ILOs – in intensive delivery, even at our upper levels, modules with this approach had the highest levels of engagement
- + support assessment using instruction, practice or feedback loops to allow students to monitor progress towards overall achievement
- + use multiple components, but consider the overall assessment regime: more of the same type more frequently did not produce higher engagement
- + consider assessment weighting for each element, but do this alongside the design of the tasks: enough weighting to motivate, and enough purpose to demonstrate progress towards the overall ILOs
- + be inventive; modules with authentic elements had much higher levels of engagement
- + avoid single, end-point assessments.

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Reflections on assessment and feedback practice in Law

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Abstract

Assessment and feedback play a central role in the programmatic planning and design of any degree and student learning journey. As experienced educators we assume we know what assessment and feedback are and what they are for. However, a closer look at our own practice reveals flawed assumptions and misunderstandings. In this paper we reflect on our own entrenched conceptualisations of assessment and feedback practice in Law and start 'disentangling' one from the other to broaden our understanding and improve our own practice moving forward.

Introduction

Our vision of student success, in terms of the completion of a programme/degree, is driven by our collective (mis)understanding that this is synonymous with academic success. Within this parochially conceived vision, assessment and feedback play a central role. Taking a step outside this conception highlights some misunderstandings: a) assessment measures success; b) feedback encourages success and, consequently c) assessment and feedback are inextricably linked and, therefore, 'entangled'.

In this paper we reflect on our conceptions and practice of assessment and feedback as anchors of measuring and attaining student success. We first consider our own (flawed) assumptions around assessment and feedback practice to then start 'disentangling' one from the other to broaden our understanding and practice on what they are about and for. This will allow us to question our practice, consider best practice, and start a planning process of opening up a dialogue on both the staff and student side to develop a shared understanding and, consequently, better communication of expectations. This is expected to translate into better programme design that ultimately contributes to student success.

Entrenched conceptualisations of assessment and feedback practice in Law

As experienced academics we assume we know what assessment and feedback are and what they are for, with the expectation that by having passed the former on the implementation of the latter students will succeed. Thus, the student journey through a programme is built on and around content that is assessed and benchmarked so that attaining the final degree is evidence of 'success'. Assessment plays a leading role in programmatic planning with much of the documentation that is collated focusing on learning outcomes centrally mapped against module assessments. Feedback is part of the process, but conjoined with assessments. In that regard, feedback is the 'add on' benefit that academics wish students would read and value for opportunities of development, and students read as a justification of the grade received. There are therefore many misunderstandings about the role assessment and feedback play, chiefly that they are interdependent.

It is time to re-examine our understanding and practice of what assessment and feedback are by considering their respective purpose, functionality, utility and timing. Moreover, do we even speak 'the same language' when it comes to either, not only as academics, but also in our dialogue with students? And, finally, to what extent are they inextricably linked? We need to disentangle our understanding and practice, and escape the repetitive loop of setting assessments and providing feedback on assessments. We are not looking to undermine or question good practice, but to set a benchmark for common understanding so the 'programmatic by design' aspiration is indeed evident and fulfilled.

While this is not the place to reflect on programmatic design as a whole, a core benchmark of attaining learning outcomes is through assessment and we need to ask ourselves: do our assessments evidence a programmatic by design approach and to what extent does our feedback practice enable students to understand that:

- a assessment is part of the learning journey
- b feedback is continuous and is meant to be supportive
- c feedback is about building confidence (although do we have 'safe spaces' to fail so that feedback is not seen as part of a punitive exercise but rather as a chance to learn and grow?)
- d feedback is reciprocal.

What we do not know is whether we actually speak the same language. We need to explore whether our assumptions are backed up by practice. This may reveal that there is a need for a refresh that supports programmatic design horizontally and vertically so that students feel the value of the assessments for learning that have been set throughout and the benefit of having received ongoing feedback to hone their skills and build their confidence for the future.

Towards a better assessment and feedback practice – the literature

Assessments and processes – are they fit for purpose?

Assessments are commonly static, providing a snapshot of student learning at a particular point. In order to work incrementally, assessment needs to be seen as assessment for learning. To foster better assessment design, student engagement and involvement are key (Parker, 2020) as is the need for authentic assessment that focuses on participants' learning of appropriate knowledge and skills for their professional roles. For staff it is essential they have a good understanding of assessment literacy to ensure the decisions they make about their assessment strategies are appropriate (Forsyth et al, 2015; Gulikers et al, 2004; Price et al, 2012; Wiggins, 1990).

As part of the assessment processes, it is equally pertinent that the marking and moderation processes are fit for purpose. Studies have emphasised the need for improved practice in this area (Baughan and Morris, 2019; Boud and Associates, 2010; Evans, 2013; Higher Education Academy, 2012; Price et al, 2012). It is also a key QAA requirement to have consistent and robust practices in place (Advance HE, 2019; QAA, 2011) that apply to both existing and new members of staff. Thus, induction and ongoing mentoring are key (Broadbent, 2018; Crimmins et al, 2016) as is the integration of the student voice (Bamber, 2015; Francis, Millington and Cederlöf, 2019; Zahra et al, 2017). Examples of good practice (Beutel, Adie and Lloyd, 2017; Chan and Ho, 2019) include, but are not limited to:

- + sample marking
- + blind marking
- + conference moderation
- + a shared understanding of criteria, dialogue and standards
- + well-developed rubrics that offer transparency though the limitations of rubrics are acknowledged (Bennett, 2016)
- + guidelines for students about the assessment requirements
- + clear marking/assessment schemes
- + clarity on how final marks are awarded.

What is effective feedback – the ‘disentanglement’ process

While assessment is focused on a particular point as a stock-taking exercise, feedback is continuous, reflective and forward looking. It is therefore necessary to acknowledge the entrenched practice that automatically bundles assessment and feedback, such as in the National Student Survey (NSS) (Winstone and Boud, 2020). However, what makes feedback that is not necessarily tied to assessment is not always obvious. Many studies have been undertaken to surface and enhance students’ perceptions of (assessment) feedback and trial methods to improve its effectiveness (Hattie and Timperley, 2007; Winstone et al, 2016). O’Donovan (2017) focuses on four key areas:

- 1 guiding and informing student expectations of feedback
- 2 embedding ways to develop students’ self- evaluative abilities
- 3 supporting students to manage the emotional effect of feedback
- 4 designing ways to compel students to use feedback.

In order to provide good feedback, there is a multitude of contributing factors eg how it is used, context and quality (O’Donovan, 2017). To identify good practice, it is suggested that tutors refocus on the latter part of the feedback cycle, ie on what students do in response to feedback, as this is more likely to improve student learning from assessment feedback and their satisfaction with it (Sadler, 1989; O’Donovan, 2017). This means that feedback ought to be ‘sufficient’ in that it needs to be received by students while it still matters to them. It is likely to matter more if received quickly, while a student is still connected with a recently produced piece of work (Gibbs and Simpson, 2004; Price et al, 2010) and it needs to be constructive, not hurtful, as tone is key (O’Donovan, 2017; Carless and Boud, 2018). Sufficiency, however, is affected by timing. There are acknowledged difficulties with providing timely feedback where there are tensions between validity, consistency and resourcing. Staff not only need to give sufficient time to the feedback task but need to have the time to do so within what is often a very compressed timescale (Stobart, 2008).

Promoting feedback literacy

Students want clarity on expectations through clear marking criteria, assessment briefing sessions, exemplars of quality and peer or tutor feedback on draft work. Students value feedback from tutors who are known to them and involved in the teaching context, and explanation of the assessment task (O’Donovan et al, 2019). To improve communication and clarity, marking criteria should be comprehensively selected and explained to students prior to marking (Sadler, 2009). Moreover, literature points out that students tend to underplay their own role and responsibilities in the feedback process (Winstone and Pitt, 2017). In order to gain the most benefit from feedback, students need to develop their own evaluative judgement aligned with that of their assessors (Sadler, 1989; Nicol, 2010; Carless and Boud, 2018).

Good feedback practice is a shared responsibility (O'Donovan, Rust and Price, 2016; Carless and Boud, 2018; Molloy, Boud and Henderson, 2020) and the interplay between student and tutor feedback literacy is a crucial component (Malecka, Boud and Carless, 2020). The embedding of feedback literacy in the curriculum is a key component of good practice (Malecka, Boud and Carless, 2020) as feedback-literate students appreciate feedback as an active process (Carless and Boud, 2018). So, for feedback to be of value and have impact (Henderson et al, 2020) and for students to act on feedback, tutors need to design ways to encourage and compel student action in response – for example by considering 'revise and resubmission' methods (O'Donovan, Rust and Price, 2016). Another means of encouraging and fostering feedback literacy is to use 'exemplars' to encourage students to engage in internal feedback. This may shift the onus from the tutor to the student to improve (Nicol et al, 2014; Nicol, 2019; Carless, 2020). Equally, asking students to provide tutors with what they see as actual examples of feedback that they think are either 'good' or 'bad' (O'Donovan, 2020) opens the dialogue for shared understanding. The feedback process is a two-way street in which students and academic staff have joint responsibilities that are fundamental to its effectiveness (Winstone and Pitt, 2017; Price et al, 2010). We need to have active discussions with students about their collective responsibility (Winstone, Pitt and Nash, 2020).

Our improvement journey

Our reflection acknowledges existing good practice. Module teams are continuously developing their delivery and several modules provide innovative approaches, seeking to integrate diverse perspectives as well as different ways of delivery, such as flipped learning, dedicated sessions for specialisation, practice-based learning, or a combination of these. Assessments are equally innovative, ensuring an authentic experience with opportunities for peer-to-peer feedback. There is provision of student feedback that is both informal and formal but not necessarily tied to assessments per se. However, our practice and experience show that students do not always know, appreciate and see feedback for what it is when it is not tied to assessments and grade outcomes.

Our journey, therefore, requires a disentanglement of assessment practice from feedback practice. Assessments and grades need to be given their space and meaning as part of the learning process, but a different sense of their use needs to be instilled so that feedback that is received alongside, but not necessarily exclusively tied to them, is seen as opportunity for growth and development. Our narrative, and language, need to change so that perception of a) their assumed interconnectedness and b) their respective values is reshaped.

It is pertinent that we identify our most immediate areas of concern and how these can be tackled. While some aspects of planning are more easily embedded at module level, there is an understanding that for these to work, they need to be mapped as part of the programmatic design. To that end, our approach requires a two-pronged assessment.

First, at module level, we need to question established practice and to what extent the personalised learning journey of each student is embedded in design. The questions that need to be asked include:

- 1 What is our assessment process and is it fit for purpose? This includes further enquiries into:
 - a the design of the assessments themselves:
 - I are assessments chosen for students or because it is best for the module?
 - II are classic, essay-based assessments contextualised and engage students at a deeper level of personal practice and experience?
 - III the rate of assessment recycling, if any
 - IV are assessments that were 'created' in response to the Covid-19 pandemic fit for purpose? 24-hour exams, for instance, seem to have caused more problems as students submit to pitfalls and start overthinking, which leads to panic, poor judgement and assessment offences
 - b the support offered around the assessments set:
 - I are the assessment briefs appropriate and do they cover the relevant information adequately?
 - II when are assessment briefs released and what points of support eg feedforward and dedicated support sessions are built into the process up to submission?
 - c the practice of and around assessment feedback:
 - I how and in what format (written, verbal, recorded audio) do students receive feedback? Is it personal or generic and therefore seen as 'not relevant'? During the Covid-19 pandemic, communication has been more important than ever so keeping in touch (eg by video) and providing flexibility (synchronous/ asynchronous/ collaborate/ teams/ flexible assessment) have been key to 'pandemic pedagogy' (Macfarlane and Ajjawi, 2019). For some, the use of 'social media' feedback by way of likes and retweets were equally effective as part of a wider strategy (Dawson, Carless and Lee, 2020)
 - II is the language used in the feedback across all levels appropriate, consistent and reflective of common level and grade descriptors?
 - III is feedback tied only to that assessment or is it cast more widely, offering advice and suggestions on specific points of improvement?
 - IV are we sufficiently fostering assessment feedback literacy on all sides by embedding an understanding of terminology, expectations and purpose so everyone involved sees their benefit?

Secondly, at programme level, the macro-perspective requires a generalised, although not generic approach. The wider considerations to be taken into account are

- 1 coherent programme specification into which all modules feed. Are our degrees coherent as programmes but also at individual levels? Are the learning outcomes clearly and appropriately mapped at module and programmatic levels? Existing good, innovative practices need to be scaffolded into the programme so that each level builds logically on and feeds coherently into each other
- 2 success excludes failure. Success is seen as linear, rather than borne out of failure, and there is an understandable fear of failure. We need to create safe spaces in which to fail and to learn so that grades are not the only evidence of success. This requires a framework in which confidence and self-efficacy can be fostered.
- 3 issues in communication: students do not always understand the requirements of innovative assessments, so better and more integrated communication and dialogue are needed to create a shared understanding of needs and expectations. This includes development of 'literacy' and a 'live' glossary that explains key terms and concepts.

Action plan and conclusions

To create a collective basis for practice, both staff and student voices need to be heard. Focus groups to clarify each side's expectations are needed to create common ground.

Disentangle assessment and feedback language

They are not co-dependent and by tying them together, their unique purposes are lost. They play important but distinct parts. A different understanding needs to be created, one that takes the emphasis away from assessments and fosters a wider and more integrated understanding of feedback as part of the learning journey. .

Refine understanding of the purpose of assessments

Assessments are part of the learning process. They are a (not the only) means of ascertaining that learning outcomes have been met. We need to ask ourselves whether we are assessing too much and whether learning outcomes can be achieved and evidenced differently; therefore, we need to be clearer in their purpose and objectives, and to what extent they are tied to assessments. Are students offered opportunities to experience learning outcomes individually and authentically?

Refine understanding of the purpose of feedback

Feedback is not about justifying marks. It is a means of providing opportunities for growth and to evidence that growth. Students need to be able to see the 'return on their investment' in engaging with the feedback received in 'safe spaces' where they can practise and even fail on occasion. This communication and practice need to be embedded so feedback as a value is accepted.

Refine feedback practice

Feedback is a reciprocal and collaborative effort. We need to know what forms and formats of feedback are working, how it is received and how, when and where its successful implementation can be evidenced. How much feedback is too much?

Our reflection shows that there is good practice, which ought to be appropriately acknowledged and supported, but there is also room for improvement. In the short term, this means an investigation into our own understanding and practice to identify good practice and spaces for improvement. To build on that, we need to open up a dialogue among both staff and students, to ascertain baselines of common and divergent understanding. The final stage will feed into long-term planning of an integrated programmatic design that realises the vision for a student-learning journey that is reflective and builds on confidence to recognise and act on feedback.

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Reflections on online assessment- challenges and responses to the Covid-19 pandemic in a legal academic context

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Abstract

With the advent of the coronavirus pandemic, the university sector was pushed as a matter of necessity towards a largely online learning and teaching experience, of which a key element has been online assessments. These covered both coursework and, more controversially, examinations. In this article we collate and evaluate our experience of this over the past 18 months with an emphasis on the potential advantages in terms of inclusivity.

Introduction

The reflections offered in the article are those experienced within the Law School at the University of East Anglia and, as such, are offered through the lens of a professionally regulated course sited within a larger institution. As with most institutions, in response to the travel and gathering restrictions imposed by the pandemic we had to consider the needs of a geographically and socially diverse cohort of staff and students. We had to do that in line with the parameters set by regulatory and institutional requirements and responses. Online submission of coursework had been a feature of our courses for several years. The biggest shift, and therefore the focus of this reflection, lies with the online provision of exam-style assessments and remote feedback for all assessments.

Though, as expected, we faced challenges, our initial observations included some clear benefits of remote, online assessment to both specific groups and the wider cohort of staff and students. A few headline points warrant mention. First, the final elimination of handwritten feedback to students, something we had been striving towards, was achieved through necessity. Secondly, the in-line comment feature of the marking software (in our case Turnitin for coursework submissions) has hugely enhanced and improved the quality of specific and focused feedback and further eliminated the inappropriate use of symbols on scripts without explanation, such as question marks. Thirdly, there is the potential enhanced accessibility experienced as part of online 24-hour examinations.

Online remote examinations

As a professionally regulated course, the options for rapid alternatives to face-to-face assessment were restricted. There was no option to waive all or part of assessments or move to a substantially different style of assessment, such as portfolios or posters. With agreement from the regulatory body, we moved to online examination. Acknowledging the access difficulties associated with digital invigilation (Brown and Sambell, 2020), including the context of students sitting examinations within varying time zones, with differing levels of reliability in terms of internet access and other commitments and responsibilities, this took the form of a takeaway examination.

Operating within the context of national and international lockdowns and the challenges noted above, we elected not to impose a stringent time restriction. Students were given 24 hours in which to complete an examination with guidance provided as to the expected time to spend on the task – typically two hours. Remaining acutely aware of the challenges faced by students we sought to keep the process as straightforward as possible. Submission was via the virtual learning platform (VPN) they were already familiar with from coursework submission, a specific email helpline was set up relating to exams and all module organisers ran clinic-style support on their VPN pages in the lead up to the scheduled assessment. In addition, a no detriment policy applied to all students and support was provided at every stage to defer assessment to a later period and to access resources if required.

Though undoubtedly creating accessibility issues, particularly in relation to parity of physical and virtual space, time and resources, remote examinations provide opportunities for inclusive practice. Students who would normally be separated from their peers to accommodate extra time or other assessment adjustments are included within the arrangements made for the whole cohort. There is no required mechanism in order to be able to use specialist accessibility software, additional time or access breaks. An inclusive approach here also forgoes eligibility requirements that restricted such adjustments to only those with a medical diagnosis who declared this status, which previously served to potentially disadvantage many, including those who choose not to disclose. Anecdotally, students experiencing anxiety have spoken positively about the relaxed atmosphere of completing assessment in a comfortable, familiar space with the ability to take breaks as and when required. In a large-scale holistic student survey we carried out, there were many comments praising the “flexibility” of online resources, which had “taken off the stress and pressure...allowing me to prioritise other things and catch up on work when I need to”. Also, more surprisingly perhaps, students said that they found this method of learning “engaging”.

In 2021, with students regaining access (if they wish to use it) to adequate space and resources to work effectively on campus, combined with the resumption of external support and care agencies, we have been able to further promote student choice and reduce inequalities in terms of facilities, thus tipping the balance in favour of the accessibility positives of remote assessment.

In a blog post, Loke (2020) expressed concerns that “the strain of Covid-19 presents real risks to equality and opening up new equality gaps”. As discussed, equality considerations in terms of accessibility have been made throughout our move to wholly online assessment, with some instances of clear benefits for inclusivity. Beyond this, the Black, Asian and minority ethnic awarding gap remains a key focus for us. At odds with the concerns raised by Loke, we have seen a curious and dramatic narrowing of this gap in the academic year 2019-20. With such limited data available, we, of course, cannot draw any conclusions but will be adding final assessment methods to our monitoring as part of our awarding gap work.

Completing remote examinations for two years allowed some, albeit limited, scope for refinement. In 2021 we supplemented the explicit guidance relating to the time students should spend on papers with imposed word limits to further enforce the notion that students were not expected to spend every moment of the 24 hours on the paper (Brown and Sambell, 2020). Module organisers had some time to reflect on their assessment aims. However, it should be noted that, due to early assessment brief deadlines and the sheer volume of work required of colleagues in the 2020/21 academic year to transform every aspect of their teaching to being wholly or partly remote, this time has been insufficient to permit detailed reflection and redesign. Subject to regulatory guidance permitting continuance of remote examination, this will be something that will be developed in coming years.

Online marking and feedback

Prior to the pandemic we had already moved to online submission for coursework-style assessment and e-marking pilots were occurring across the university, including across a range of modules in Law. In this sense, the requirement to work remotely simply accelerated the inevitable shift. Necessity forced the removal of remaining barriers to this previously gradual shift, including resistance from colleagues and investment in technology and training.

There were immediate pedagogical and inclusivity benefits and challenges. Even up to 2019, we experienced scattered examples of feedback provided via handwritten notes, presenting challenges for students and moderators alike. In addition to potentially being illegible, an overreliance on symbols such as question marks hindered the usefulness of the feedback and the general practice of handwritten feedback posed a threat to accessibility. Those using screen readers required a reasonable adjustment in order to guarantee access to such comments via their preferred technology. When the online marking guidance was developed, it was done so with accessibility in mind by embracing the spirit of inclusion, ie including a large number of groups within the process and typical end user experience (Rix, 2015). Initial set up was to be compatible with many popular screen reader and translation tools and, across the university, we continue to work with internal and external experts to further facilitate inclusive practice.

Though the universal move to online marking naturally removed some of the issues relating to handwritten feedback there was also the opportunity to undertake a fuller review of marking practices, including the issue that had come to light relating to the use of symbols. “In order to make a difference to future performance or the development of skills and understandings, any comments need to be appropriately interpreted and acted upon by the student” (Sambell, 2016, 5). While in-text comments can add to the personalisation of feedback, highlighting examples relating to a comment within the students’ own work, symbols without supporting comments may be interpreted differently or not at all. As part of this review guidance has been produced, alongside University of East Anglia Students’ Union (UEASU), challenging this practice and providing examples of best practice for use of the inline comment feature.

Considering the inclusivity challenges, it was important to ensure that resistance from a small number of colleagues was neither underestimated nor misconstrued as a lack of willingness. While considering the accessibility of feedback to students we had to ensure that the marking methods were accessible to staff with varying needs and degrees of digital literacy. Being wholly screen focused raised a need for individual and institutional occupational health guidance. Training modules were developed quickly and digital champions were created within each school of study to capitalise on specialist subject experience.

Online marking provides an opportunity to support the balance academics must strike when attempting to enhance the quality of feedback to a growing student cohort (Hunt and Tierney, 2006) within increasingly reduced timeframes. The ability to build a shared comment bank for inline comments allowed us to combine efforts and mark large quantities of work quickly while ensuring we meet the expectations of students to receive significant comments on their work (Williams and Kane, 2008). Moderation, especially across large marking teams, has also become a much more straightforward and collegiate exercise with all parties able to access the paper and comments simultaneously if necessary. This has also been particularly helpful where we have had less experienced colleagues as part of a marking team as it has enabled much more straightforward sharing of material and informal mentoring.

A further noticeable shift is the method of collecting feedback. Colleagues in the school have long shared the frustrations widely acknowledged in the sector and noted by Sambell (2016, 5) with “batches of work which, despite being painstakingly annotated and commented upon by staff, linger uncollected in offices across campus.” Figures collected in 2018/19 showed that of 2053 physical pieces of marked Law coursework, 425 went uncollected. This is 20.7% or one in five pieces. While no formal internal research has been conducted, anecdotal reasons given in advising meetings included: the physical effort of attending campus to collect work, particularly for those living off campus (thus adding to the accessibility issues for students with additional employment and caring responsibilities) and the disconnect between receiving their mark via their online record and accessing the hardcopy feedback. Those receiving their anticipated marks (or better) were not motivated to see feedback as their expectations had been met, and those receiving a lower mark admitted actively avoiding collection. The move to online marking has meant that both mark and feedback are available

simultaneously on the online portal and for the period between the feedback being released and the marks being transferred into the student record it is not possible for students to view the mark without the feedback. Of course, this provides no guarantee of engagement with the feedback, but is a feature we will watch with interest and explore as opportunities arise.

Continuing challenges

As expected with its rapid introduction, we have experienced technological issues with the online marking software. One such issue is the impact on anonymity as our current software package does not appear to be able to automatically anonymise late submissions. While few published studies prove a link between anonymity and reducing bias or well-documented attainment gaps (Pitt and Winstone, 2018), the issue appears to be of great concern for staff and colleagues and has dominated discussion in various forums. We will continue working with UEASU seeking a satisfactory resolution to the issue. We remain particularly mindful of the significant value placed on anonymity by both staff and students and note Borkin's (2020, 5) conclusion that *"[F]urther research is required to assess the overall impact of anonymous marking in a higher education setting, and to investigate its impact applying an intersectional lens. At present, it appears that students' perceptions of fairness in assessment practices are just as – if not more – important to students than tangible evidence of eliminating, or reducing, bias"*.

Next steps and key learnings

Regulations and directives from the university centrally impose limits on our assessment methods and innovations and, for Law, this is exacerbated by the expectations and requirements of the regulatory bodies. We await decisions as to any restrictions on our examination policies for future years before undertaking a fuller review and design.

The key learnings we will be taking into this review include the following:

- + how the policy can support universal accessibility, supporting varying needs in the initial design rather than via reasonable adjustments relating to assessment
- + consideration of the environment in which students will be required to undertake assessment and any potential disparity of experience
- + facilitating the use of shared banks of inline comments and ways to share materials effectively between marking teams
- + exploring any software limitation that may impact existing practices, such as anonymous marking.

Conclusion

In terms of e-marking and feedback, the requirement to work remotely as a result of the coronavirus pandemic simply accelerated an inevitable shift. With this shift came clear successes for collegiality, accessibility and inclusion, though the task is not yet finished with the cost of anonymity remaining an issue to explore and resolve. The move to remote online examination is somewhat more complex. While clearly providing some inclusivity benefits, the full impact of the shift remains to be measured. Subject to regulatory requirements we seek to undertake a fuller review of our examination approach to include the reflections noted in this paper.

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Authentic assessments: enhancing employability, engagement and academic integrity?

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Abstract

The student body at Hertfordshire Law School is overwhelmingly made up of students who are underrepresented in the legal profession (79% are categorised as widening participation students for the purposes of the University's Access and Participation Plan), yet many do successfully enter the profession, with increasing numbers obtaining scholarships en route. This case study looks at the long experience of Hertfordshire Law School in adopting authentic assessments to provide a richer, more experiential learning assessment landscape for students, which enables them to demonstrate skills needed for a career in Law, to be drawn on in applications and interviews. Alongside examples of authentic assessment practice across a mixture of compulsory and optional modules at different levels of study, the paper highlights additional features that can be added to existing authentic assessment practice to enhance the chances of student success in the assessment while maintaining high levels of rigour and academic integrity; notably weighted grading criteria and small-stakes, quasi formative components for the student to undertake while working on the main authentic assignment. The additional benefits in terms of enhancing student engagement and reducing instances of academic misconduct will also be discussed.

Introduction

A wide body of literature has identified the potential benefits of incorporating authentic learning and assessment opportunities into academic studies across all disciplines (Sotiriadou et al, 2020; Schultz et al, 2021; Cranmer, 2006; Gulikers et al, 2004; James and Casidy, 2018). These advantages are generally centred across three main strands: enhanced employment opportunities for graduates by meeting the needs of employers; increased student engagement in activities which have real-world application; and reduced opportunities for academic integrity issues when assessments reflect workplace challenges. This article considers these strands, drawing on our long-standing experience in Hertfordshire Law School of using authentic assessment within our undergraduate Law degree, encouraging students to regard assessment as an integral part of the learning experience and fostering employability principles by demonstrating how a particular assignment can be drawn on in a job interview to illustrate the acquisition of transferrable legal skills. We argue that while authentic assessments may not solve all the issues that arise with traditional forms of assessment, when coupled with proposed additional elements and implemented within an appropriate student learning environment, they bring more advantages with fewer downsides, helping resolve some of the perennial challenges around assessment and feedback.

Employability

Experiential learning has long been recognised as an important contributor to the development of work-ready graduates who can compete within the marketplace and provide skills sought by employers from entry level roles upwards (Cranmer, 2006). Hill's foreword (in Trought, 2017) identified the need to distinguish between a job, a career and employability. The first two might take a graduate through the initial years of their working life, but the third would equip them for their entire working journey. A challenge facing universities over the past few decades has been how to ensure that all students are offered the opportunity to develop the skills that will complement their academic qualifications and graduate with more than a certificate to demonstrate their value and competence to employers (Gulikers et al, 2004; James and Casidy, 2018). Although the roles of placements and internships have attracted a significant amount of attention in this regard (Cranmer, 2006), the value of authentic assessment in providing opportunities for students to develop graduate-ready skills has also been a focus for several years (Kearney, 2013; Sotiriadu et al, 2020; Colbran and Gilding, 2019; Hart et al, 2011; Maxwell, 2012; McNamara, 2017; Schultz et al, 2021).

With increasing access to higher education in the UK, graduates have recognised the importance of distinguishing themselves from their peers through an accumulation of additional qualifications and experiences. One method of achieving this distinction is through the medium of relevant work experience (Helyer and Lee, 2014). For many Law students, this was traditionally achieved through vacation placements and internships, offering students the opportunity to gain real-world experience to supplement their theoretical legal knowledge.. However, a more diverse cultural, ethnic and socio-economic student body, coupled with the increasing financial demands of higher education, has forced a re-evaluation of the financial feasibility of more traditional unpaid or low- paid placement opportunities and vacation schemes. With the push to increase the diversity of the student body among non-traditional university applicants, universities have experienced the challenge of having to build opportunities for students to develop their wider skills as part of their course, rather than relying on students to source their own employment opportunities.

Student engagement

As Gulikers et al (2004) argue, a key element to consider when designing and implementing authentic assessment is student engagement with the process. They identified that one of the main challenges to authentic assessment was a lack of understanding of the process on the part of the students, particularly at the early stages of their studies. For authentic assessment to help develop key transferable skills and competencies, students need to be educated as to the value and purpose of a more diverse range of assessment techniques in order that they become open to changing their learning behaviour to meet the expectations of professional competency development. The need to change student perceptions of assessment is fundamental to the success of a skills and competencies approach to learning. Colbran and Gilding's (2019) work on the use of visualisation techniques in Law identified that one of the challenges for students in embracing new and often unfamiliar assessment techniques is the fear of the unknown. Engaging students in assessment

design could help to mitigate this but, as Colbran argues, one risk is that students will favour the familiar, lower-risk assessments, thereby undermining the principle of developing challenging, engaging assessment techniques. McNamara's (2017) study demonstrated a similar risk that students will choose not to engage with a relatively low weighted assignment if they regard it as particularly challenging, an issue she resolved by increasing the weighting value of the assessment. James and Casidy (2018) have suggested a more positive experience in exploring the role of authentic assessment in enhancing student engagement and behaviour in the context of business education. Citing the work of Scouller and Prosser (1994), they argue that "students are likely to adopt transformational learning practices when presented with a particularly interesting or intricate assessment task" (p404). The literature demonstrates that students are more likely to feel satisfied when they believe and can demonstrate that their studies are preparing them for their careers, particularly in an era of relatively high student fees. The conclusion, therefore, is that students are more likely to be engaged and satisfied when they feel they are gaining something from their education, which demonstrates that they have made a sound investment. In a discipline such as Law, students tend to focus on knowledge acquisition, to the detriment of true understanding and application. Authentic assessment design must recognise this challenge and ensure that the techniques adopted teach students to see the study of Law in a more holistic real-world context, in which there is rarely a single correct answer but, instead, simply the 'best' answer to benefit a client.

Academic integrity

One of the central arguments in favour of moving towards authentic assessment has been the prospect to reduce, if not eliminate, opportunities for cheating. Sotiriadou et al (2020) examined the use of oral assessments as a form of authentic assessment in a business degree. Their study identifies the particular challenges posed by contract cheating but their student questionnaires suggest that the more distinctive and unique an assessment, the less likely a student would be to attempt to cheat. However, their requirement for group work, along with a type of viva voce oral as a method of ensuring academic integrity, would not be feasible in all situations and risks simply replacing written exams with oral equivalents. As Ellis et al (2020) demonstrate, authentic assessment is not itself a guarantee of academic integrity. They suggest that the literature is largely silent on the question of contract cheating and authentic assessment, failing to demonstrate how the use of authentic assessment would prevent, reduce or deter contract cheating. In focusing on the issue of increased engagement, they argue that the proponents of authentic assessment have failed to consider the myriad reasons why students cheat. They emphasise the risks of assuming authentic assessment is enough on its own to prevent cheating and suggest that making tasks more complex and unfamiliar to engage students could also have the unintended consequence of 'encouraging' students to cheat in order to cope with the challenge. Their study illustrates the fact that authentic assessment design in and of itself does not guarantee that students will not cheat. That is not to say that authentic assessment cannot be one method of increasing academic integrity. Rather it should form part of a wider strategy to teach students about the importance of integrity, both from an academic and a professional perspective. This has particular resonance in the legal discipline with its strict professional ethics requirements.

Within Law, one challenge to diversifying the assessment portfolio has been the notion, among some academics, of needing to act as gatekeepers to the profession with only invigilated exams regarded as sufficiently secure for judging whether a student has met the integrity and ethics requirements. The global pandemic has highlighted the extent to which this continues to be an issue within legal education. Even with the challenges of delivering in-person teaching and invigilated examinations, the legal regulators were only willing to allow online invigilated assessments, suggesting that much more work is required to convince the regulators of the value and security of authentic assessments.

Examples of authentic assessments

Hertfordshire Law School adopts authentic assessments in several compulsory and optional modules across all levels of study. The following have been selected as they are among the largest compulsory modules and show how assignments can be aligned to student employability goals of entering the legal profession. The marking teams have also not identified any significant issues of academic integrity in relation to the featured assignments.

Tort (Level 5)

- + 1000-word skeleton argument pursuant to an interim injunction application
- + 10-minute oral application advancing and building on the contents of the skeleton argument.

Historically, the coursework assignment was a moot (or mock appeal trial) – an example of an authentic assessment requiring good, transferable skills to be displayed. There were downsides though, most notably the problematic nature of group assignments. While teamworking is a good employability skill to have, assessing students in this way means their individual mark is influenced directly or indirectly by the work of others and/or the ability of others to demonstrate good teamworking skills. This often leads students to dislike such assessments, viewing them as unfair (see, for example, Burdett, 2003). Consequently, the assessment became an interim injunction application in the context of a claim for private nuisance. The skeleton argument enables students to demonstrate their grasp of the scenario's key facts; their knowledge of the relevant Law; and their application and analytical skills through setting out their submissions. A 'court hearing' then sees the students orally advance their submissions for obtaining the interim remedy. The time was set at 10 minutes, with students told there was no expectation of them finishing so as not to compromise the pace of their delivery, as this was sufficient time to assess the aspects of the grading criteria attributed to the oral component.

The change offers several academic and employability advantages. By getting the students to consider Law in this type of practical context, their understanding was enhanced while the two aspects of the assignment require all round communication skills. Further, the exercise is one undertaken during the vocational stage of training and more readily undertaken at an earlier stage of their careers if they enter the profession, this gives the exercise added value than assessing the same skills in the context of a moot. By showing that they could perform such an exercise it boosted confidence levels and gave the students reassurance that they could perform such skills. Lastly, the assignment's uniqueness, coupled with when it occurs, means students have an opportunity to demonstrate their advocacy skills in scholarship applications. This has contributed to several obtaining the highest scholarships from the Inns of Court while many others have obtained scholarships from course providers following advocacy assessments.

Equity (level 6)

- + 1500-word particulars of claim; and
- + completion of the precedents within Practice Direction 25A; or
- + 200-word memo explaining why an interim remedy was not needed.

To show the subject's modern relevance while putting it in a practical context, the assignment is set as a commercial dispute involving fiduciaries, confidentiality and claims against third parties. Students are given a brief which includes a claim form and witness statement, and tasked with drafting the particulars of claim. This allows students to demonstrate their understanding of these concepts within a broader, real-world context showing how an alleged breach of an equitable duty is taken to its conclusion. It also provides a further opportunity to gain confidence in an exercise they will undertake in postgraduate study and legal practice. As such, it can again enhance their employability and make them stand out in applications and interviews (it is scheduled so it is completed before the period of Bar scholarship interviews). To further contribute to their employability, the assignment scenario lends itself to a need for an interim remedy, such as a freezing injunction, to be sought, but it is down to the student to not only recognise this, but also to determine, based on their knowledge and understanding, whether they feel it should be sought. If they do, they are required to complete a draft order for that remedy. Alternatively, they can set out their reasons for not doing so, but this takes the form of a memo to a solicitor so they learn how to write in a different professional style to a traditional essay.

Additional features for authentic assessment design

Quasi-formative components

Clearly an alignment between what is being assessed and what is covered in classes within the curriculum is important (see, for example, Biggs 1996), and the importance increases if a form of authentic assessment is adopted that is designed to replicate legal practice. Depending on the area of practice replicated, and the co-curricular offering of the Law school, students may not have had the offer of undertaking such an exercise during their studies; and even then it requires the students being able to participate. This can add to student anxiety and consequently impact on their performance. Such anxiety and fear of failure can be a driver of collusion and/or engaging in contract cheating (Smith et al, 2013). Therefore, students should be taught any relevant procedural rules and the specific skill being assessed in the context of the module and topic that is the subject matter of the assessment. In each module, prior to the assignment release, students study the subject matter of the assignment with opportunities given to practice drafting the relevant types of documents. Examples from real-life cases are also obtained from the courts' e-filing service and used as the basis of class discussions. However, simply studying material does not mean that a student will necessarily know it; they need the ability to check their understanding of the material.

Experience shows students will not always engage with formative exercises. In the Equity module in 2020-21, only 136 students out of the module cohort of 424 attempted the purely formative quiz questions aligned with the areas that they were being assessed on. Therefore, for non-participating students, the first chance they get to see whether they have learned something is in the summative assessment. To avoid such a situation and enable students to check their understanding of the assignment subject area before the higher-weighted actual authentic assessment submission, in line with assessment for learning principles, we inserted small-stakes online quiz assessments into the modules.

While summative assessments, they are more formative in nature, but being summative all students will attempt it and thus benefit from either knowing where they need to improve their knowledge and understanding, or simply getting the assurance of knowing that they do know what they need to. The marks attributed to them are kept low, usually at 10% based on asking around 20 questions. The assessment also takes a feedback-for-learning approach with incorrectly selected answers having pre-written feedback indicating why that answer was wrong and what they need to consider to get it right next time, including material to revisit. While there may be upfront additional work for module teams in writing the questions and the feedback, it is less time-intensive than the alternative approach of giving students a mock exercise of the main summative assessment that would need to be formally marked to benefit students. The benefit of the proposed approach can be seen in the fact that of the 33 students who attempted the summative online quiz assignment and achieved less than the pass mark, only eight failed to pass the drafting assignment, with three being very marginal fails. Similar outcomes have been seen in other modules that adopt the same approach.

Weighted grading

In any type of assessment, a broad range of skills will be assessed. However, one of the traditional challenges of marking is deciding where on a grade scale a student's work should be placed. The work in question may have strengths in certain areas, but still have significant areas for development. In the absence of anything in the grading criteria stipulating what skills are more important, there is an increased risk of inconsistency between markers as they decide where the balance should be. To avoid this, a marking scheme may stipulate the importance of some skills over others. As it is important to indicate this to students before they start, it makes sense to then differentiate between the assessed skills through weighted grading criteria with the skills deemed more important carrying more marks. This is arguably even more of an issue when an authentic assessment is being set with both employability-focused skills and more traditional academic skills featuring in the assignment and where students may have unequal strength between the two. Weighted grading criteria also allows for the different aspects of the employability-skills focused assessment to be graded as to their overall importance, while still retaining marks for core academic skills. For example, as an advocacy assignment a key component of the Tort assignment is the students' ability to deliver a persuasive argument. An argument may be well delivered, but still be unpersuasive. Therefore, the ability to be persuasive was recognised in the criteria as a different skill and attracted its own marks (both were worth 20% of the total). Accurate legal content was naturally still required in the assignment. However, it is possible to make a very well-delivered argument based on a false premise, or to have lots of knowledge, but be unable to put it into a well-delivered, persuasive argument. It was thus weighted the same as the other skills. Weighted criteria allow students to be credited for the skills that they demonstrate and only lose out in relation to the skills they need to develop.

Although this can mean that any one grade could be reached in a variety of ways, it also means that the final grade reached is fair and accurate based on the skills demonstrated. Feedback can then become more of a learning tool and focus on maintaining the student's motivation and providing direction for future development, as advocated by Carless and Winstone (2019).

Conclusion

Authentic assessment offers opportunities to integrate assessment more fully into the learning experience, encouraging students to see assessment as an opportunity to learn, rather than simply an opportunity to demonstrate their learning, but its successful adoption requires a broader, coordinated approach to be taken. It requires authentic learning alongside it, teaching students how to apply their knowledge to a variety of situations. The risk is in regarding authentic assessment as the panacea for all the ills of the traditional approaches to assessment, which is why the discussed additional features should be used as part of the assessment design process. When part of a wider process in which university education is seen as an end in itself, fostering a love of learning and knowledge, authentic assessment allows greater focus on demonstrating the relationship between theoretical knowledge and real-world application, helping to enhance student employability and reducing the risk of integrity issues.

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A new assessment strategy for Law: improving formative feedback and incorporating multiple choice questions

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Abstract

The concept of 'student experience' has gained momentum in the UK in the last two decades. This narrative has been fuelled by increased fees and the consumerisation of the sector and is evidenced by the importance placed on the views of students as reflected in the National Student Survey (NSS). Assessment is an important part of the overall student experience. As a result, improving the student experience of assessment and feedback is an issue for most higher education institutions across all disciplines. Working to improve the assessment process, while preparing students for work or further study, is a further challenge. In Law, we must also consider the impact of changes to the routes to qualification as a legal professional, as we are aware that some, but by no means all, Law students want to practise Law in the future. In this paper, we consider how, at the University of Portsmouth's Law School, we have confronted these challenges with a new assessment strategy. This strategy aims to improve feedback, increase the connection between formative and summative assessment and incorporate multiple-choice examinations.

Introduction

The term 'student experience' is prevalent in policy documentation but is difficult to define (Sabri, 2011). It is a concept that is important to universities as student satisfaction ratings impact university league tables and, in turn, student recruitment and resultant income. The main method of comparison of student satisfaction between institutions is the National Student Survey (NSS). This survey of all UK final year students asks whether or not they agree with certain statements about their experience of university. As a result, this survey, to some extent, defines student satisfaction. Categories covered in the survey include teaching, assessment, course management, student voice and community.

Improving student experience of assessment and feedback in Law at the University of Portsmouth has, in recent years, proved to be a significant challenge. Data collected in module feedback questionnaires tells us that students do not always find their feedback helpful and that they are concerned that the marking within and between modules may not be consistent. Furthermore, the 2020 NSS results placed the Law degrees at the University of Portsmouth close to the sector average but lower than the university average. 70% of students agreed that assessment and marking were fair, and 75% found their feedback helpful. In addition to concerns elicited from the NSS data, we are aware that the percentage of students who do not progress at the end of the year on their first attempt is higher than in other parts of the university. This poor progression is particularly the case between the first and second years of study.

We need to consider this data in the broader context of the student experience of studying Law at the University of Portsmouth and forthcoming changes in the solicitors' profession. We know from the NSS data that students struggle to feel part of a community, and we are aware that many students find it difficult to find time for personal and career development. We also wished to consider in our strategy the changes to the professional examinations for qualification as a solicitor. The Solicitors Regulation Authority is phasing in the Solicitors Qualifying Exam (SQE), and it will be the only route to qualification for students commencing their undergraduate studies from autumn 2021.

Therefore, our goal was to investigate the student experience of assessment and feedback to create a new assessment strategy for the Law school. With this new strategy and the associated resources, we aim to ensure that assessment and feedback aid learning and reward effort.

The student experience of feedback

Analysis of student comments on the 2020 NSS survey revealed concerns around consistency and helpfulness of feedback. From the comments, it was clear that some students did not know how they could use their feedback to improve their marks in subsequent pieces of work. Research shows that academics are often unable to explain what is meant by commonly used phrases such as 'evaluate' (Lea and Street, 1998; Jones and Ellison, 2020). Students also struggle to interpret the meaning of words and phrases used in feedback (Jones and Ellison, 2020).

We decided that we needed to make some immediate improvements and revisit our assessment strategy as a whole to improve student experience generally. Initially, we undertook a review of our marking criteria. It became apparent that words, phrases and the overall meaning could be interpreted and applied differently by different markers and understood differently by different students. We presented these findings to all colleagues within the school with several key action points; to focus on careful use of terminology, to focus on feedforward, to ensure consistency in calibration, and to balance individual feedback with group feedback.

In the longer term, we decided to instigate a new assessment strategy. This strategy reduces the number of pieces of assessment, increasing the opportunity for emphasis on formative assessment, particularly in the first year. In addition, we plan to introduce single best-answer multiple choice questions (MCQs) as a form of assessment in specific modules. The modules selected for MCQ exams are those covered by the new SQE. In addition to the new assessment strategy, we began the first phase of a project on feedback literacy. We hope that the use of MCQ exams would increase perceptions of fairness and reduce assessment overload. We anticipate that improved processes for formative assessment and enhanced resources to aid feedback literacy will make our feedback more helpful to students.

MCQs as a mode of assessment

Using MCQs as a mode of assessment divides opinion. Some researchers have argued that MCQs fail to test high-level cognitive learning (Struyven, Dochy and Janssens, 2005; Parmenter, 2009; Mullen and Schultz, 2012). However, others have suggested that with proper design, MCQs can do this (Johnstone and Abusaidi, 2000). Beevers and Paterson (2003) demonstrated that MCQs could assess the higher-order skills of 'analysis' and 'evaluation' from Bloom's Taxonomy. A recent study undertaken in an Australian Law school concluded that MCQs could be used to effectively test legal reasoning (Bozin, Deane and Duffy, 2020).

For us, MCQ exams serve several purposes related to the student satisfaction issues outlined above and the changes in the assessment for qualification as a solicitor. They provide good syllabus coverage and enable students to get credit for knowledge and understanding of the Law unhampered by weaker writing skills. They also reduce exam stress (Bozin, Deane and Duffy, 2020). They offer a mode of assessment where there is no subjectivity concerning marking and so increase student confidence in the fairness of the assessment.

However, MCQ exams will only test higher-order skills and legal reasoning if they are properly designed. To write our questions, we followed the guidance provided by Case and Donoghue (2008) and used the questions provided by the Solicitors Regulation Authority (2020) as an example. Some colleagues were sceptical about the robustness of this form of exam, and others were nervous about writing the questions. We created several workshops to help colleagues write their questions. We asked colleagues to read the Case and Donoghue (2008) article, watch a short video and attempt to write some questions before the session. We ran three separate iterations of the workshop between May and July 2021. In each session, we discussed the challenges faced in writing the questions, highlighted the questions' required format, and worked on the questions that colleagues had written. The workshops were well received with attendees feeling both informed and supported.

Formative assessment for learning

Numerous studies have highlighted the importance of formative assessment (Sadler, 1998; Orsmond, Merry and Reiling, 2002). The University of Portsmouth requires formative assessment in all modules. Producing formative assessments that enable students to 'transition from teacher-supplied feedback to learner self-monitoring' presents a number of challenges (Sadler, 1989). The first of these is getting students to complete the formative task. Secondly, the staff time in writing and marking formative tasks is a significant challenge. The final issue is whether students understand and act on the feedback they receive. One way to encourage students to complete their formative task is to allow them to produce a draft of part of the summative coursework. This also means that the module coordinator does not need to write an additional task. We trialled this approach in an optional module offered to second and final-year students. The uptake of this opportunity was low, with only 27% completing the task. However, students commented on the usefulness of the opportunity in the module feedback. In addition to linking the formative task to the summative assessment, we used

interactive cover sheets to improve students' evaluative skills and their engagement with the marking criteria. There have been various studies on the effectiveness of interactive cover sheets (Winstone and Careless, 2020; Barton et al, 2016; Bloxham and Campbell, 2010). The cover sheets required students to evaluate their performance across several criteria using a traffic light system. We modified the marking criteria to create the cover sheet criteria. Students had to engage with the marking criteria and evaluate their work. The marker then responded to their evaluation in her feedback. For example, one student assessed her explanation of the Law with an amber traffic light stating that she was unsure whether she had included unnecessary elements of the Law. Her self-evaluation was sound; she needed to be more concise in some areas to provide more space in her answer for aspects that she had not fully covered.

The use of interactive coversheets provides an opportunity for dialogue between the teacher and student. However, the teacher must not dominate this dialogue (Blair and McGinty, 2013; Steen-Utheim and Witteck, 2017). On this basis, on further review of the literature, a new self-evaluation sheet has been designed that asks students to list aspects on which they would particularly like feedback. The use of an interactive coversheet also provides an opportunity to explore the format of the feedback further. Therefore, following Nicol's (2010) and Bloxham and Campbell's (2010) suggestion, the revised evaluation sheets allow students to select written or video recorded feedback.

Feedback literacy

Feedback literacy requires that students can appreciate feedback processes, make judgements about the quality of their work, manage emotion in response to feedback and take meaningful action on the feedback they have received (Carless and Boud, 2018). Comments on the 2020 NSS survey showed that students did not fully trust the marking teams to be fair, and this likely affected the students' ability to appreciate the feedback processes. Linking the formative task closely to the summative assessment, and using interactive coversheets, begins the process of rebuilding trust and will help students to make judgements about their work. However, we have to acknowledge that the students who will engage with this process are those who are already the most competent, the so-called 'Matthew effect' (Rigney, 2010). Managing emotion can be challenging as engagement with feedback processes can be obscured by 'emotional static' (Chanock, 2000). This can be exacerbated by negative emotional experiences in prior feedback exchanges (Price, Handley and Millar, 2011). Furthermore, without feedback literacy students are unable to recognise where and how comments from one piece of work can be transferred to another (Douglas et al, 2016; Duncan, 2007). Research has shown that comments which appear transparent to a teacher may be hard for students to interpret (Adcroft, 2010; Jones and Ellison, 2020).

Conclusions and next steps

Our initial staff development session on creating meaningful feedback may already be beginning to yield results. Comments from external examiners specifically noted improvements in ‘feedforward’ in 2021. The NSS results from 2021 on our LLB Law degree also saw improvements in student perception of helpfulness of feedback with 75% of students agreeing with this statement (compared to 60% in 2020 and 50% in 2019).

However, we are aware that further work is required. While students engage with peer marking tasks that use the appropriate marking criteria in each of their modules, a more granular examination of the words used in feedback is not part of this process. The combination of engaging with the Advance HE collaboration events, notably the presentation by Dawn Jones and Lynn Ellison (Jones and Ellison, 2021), and analysis of student feedback has demonstrated that further work was required. On this basis, the next steps from this project are twofold. First, we are working on the production of an interactive glossary of common terminology. This glossary will not only define each word but will provide examples from coursework questions of the application of the terminology. Secondly, we are creating feedback portfolios where students can capture and reflect on the feedback they have received. These portfolios can be shared with personal tutors who will help students to consider their feedback more holistically. Finally, we will provide staff training on the consistent use of feedback regarding the resources provided to students.

We are also planning to undertake further research on the impact of formative assessment and MCQ examinations. This research will involve both statistical analysis of the results of the examinations compared to the other method of assessment and qualitative research regarding student perceptions of MCQs. We plan to use a similar approach to that undertaken by Bozin and Duffy (2020) in Australia to assess the efficacy of MCQs in assessing reasoning. We also plan to collect qualitative data on student perceptions of formative assessment, use of interactive coversheets, and their experiences of MCQ examinations. This data will inform our future development of the new assessment strategy.

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Alternative assessment: introducing a reflective e-portfolio in a traditional Law school. The challenges, how we overcame them, and the key things we learnt

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Abstract

This paper examines the introduction of a new practice-based legal skills module using a reflective e-portfolio assessment during the Covid-19 pandemic with the added challenge of online teaching of practical legal skills. The further challenge of introducing a very different, more authentic, form of assessment in the final semester for final-year Law students when results are so critical is discussed. We explore the challenges we anticipated and those we did not; the successes and how we will address the challenges this academic year. The overall transformative experience for both staff and students has validated our belief in the success of the module as not just a way to teach legal skills but also to prepare students for their future professional development through an alternative and authentic assessment.

Introduction

This paper examines the challenges, how they were overcome, and lessons learnt from the design and implementation of a new professional legal skills module in a traditional Law school setting. We explore the traditional environment and impact of the regulatory regime on assessment in Law. We then move on to the alternative assessment we introduced and the impact of the pandemic on our teaching plans. We consider the challenges, but also our own successes and lessons learnt.

Traditional assessment methodology at Keele School of Law

As an integral part of a response to the development of employer engagement work and an increased focus on employability skills (given greater authority with the introduction of the Solicitors Qualifying Examination), the module under consideration in this paper was the start of a new pathway in Professional Legal Practice, which in itself was a challenge to the status quo within Keele Law School.

At Keele, all assessments are currently timetabled centrally within two discrete windows during the academic year. Where appropriate, assessments feature standardised word limits and there is a reliance on traditional methods of assessment, namely essays and examinations. While there are some problem-based questions within some modules, most assessments reflect an approach that has been taken for a number of years. This traditional method of assessment is influenced by the

importance of academic rigour and expectations of staff (and, to some extent, students) but also by postgraduate vocational legal education – again reinforcing the examination requirements. Such reinforcement is evident through the dictates from the regulators of the two branches of the legal professions. For barristers, the regulator is the Bar Standards Board (BSB), and for solicitors it is the Solicitors Regulation Authority (SRA). By way of example, during 2020, when Covid-19 prevented many assessments from taking place across many universities, Law students were required to be assessed in a formal way in relation to certain prescribed subject areas. For example, the postgraduate vocational course for aspiring solicitors, the Legal Practice Course (LPC), was not moved to online assessment because of the SRA's stance on 'integrity and security'. Students described as humiliating and degrading the lengths to which they were forced to go in BSB-sanctioned exams. There was very limited flexibility given by the regulators.

Such traditional assessment methodology from regulators has led to a lack of innovation within universities. The answer to internal university comments regarding innovation is that exams are what Law-based employers expect (and have themselves experienced). The justification given for the regulators' requirements has been an effective silencer to internal criticism. However, those regulators are now stepping back from or, in the case of the SRA, dropping their regulatory responsibilities. The introduction of legal practitioners as teaching staff (introduced primarily to increase employability initiatives) has led to a more practice-based focus to both teaching and now assessment within the school. The introduction of a practice-based assessment continues to be controversial despite its popularity with students and better assessment results.

There are many examples of excellent innovation in Law schools both in the UK and abroad, although most advocate a focus on a critical approach to considering Law. Even with Law schools adopting more innovative ways of conducting assessments, they are often still coursework/essay or exams, even if skills-based exams. An example of authenticity is McNamara's analysis of introducing drafting in contract teaching and assessment in the first year of a Law degree (McNamara, 2017). Introducing any form of innovation, especially within assessment practices incorporating transferable competencies, can feel daunting as it requires a great deal of preparation and consideration (Manoharan, 2021). Some traditionalists see it as a threat to the academic integrity of the Law degree. This paper will focus on the journey of one taster module at Keele School of Law, which builds examples throughout the module so that students enter the assessment period with substantial work already completed on their portfolio.

Alternative assessment methodology

The Professional Legal Skills: Interviewing, Mediation and Advocacy module (PLS) was designed to address and challenge the traditional assessment methodology. It did so by allowing students to construct, over nine weeks, a repository of self-critiquing assets (audio, video and written) and then subsequently select which assets would be presented in a portfolio for assessment. This model of (i) self-critique and asset creation followed by (ii) asset selection and portfolio presentation is what is meant in this paper by the expression 'alternative assessment methodology'.

PLS is an optional module for final year students only. It is worth 15 credits and is therefore of equal weight to all the other modules that final year students will complete. It comprises seven interactive 'lectures' delivered to the entire cohort and eight 'workshops'. Two-hour workshops allow small groups of approximately 12 students to explore the lecture topics more thoroughly. Figure 1 provides an overview of the module content and pathway.

PLS was assessed by a 3,000-word reflective e-portfolio created using PebblePad software with the requirement for PebblePad functionality (blog, collection, and a 'page' in which reflections can be recorded) with video and audio components. PebblePad is cloud-based software that is relatively well known in the UK and [available worldwide](#). Our students already had access to this as part of our university subscription so there were no additional costs associated with its use. The reason this alternative assessment methodology was chosen was intrinsically linked to the aims of the PLS module.

The teaching team changed across the two years but consistently comprised experienced tutors, who were either practising solicitors (with extensive experience of teaching on the LPC), or a non-practising barrister with research and teaching expertise.

With her dual role of also being Director of Careers and Employability in the Law School, the module leader wanted the module to not just help students aiming to practise as lawyers move towards the next stage in their vocational training, but also acquire discrete legally-focused skills to help them gain an advantage in the legal market. Using the approach advocated by Manoharan (2021), we adopted a dual approach and wanted them to build the range of transferable competencies we knew were valuable, using our knowledge from both a careers and teaching perspective.

This was the main reason for the inclusion of mediation as a legal skill. Many students were not looking beyond traditional roles of solicitor or barrister and did not recognise the career path of civil and commercial mediator. Most students had no experience or understanding of mediation at the start of the module and found it challenging. Client interviewing was an obvious skill to include as the first skill, as we have a vibrant internal university competition so students felt familiar and confident. Advocacy was a good contrast at the end of the module as it is attractive to students aspiring to become advocates whether at the Bar or as solicitors. Most experience gained in advocacy had been as part of internal and external mooting competitions. Mooting is the oral argument about a point of Law as if students were addressing a Court of Appeal Justice and so is not related to the normal day-to-day court work of most solicitors or barristers. Students did not appreciate the differences between court advocacy and the academic Law moots they had experienced. We wanted authentic assessment, and this brought challenges as it was so different from the previous experience and expectations of our students.

Our challenges – both expected and unexpected

The module was launched in the second semester of the 2019-20 academic year. Face to face teaching was suspended halfway through the module, which had already been affected by industrial action. The second time was this academic year (2020-21) during which the module had to be substantially rewritten to take into account the asynchronous nature of lecture delivery and the live workshops delivered exclusively online. This followed Covid-19 restrictions on in situ teaching.

As can be seen from Figure 1, it was necessary to build key skills at the start to provide the basis for self-reflection on key facets of the legal skills needed later. One challenge was that the students did not appreciate how important these key foundational weeks were until later in the module.

Some students had strategically chosen a module assessed by coursework in preference to exams, some thought it would be easier than a more academic subject, and then there were those who had a genuine interest in the subject matter.

As a teaching team in 2019, we all understood the power of experiential learning. As a teaching team in 2020, we had already taught this module once before, so we approached our teaching knowing that the e-portfolios the previous year had (almost) universally documented a transformative experience that the students had enjoyed. This imbued more confidence in a methodology that we knew worked well before and we felt sure that it would work again. We also recognised and were able to address the challenges identified above from the foundation-laying first workshop.

Reflection is defined by Moon as “the purposeful framing and reframing of material in external or internal experience...” (2004, 102). The same author further advocates that “... we all reflect and that all learning is based on experience” (2004, 1). The vast majority of our students did not know what reflection was, let alone how to do it. We recognised this and enhanced the materials to make it even more explicit. Some students who had previously reflected on their ‘year abroad’ experience were more open. Others struggled to express their own views and preferred to cite a source.

As final-year students (many of whom wanted to be practising lawyers), approaching an unusual type of assessment in their final semester, when grades were so critical, was a risk. This led to anxiety about the method of assessment because they had not reflected before. We recognised this from our experience the previous year but, with the added complication of a pandemic and teaching entirely online, the anxiety was much higher and therefore more reassurance and peer support was necessary. The absence of past papers also caused concern, so the feedback on the formative reflections was crucial. As noted by Harris (2021), the difficulty in not being able to provide examples of reflection in portfolios, due to the personal nature of every reflection, is challenging as they cannot gauge how well they are doing. Unlike an example of a good essay from a range of submissions, the portfolio is different, and this makes it both personal and confidential in nature, but difficult to draw comparisons with when the student reader does not necessarily know the writer student, their personality and challenges. This was an issue we addressed right from the first lecture.

Having provided careers advice and guidance on a one-to-one and cohort-wide basis, the module leader knew from her work with employers that they expect our graduates to be digitally literate. However, many students who are considered 'digital natives' are far from adept at using new technologies and, despite expectations or their own assumptions, they are happier writing. We taught our students much more than module content, such as how to 'unmute', 'screen share' and basic functionality like using a chat function in Teams. We can use multiple screens and devices and they struggle to turn a camera on or get a microphone to work.

Asking students to use a new piece of software for their assessment was a challenge that we had overcome before but, coupled with generally higher levels of anxiety due to the pandemic, this was exacerbated. PebblePad is easy to use with a user-friendly help centre. We demonstrated it weekly, but also incorporated the use of PebblePad's sharing function into their weekly reflections. As this was also the method used to submit for assessment, this was vital. Many queries at Q+A sessions centred on the technology. Students did not know how to embed recordings or link to externally sourced ones. The screenshot set of printed instructions for assessment submission worked well and minimised queries. The 'YouTube generation' preferred written instructions to help videos.

A global pandemic and national lockdown shifting all teaching online

We had the 'usual' challenges affecting all students last semester: the impact of the pandemic on their ability to devote time and attention to their studies. 'Cameras on' and participation was key because the students were going to need to practise their skills to develop and learn. They needed to record examples which meant their cameras did need to be used, and frequently. We had discussed body language and eye contact as key components for all three legal skills and so we insisted. If there was a problem, they could message us privately.

Not to be ignored was the amount of time it took to ensure that all aspects of the technology worked and were ready for workshops. This was something which improved with practice and the ever-changing functionality of the software. Trying to organise breakout rooms when you cannot do it in advance on Microsoft Teams and you are not entirely sure who will attend each tutorial was complicated. Anyone who has taught online in the last year will recognise the challenges of trying to be interactive and use the full scope of the technology to engage students during live classes. We tried different techniques and the need to 'entertain' the students while juggling multiple screens, devices and technology was challenging and exhausting. We had not anticipated this.

Our successes

It was challenging to redesign the workshops. However, the move from classroom to online was a benefit. The constraints of a classroom environment meant that it was necessary to use every corner of the classroom to facilitate smaller group discussions. This often required physical movement of students and furniture rearrangement. However, in an online world, we were able to use the functionality of 'channels' within Microsoft Teams. This allowed for unlimited private spaces for small discussions. More importantly, it granted the video recording of those discussions and activities. Those video recordings became assets which the students then owned and could deposit in their PebblePad stores and use as evidence, if they wished, later.

To address the issues raised above regarding reflections, we introduced post-workshop formative reflections, focused on workshop exercises and skills development. This was designed to serve three purposes; first, to give them experience of reflecting and receiving formative feedback on their reflections so they could enhance their summative portfolio; secondly, to provide written evidence for the portfolio, documenting their journey on the module; and finally, making them familiar with the functionality of the e-portfolio software required for the summative assessment.

We started the reflections in a prescriptive manner with a quick audio-video/audio reflection on a personality test completed in the workshop. They recorded this in less than five minutes addressing three things they liked, two they disagreed with, and one which surprised them. They all had views they could express and this became a foundation for their skills development and approach to each legal skill. Having reflected informally and quickly, we then introduced a template for them to use. However, they spent more time describing than analysing or building an action plan to help them progress. This area of reflection needed most work and was where most formative feedback was centred.

We explained to students exactly what they had to do to get a good grade. This represented explicit constructive alignment (Biggs, 2003), and we gave them the tools needed to produce sound assessments. We gave them a reflective template with headings and subheadings to be used as prompts to aid their reflection. If they used these headings and structured their reflections around them, they did well. If they did not, then the work lacked the depth of analysis and criticality required for the generic university marking guide we used.

We made weekly reflections a mandatory follow-up activity each week. We randomly sampled submissions, but often there were so few that we read the majority and provided feedback. It was only when the assessment question was released that the reflections became more numerous.

In order to address the natural anxiety of these final year students, we started each workshop with feedback on the reflections we had sampled. We provided individual feedback but also development points for the group as a whole. This was to encourage more submissions and complete the feedback circle. We recognised the importance of ongoing formative feedback and amending our final teaching sessions to address areas of concern, as in the model advocated by Jones (2020).

We hosted many Q+A sessions. We told them how much more insightful the audio and video reflections were and wrote this into the requirements for the portfolio. However, students were very uncomfortable doing anything other than writing. Some students read prepared scripts instead of speaking to camera and this lack of authentic, spontaneous reflection mostly resulted in lower grades.

We marked the student work ourselves (that is, within our own workshop groups). We felt that having shared the journey with them it was important that we marked their work ourselves, while ensuring second marking took place for consistency. We had a markers' meeting and found that we were consistent. The informality of using Microsoft Teams meant we would quickly check with each other and sharing a channel for our feedback enabled us to cross check easily. With the e-portfolios we could all access the assessment simultaneously and share our thoughts more quickly and effectively. This was a clear benefit of the e-portfolio.

We used breakout rooms to aid peer support and they gained confidence from peer feedback. We rotated smaller group membership, so they all bonded as a larger group and when it came to the last workshop, they each performed in front of the whole group, which was by then a supportive and familiar place. The sense of community and peer support was crucial to both their engagement and enjoyment of the module (Fay and Skipper, 2018).

Insofar as technology let us down, it was important to be honest when things went wrong. This was well received and seen as refreshing. We used various polls, chats and anonymous message boards/word clouds and the students appreciated the effort we put into making it interactive. In an 'in person' workshop they need a break during the two-hour class; online, we did too.

Our lessons

How to pass and how to excel in an assessment should not be a secret. We told students exactly what to do, and most did it with varying levels of detail. Even so, some did not follow the instructions. Building an assessment where there is no 'right answer' leads to levels of student anxiety, but is a challenge they can overcome and excel in. Next time we will make it clearer that this module is a slow progression until week five and it will not make sense until the final parts of the module. We gave them the opportunity to have opinions and reflect. If we release the assessment title earlier, then more students will reflect and gain feedback earlier, which will in turn reduce anxiety. We got them to experience something very different. It was more than the legal skills and the new software but also how to become a reflective practitioner (Schon, 1991) as a life skill going forwards.

We shared a bit of ourselves, and they liked that. We let them be creative in what they did. A student sang a reflection and the tutor provided feedback partially in song in reply – why not? Even if not particularly tuneful, audio feedback by song is a nice change. The element of creativity in their approach to assessment was key.

“If they are to become agents for change in their own lives and beyond, students need assessment which involves cognitive challenge, development of metacognitive capabilities, shaping of identity, building of confidence and supports a growth towards active citizenship”

Sambell and Brown (2021, 13)

We believe we have done this. It is challenging, but it is rewarding. It provides diversity for a variety of different learning styles. It takes longer to mark, but we feel our students have graduated with increased self-confidence. They have acquired important legal skills but also the ability to reflect, analyse and recognise what they want, as well as what they can offer an employer and become self-aware, active citizens.

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Figure 1- The teaching schedule

Week	Lecture	Workshop
1	Skills development and e-portfolio	None
2	Emotional intelligence, communication and the client	Skills analysis, reflection and creating an e-portfolio
3	Introduction to client interviewing	E-portfolio 2 and communication skills
4	Mediation – what is it?	Analysing the problem and client objectives
5	Mediation 2	Client interviewing
6	Advocacy and the art of persuasion	Mediation techniques and good practice
7	Advocacy development and consolidation	Mediation 2 – the mediation
8	None	Advocacy 1 – the art of persuasion
9	None	Advocacy – practical

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Authentic assessment for digital skills in Law

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Abstract

This article discusses the assessment strategy design approach of a second year undergraduate module on digital skills in Law. It looks at the relationship between authentic assessment and employability, considering digital employability in Law. It then details the use of authentic assessment principles, considering a number of models to evaluate, and concludes that there is room within the authentic assessment framework, when applied to this area, for a critical awareness of the ongoing developments related to digital transformation in Law and the legal profession.

Introduction

In 2018, a whole faculty four-year periodic review of programmes, part of the faculty strategic plan at this post-1992 higher education institution (HEI), proposed employability modules be included in each level of undergraduate studies, to support the drive to improve graduate outcomes institutionally. Consequently, our LLB programme now features a range of skills-based modules, among them a digital skills for Law module, delivered in the second year. The module is a core unit that introduces digital skills, tools and innovations and the associated context in Law and the legal profession. It is not an applied 'Law tech' or 'legal tech' module, which students can opt to study and complete a project in during their final year. This article discusses the approach to the design of the assessment strategy on this module, examining the employability context, the selection of an appropriate authentic assessment framework and the resulting assessment design.

Authentic assessment and employability

Authentic assessment has been proposed as a tool in enhancing graduate employability by developing students' 'work-readiness' capabilities (Ashford-Rowe et al, 2014) thus better aligning graduate capabilities and the demands of employers (James and Casidy, 2018). As a result, ensuring assessment is authentic is a natural requirement for a module focused on employability. Students have also voiced difficulties with transferring and applying their learning outside of education (Andrews and Higson, 2014), and feel unprepared for (Ellström and Ellström, 2014) and insecure about joining the workforce (Ken and Cheadle, 2012).

Villarreal et al (2018) identify three aspects of authentic assessment present in most formulations: realism, which "involves linking knowledge with everyday life and work"; contextualisation, which "characterises situations where knowledge can be applied in an analytical and thoughtful way", and problematisation, which "invokes a sense that what is learned can be used to solve a problem or meet a need".

Authentic assessment aims to make links between learning, and the requirements and practice of employment, by attempting to emulate tasks, behaviours, competences, interactions, environment and skills that might be encountered by professionals in the world of work (Wiggins, 1990; Janesick, 2001; Gulikers et al, 2008; Larkin, 2014; Wu et al, 2015) and allow students to present work to promote and ensure “genuine mastery of skills, knowledge, and competencies relevant” to real-world work (Gulikers et al, 2004).

Authentic assessment design should generate the transfer of knowledge beyond the confines of real-life experiences to other subsequent assessment tasks (Sotiriadou et al, 2020). Importantly, a central component of authentic assessment is that it uses tasks to develop higher order skills, which are linked to a real-world professional environment (Janesick, 2001), and that the authenticity of assessment tasks should address the competencies of the discipline (Baartman et al, 2017).

Background – digital employability in Law

Digital innovation and technology is causing a rethink of the nature of activity and traditional roles within the legal profession (Susskind, 2013; Susskind and Susskind, 2015; Thornton, 2019), and the possibilities for a wider application of legal services and justice free from the ‘monopoly’ of the traditionally configured profession (McGinnis and Pearce, 2019).

Deloitte (2017) notes that digital technologies will “change not only the practice and the scope of the Law but also the shape of the Law firms themselves”. As the range of opportunities for legal employment has diversified (McGinnis and Pearce, 2019; Caserta, 2020), there has been a corresponding call for increased levels of digital skills. However, the legal sector has not traditionally been quick to respond to advances in technology (Cohen, 2019; Webley et al, 2019), and skills deficits are visible across the sector (Deloitte, 2016)

Despite this, digitisation strategies are high on the agenda within the sector (Caserta and Madsen, 2019; Waters, 2020). The lack of digital skills has been identified as a key danger to Law firms, inhibiting as it does the ability for digital transformation (Newman, 2017). Consequently, there is a need to develop digital skills, both for those already in the sector (Deloitte, 2016), and those who hope to enter it (Chan, 2018). This will include the ability to use digital tools, as well as other wider skills and competences. Although the long-standing legal skills of problem solving and critical thinking will remain key, a primary area of concern in terms of the skills deficit is the ability of lawyers to work and think in transformative ways (Puthiyamadam, 2017). Central to the changes digital transformation brings to the work of lawyers is the fundamental change from working in isolation to working in multidisciplinary teams (Cohen, 2021) and generating solutions using new ways of thinking (eg Hagan, 2020).

Design alternatives

To support the assessment design, we considered three approaches to alternative assessment: Villarroel et al (2018), Ashford-Rowe et al (2014), and Gulikers et al (2004).

Villarroel et al (2018) identify the three dimensions of authentic assessment noted above, and from these dimensions they offer a four-stage model for implementing authentic assessment: (1) macro – the link between the course and the working world, and how the curriculum can foster a connection with and mimic requirements to enter the workplace; (2) design, focused on creating a rich context, a worthwhile task, and using higher order skills; (3) judgement – supporting students in understanding standards and practicing judgement making, and (4) receiving feedback.

Ashford-Rowe et al (2014) define authentic assessment as including the following seven elements: 1) a sufficient level of challenge; 2) a performance or product as outcome; 3) transfer of knowledge; 4) metacognition; 5) a requirement of accuracy; 6) formal opportunity for discussion and feedback; and 7) value placed on collaboration.

The majority of the aspects are common to each of the models. Although all provide clear and thorough frameworks in which to create authentic assessment, we decided to use Ashford-Rowe, guided by the dimensions identified by Villarroel. There were a number of reasons for this. The wider employability dimension requires a focus on context and change and the Guliker model is focused primarily on competences. Although there are a number of digital competences we wanted to engage students with, it is also key to equip students with the skills to navigate a wide range of areas that may as yet be undetermined. While students will engage with the range of more typical digital competences, part of the focus of the module will be deploying new ways of thinking and working, due to the nature of digital transformation, so a more expansive focus is required. However, the dimensions identified in that work, of realism, contextualisation and problematisation, do provide the room in which to allow students to recognise the ongoing and rapid development of this area. Ashford-Rowe's model offers a slightly more expansive framework, and also requires a specific focus on metacognition, which has been noted as a desirable in the changing skill set of lawyers (The Law Society, 2018). Although this is implicit in the Villarroel model, the range of tools for metacognition feed into the subject itself, and so a particular focus would serve a dual purpose.

Proposed assessment strategy

The module has broadly drafted individual learning outcomes (ILOs), as might be expected of a module focusing on a rapidly changing area, and the module specification notes that the scope may change to “ensure that the content and skills covered remain current”. The ILOs are:

Learning outcome 1:

Evaluate their own digital and transformative skills, act on feedback, and plan for improvement

Learning outcome 2:

Engage with and critically evaluate a range of digital tools and innovations and their application in a legal context

Learning outcome 3:

Select and deploy a range of digital skills through the completion of tasks, individually and collaboratively.

These ILOs correspond with the three dimensions identified by Villarroel and, through these, we can begin to build a framework for designing the assessment. Here, as the focus of the module is on how digital technologies are deployed, realism and contextualisation are the basis for the module. The employability skills are those that are cited as valuable and desired in the professional context – the digital focus requires looking beyond current practice. The development of digital skills for lawyers at this point affords students a uniquely ‘authentic’ position – that as they are developing their awareness of digital transformation and technology within Law, so too are many lawyers.

To maximise student engagement, incremental assessment with multiple submissions will be used.

The first element will be comprised of ongoing competency benchmarking activities, which focus on developing six key digital tools commonly used across the legal sector. This will be delivered using online active learning, assessment and targeted training. Using the elements, we can assess the level of authenticity in this element:

Table 1: Element one mapped against elements of authentic assessment

Element 1 - aspect	
Sufficient level of challenge	Will ensure competency: students must reach specified level
Performance of product as outcome	Training using legal documents: performance of competency in tool under timed conditions
Transfer of knowledge	None
Metacognition	Ongoing review of performance
Requirement of accuracy	Competency based
Formal opportunity for feedback	Ongoing feedback and targeted training
Value placed upon collaboration	Individual platform and completion; no collaboration present

So, although prima facie this is a very employability focused element, using the framework, we can see areas where factors of authenticity are low or absent. As this element is constrained in design, we need to plan for other elements, to ensure the elements are present to fulfil the remaining ILOs.

From the above analysis, the remaining elements need to 1) transfer knowledge; but also offer 2) collaboration; 3) metacognition; 4) challenge, and 5) the output. The other elements are also desirable, but in order to offer authenticity from the overall assessment strategy, these aspects need to be present.

With this in mind, two further elements can be proposed:

- + brief on area of digital transformation, using selected digital tool from (1) 30%
- + student determined output, using a selected digital tool from (1), using an innovative approach to generate solutions to a real world brief. Student selected from the collaborative work completed by teams in workshop - 40%.

Using the seven elements, the assessment can be evaluated again for authenticity:

Table 2: Elements one, two and three mapped against elements of authentic assessment.

	Element 1	Element 2	Element 3
Sufficient level of challenge	Will ensure competency: students must reach specified level	High: research selection and presentation of new material	Will ensure competency: students must reach specified level
Performance of product as outcome	Training using legal documents: performance of competency in tool under timed conditions	Clear output in form of brief	Training using legal documents: performance of competency in tool under timed conditions
Transfer of knowledge	None	High: applying and contextualising learning	None
Metacognition	Ongoing review of performance	Ongoing evaluation of own performance to decide on tool and area	Ongoing review of performance
Requirement of accuracy	Competency based	High: researched and evidenced	Competency based
Formal opportunity for feedback	Ongoing feedback and targeted training	Feedback and discussion of selection	Feedback on each week's work provided
Value placed upon collaboration	Individual platform and completion; no collaboration present	Choice will be enabled through collaborative work in classroom	All activities to form basis of output conducted collaboratively as 'teams'

The real-world brief is potentially problematic in two areas. In a professional context (the need for) metacognition is most visible in a longer-term process. To emulate this, students will self-select, from their 'strengths', the brief and tool they wish to submit, which will form part of an ongoing feedback discussion in workshops.

The requirement for accuracy could be problematic in that the range of tools available to us may limit the level of solution possible – this must be addressed as part of the overall learning, in terms of evaluation and the contextualisation of ongoing digital transformation.

Discussion

The use of authentic assessment criteria supported a more thorough examination and design of elements of assessment, as despite the first element being unmistakably skills and competency based, that alone did not provide a high level of authenticity.

In this particular area, there may be some further points of consideration in delivering authentic assessment.

Caserta and Madsen (2019) warn of digital capitalism in the legal profession, where the role of the lawyer is less about the public good and arbiters of societal causes and issues, and increasingly becoming service providers at the cutting edge of the capitalist economy. They also warn of further stratification in the legal profession, of those who expand their business and interests under digitalisation, and those who are unable to, potentially impacting the areas of practice that provide both routes of access to the profession, and much needed legal services to those in need. This will necessarily impact the ways in which professional life is constructed, and operates, and must be considered when aiming for authenticity. Emejulu and MacGregor advance a critical approach to digital 'citizenship' for students, defining critical as a "recognition of the ways in which the dominant discursive and material practices of digital [literacy] are entangled in a wider web of exploitation" (2019, 132). This type of critical evaluation may not directly sit within a strictly defined framework for authentic assessment, but could be viewed as part of a 'global citizenship' or within a development of ethically contextualised employability.

Another point in relation to digital transformation is that rates and type of adoption vary massively across the sector. This means that the specific skills and tasks required of students in employment will vary, and it is the new approaches to thinking that will be most relevant here – firms and organisations are still in the process of change, so emulating professional practice may not be strictly possible. However, what is possible is using innovative approaches to solving things taken as set. While this does not emulate the replication required in authentic assessment, it may, for a time, put students in the unique situation, in Law at least, of being if not ahead of many professions, then at least on par.

Further, Jackson notes that the effects of authentic assessment are stronger among students who are more career-oriented (2016). There is also the need to appeal to students who are motivated by the course, rather than the career, even while we deliver employability focused modules. Again, the addition of the critical element outlined above may provide this dimension.

A final word on authenticity and the real world

Our student population is diverse. Research has demonstrated HE outcomes are often related to differences in economic and socio-cultural factors (Moreau and Leathwood, 2006; Holmes, 2015; Wakeling and Savage, 2015; Cashian, 2017), and access to the legal profession is similarly problematic (The SRA, 2019). Thus, it is important to avoid the danger of presenting employability as a responsibility placed on the individual alone, without any structural barriers. If assessment is our main vehicle for learning, then to be authentic, we need to acknowledge and address access issues, particularly when the new paradigm means the role of the profession is uncertain (Susskind and Susskind, 2015; Cohen, 2021), which could be supported by the inclusion of transformative or critical elements in the authenticity framework.

Summary

Even where modules are very skills focused, the use of authentic assessment criteria can help support a more thorough assessment design, to view how the assessment might 'perform' in key elements of authenticity. Digital transformation in Law is rapidly changing the scope and operation of the professional context, and so when aiming for authenticity in assessment for this area, realism, contextualisation and problematisation are all essential factors. In this rapidly but unevenly developing area, where changes will necessarily impact on how 'real life' operates, is constructed and is accessed, a further dimension of critical understanding could be incorporated into the authentic assessment framework, to help students situate their current learning and future engagements as engaged and active actors in this change.

Key recommendations

- + To be authentic, prepare to be flexible – tools and applications are changing rapidly.
- + Tool competency-based assessments may not alone provide authenticity.
- + Think beyond the current context – skills and roles are both changing.
- + Online platforms with active learning offer a great chance for ongoing feedback – capitalise on this regular feedback and incorporate structured points for metacognition.
- + You don't need to have access to all the possible tools – firms won't either: build awareness of this in as part of the overall learning.
- + New approaches to thinking, such as legal design, offer brilliant opportunities for exciting, dynamic collaborative work.
- + Who are your students and what barriers do they face, and how might digital transformation help or hinder them?

Author biography

Kryss Macleod is Principal Lecturer and the School lead for education at Manchester Law School, Kryss has a long-standing interest in pedagogic research in Law, particularly in how legal education can be used as a tool for social change.

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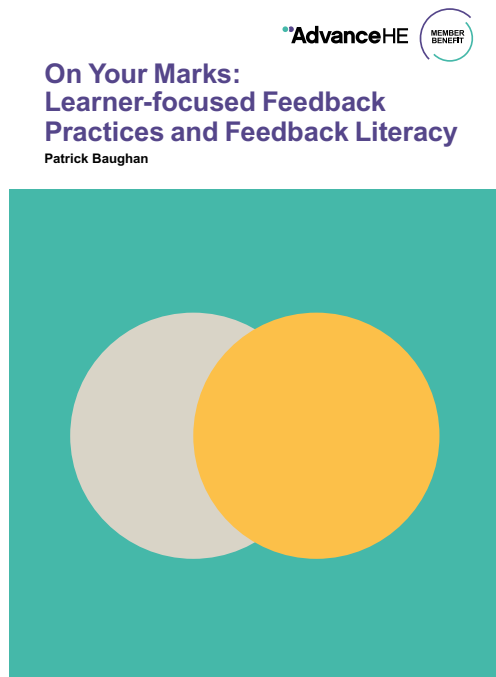
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