THE UNIVERSITY OF HONG KONG'S NEW PCLL

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A recent review of legal education criticised Hong Kong's professional legal education programme (the PCLL). The review said that the PCLL was not doing a good enough job in preparing students for legal practice. This article responds to the review by outlining proposals for a new PCLL. The proposals are based on the premise that professional legal education needs to develop students' ability to learn new skills after graduation. This is a complicated, but crucial, educational goal that is more easily understood with the help of concepts such as problem solving and transfer of learning. The paper argues that if the PCLL is designed to enable students to transfer problem solving skills from one legal context to another then students will more easily be able to transfer what they have learned in the programme to new problems in legal practice. To achieve this goal, however, requires painstaking effort in using several interdependent, curriculum-design features that other programmes around the world have used successfully.

Introduction

How do you design an effective professional legal education (PLE) programme?

Now that the University of Hong Kong has embarked on the design of a new Post-graduate Certificate in Laws (PCLL),[1] this is the issue being confronted. The point of departure is the Roper / Redmond report[2] which provided criticisms of the existing PCLL and made several useful recommendations about how PLE should change in Hong Kong.

The main criticism was that PCLL was insufficiently focused on practical training and was instead an extension of the law degree, emphasising substantive law at the expense of skills and transactions.[3] The Roper / Redmond

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[1] Hong Kong's existing PCLL is a one year post-graduate professional programme, the purpose of which is to prepare students for legal practice. Except for people eligible for admission based on professional qualifications obtained overseas, successful completion of the PCLL is a prerequisite to becoming a solicitor. A student may enter a two-year trainee solicitor contract only if he or she has passed the PCLL and any other examinations the Law Society may require. After successfully completing the contract the student can apply for admission as a solicitor: *Trainee Solicitor Rules*, r 7. For would-be barristers the situation is similar. Subject to certain exceptions, to be admitted as a barrister students must have successfully completed the PCLL: Legal Practitioners' Ordinance, s 27.

[2] Christopher Roper and Paul Redmond, *Legal Education and Training in Hong Kong: Preliminary Review* (Hong Kong: The Hong Kong Government, 2001) (hereinafter referred to as "the Roper / Redmond Report" or "Roper / Redmond").

[3] *Ibid.*, p 358.

report says further that PCLL has an "unclear purpose", lacks "coherence" and has "inadequate teaching and assessment methods".[4] Of particular importance, PLE should be based on "a conceptual framework of how legal work is done" rather than on legal "subjects".[5] In a nutshell, the PCLL should be training students in know-how rather than in knowing and it should do so systematically and coherently, in a problem-centred rather than a subject-centred programme. In doing so, it should use "innovative teaching methods" that include "learning by doing".[6]

The authors agree with many of the Roper / Redmond report's criticisms and recommendations. Indeed, many of them were set out in a paper submitted by the Department of Professional Legal Education to Messrs Roper and Redmond before they wrote their two reports. The purpose of that paper was to set in motion the Department's own educational reform process.[7] The Department continued that process by launching the redesign of the PCLL in June 2001.[8] It established a design team whose core members are all experienced Hong Kong legal practitioners[9] and now full-time staff at the University of Hong Kong. The Department retained the services of several international consultants who have had vast experience in the establishment and design of PLE programmes.[10] It is seeking advice from Hong Kong's legal profession, the Law Society, Bar Association, judiciary, and City University. Departmental staff have studied, and are familiar with, PLE programmes from around the world.[11] They have developed a full-year timetable and have designed many learning activities. They have also created a web-based platform to support the delivery of the new programme.

The plan is to design a new PCLL with goals and methods that are different from those of the existing PCLL, but are consistent with Roper / Redmond's recommendations and the Law Society of Hong Kong's position on legal education and training.[12]

The purpose of this paper is to explain the proposed redesign of the PCLL. The paper is divided into two sections: in the first section the goals of a new

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[4] *Ibid.*, p 185.
[5] *Ibid.*, p 358.
[6] *Ibid.*, p 358.
[7] S. Nathanson, "Redesigning the PCLL," unpublished paper, 4 May 2000.
[8] The progress of these reforms is discussed in a series of progress reports, the latest of which is submitted with this article.
[9] As recommended in Roper / Redmond (n 2 above), p 358.
[10] *Ibid.*
[11] The goals and methods of the new PCLL are drawn specifically from the Bar Vocational Course (BVC) at London's College of Law; the Professional Legal Training Course of British Columbia (PLTC); the Nottingham Law School Legal Practice Course (LPC); and the Professional Legal Education and Training (PLEAT) programme at the University of Queensland.
[12] *The Law Society of Hong Kong's Position Paper on Legal Education and Training*, Sept 2001 (hereinafter "The Law Society Position Paper").

PCLL are discussed briefly; in the second, the design features that are intended to meet those goals are described.

The Goals of a New PCLL

Professional legal education (sometimes called "vocational training") is a phenomenon that has developed over the last 30 years in England and the Commonwealth.[13] For reasons of history, rather than rational educational planning, PLE is separate and distinct from academic legal education. Its very existence, even the labels assigned to it –"professional" or "vocational" – suggests this separateness. Unlike academic legal education, its sole purpose is to prepare people for legal practice. Because it is of a much shorter duration than academic legal education, but with a specific mandate to train professionals, PLE teachers have been forced to think in a scientific way about how to develop the most effective and efficient legal education. In many jurisdictions, including England, Canada, Australia and New Zealand, PLE teachers have had to turn to the science of curriculum design to accomplish the task. They have learned through experience, research and evaluation how to focus their efforts on defining goals and introducing design features for . achieving them within severe timetable and resource constraints.

It is suggested that there should be two basic goals for the new PCLL. The first is to produce students who are competent in specific legal practice skills. The second is to produce students who are able to learn new skills *after* they start legal practice. The first goal can be referred to loosely as "specific skills"; the second, future or "transferable skills".

The Law Society of Hong Kong has taken this idea of specific and transferable skills on board in declaring what it wants from the PCLL. In its *Position Paper on Legal Education and Training*, the Law Society says that the PCLL should:

> "a. prepare students for general practice by equipping them with the basic skills to perform with competence legal work in specified fields; and
> b. provide students with a general foundation for subsequent practice by equipping them with basic skills to develop new competencies in response to employer and client needs."[14]

These goals are reminiscent of goals used around the English-speaking world. The aims of the English Legal Practice Course, for example, are to "prepare students for practice and to provide a general foundation for future

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[13] For a description of PLE courses *see*, generally, Maureen Fitzgerald, "Professional Legal Training in the Commonwealth" (1994) 12 *Journal of Professional Legal Education* 179.
[14] *See* The Law Society Position Paper (n 12 above), p 8.

practice".[15] The Bar Council of England and Wales has professed a similar view. In announcing how it would evaluate institutions' applications to validate the English Bar Vocational Course (BVC) it said:

> "The main criterion for the evaluation of a proposed BVC, offered by an institution seeking validation, is that a student who has successfully completed it should *possess a framework of essential and transferable skills* for competent practice in the first few years in private practice at the Bar. The BVC aims to produce people ready to undergo *and take full advantage of the further training* experiences offered by and during pupillage".[16]

What should a PLE programme actually do to achieve these goals? To answer this question, two concepts borrowed from educational research are useful: problem solving and transfer of learning.

Problem Solving
Legal problem solving has the same elements as problem solving generally. This is evident in the description of problem solving provided by French and Rhoder[17] – solving a problem, they say, can mean identifying a way out of a difficulty, a way around a stumbling block, or attaining a goal that was not immediately understandable.[18] In problem solving, the task is to resolve a known predicament. The end result is a solution. Decision-making is part of problem solving. With decision-making, there is the recognition that the problem exists and there are alternatives to be considered. Many decisions are made in solving the problem. The task is to choose the best option, and the end result is a response to the problem. Described in this way, problem solving is very much the lawyer's central task.

If effective problem solving is what students are required to be able to do, how problem solving is analysed is critical to curriculum design. Problem solving can, for example, be analysed as requiring interlocking prerequisites. Soden[19] observes that like scissors, an effective approach to problem solving needs two blades that work together – knowledge and skills.

First, problem solving involves the application of relevant knowledge. The scope and complexity of the knowledge required vary from one problem to

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[15] Roper / Redmond (n 2 above), p 429.
[16] Emphasis added. The General Council of the Bar, Validation Steering Committee, *Application Procedure To Be Validated To Offer The Bar Vocational Course, Course Specification Guidelines*, 29 Sept 1995, (London) (hereinafter "BVC Guidelines") (on file with the author), p 4.
[17] J. French and C. Rhoder, *Teaching Thinking Skills: Theory and Practice* (New York: Garland Publishing, 1992).
[18] *Ibid.*, pp 152–153.
[19] R. Soden, *Teaching Problem Solving in Vocational Education* (London: Routledge, 1994), pp 33–44.

another. How knowledge is organised, analysed and represented in the mind is a fundamental component of problem solving.[20]

Second, problem solving requires skills. Simon reminds us that although we may have the relevant knowledge to solve a problem in a given situation, this does not guarantee that the knowledge will be accessed and applied when needed.[21] Failure to use knowledge to solve problems may be the result of a lack of understanding of the conditions under which certain knowledge should be used. We need the skills to access appropriate knowledge and the skills to comprehend the conditions under which certain knowledge should be used.

Simon believes problem solving skills can be learned systematically. In designing the curriculum for systematic learning, certain points need to be kept in mind. For example, although the knowledge and skills underlying problem solving may be labelled as being distinct from one another, in the course of problem solving they are in fact inseparable. Relevant skills and knowledge should be learned in an integrated fashion. Designers should therefore take care not to invest too much time teaching generic skills segregated from context-specific knowledge in the expectation that those skills will work in a variety of contexts.[22]

It also makes sense to view problem solving as the umbrella concept under which all professional knowledge and skills should be subsumed. Problem solving provides a conceptual apparatus for explaining what lawyers do and what law students need to learn to become lawyers. Not only is solving clients' problems the essence of what lawyers do, it is the purpose for which they perform legal skills and apply legal knowledge. For students, learning how to solve clients' problems should be the essence of what they learn, and learning how to do this *through* solving problems must be the main instructional method. Not only is problem solving the curricular goal, solving problems is the method by which that goal is achieved.[23]

Transfer of Learning

Learning to solve specific problems in specific contexts such as civil and criminal litigation or commercial and property transactions is by no means the whole story. If it were, there would hardly be a need for professional legal

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[20] See R. Glaser, "Education and Thinking: the Role of Knowledge" (1984) 39 *American Psychologist* 93.

[21] H. A. Simon, "Problem Solving and Education," in D. T. Tuma and F. Reif (eds), *Problem Solving and Education: Issues in Teaching and Research* (New Jersey: Lawrence Erlbaum Associates Publishers, 1980), pp 81–96.

[22] D. N. Perkins and G. Salomon, "Are Cognitive Skills Context-Bound?" (1989) Jan–Feb *Educational Researcher* 16, 23.

[23] This is not just curriculum design rhetoric. The idea that the main goal of PLE is to teach people how to solve realistic problems they might commonly encounter in a solicitor's office or barrister's chambers is a central feature of several PLE programmes. The Nottingham Legal Practice Course used problem solving as its curricular goal, opting for simplicity in articulating where it wanted to go and how to get there. *See,* generally, Scott Slorach and Stephen Nathanson, "Design and Build: The Legal Practice Course at Nottingham Law School" (1996) 30 *Law Teacher* 187. This approach to what PLE programmes should do and how they should do it was also adopted by the Bar Vocational Course at London's College of Law and the University of Queensland's PLEAT programme.

education. Practical experience in a law office or chambers would arguably be superior to PLE as it would involve real, as opposed to merely realistic, problem solving. That is why PLE needs to go beyond teaching specific skills to include future or "transferable skills". Legal practice, like law, is constantly changing. Learning during one's professional career takes up many more years than does learning during formal legal education. Lawyers and their clients need trainees and young lawyers who are adaptable enough to handle new types of problems. The essence of a good professional education – and its greatest challenge – is to train students in what is immediately relevant to professional practice, but also to go beyond that and help them learn how to transfer their skills to new situations in practice.

How does learning transfer to new situations? Bigge and Shermis[24] note that "transfer of learning occurs when a person's learning in one situation influences that person's learning and performance in other situations". If no transfer occurs at all, students would need to be taught each specific task that they are ever to carry out in any circumstance. Stevenson powerfully illustrates the importance of teaching transferable skills in vocational education:

> "In a changing world, people in most occupations are confronted with changes in their work. Accordingly, teachers and curriculum developers in vocational education are challenged to ensure that students learn to be adaptable ... Adaptability is the ability to use existing knowledge in a new way. It consists in transferring knowledge from one situation to a new one ... Evans has adduced evidence, in learning mathematics, that the more students learned through discovery or discussion, the less they applied rules in an automatic and non-critical way, and the more they thought out the selection of the rule to apply."[25]

In the context of professional legal education, Trail and Underwood[26] believe that "the challenge for law schools is to develop a programme that exposes students to legal doctrine, teaches core lawyering skills of legal analysis and effective communication, and then gives students supervised experience in performing a reasonable range of lawyering tasks". The role of transfer of learning cannot be overemphasised. The way in which a student acquires skills, knowledge and attitudes in the supervised and simulated learning

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[24] M. L. Bigge and S. S. Shermis, *Learning Theories for Teachers* (New York: Harper Collins Publishers, 5th edn, 1992), p 218.

[25] J. C. Stevenson, "Cognitive Structures for the Teaching of Adaptability in Vocational Education," in G. Evans (ed), *Learning and Teaching Cognitive Skills* (Australia: The Australian Council for Education Research Limited, 1991), pp 144–163, 150.

[26] W. R. Trail and W. D. Underwood, "The Decline of Professional Legal Training and a Proposal for Its Revitalization in Professional Law Schools" (1996) *Baylor Law Review* 201, 227.

environment at law school will have a direct impact on his or her learning and performance outside law school. As C. H. Judd wrote more than 60 years ago in his classic text on educational psychology:

> "the most effective use of knowledge is assured not through the acquisition of any particular item of experience but through the establishment of associations which illuminate and expand an item of experience so that it has general value ... the preventive for the narrowness of school teaching and for lack of transfer is to be sought in the organization of instruction in such a way that the learner will constantly be made to see the broad relations of items of experience."[27]

Achieving transfer of learning is, as Judd says, about the "organisation of instruction" and all the techniques that go with it. For example, some legal educators believe strongly in "frameworks for skills". They believe that designers should construct carefully designed frameworks for transferable skills such as writing, advising, drafting, research, negotiation and advocacy.[28] It can be argued that the more effectively a professional programme develops these frameworks, the more likely it is that the learner's progress will accelerate at a faster pace after completion of the programme. As Professor Gary Blasi, the eminent professional legal educator, says, "The central question for law teachers is how best the early years of formal training can affect the later growth of competence. The learning afforded by formalised law training may have a dramatic effect on the rate at which lawyering competence increases in subsequent years of practice."[29]

How can formalised legal education achieve this accelerated-learning effect in a way that practical experience cannot? While practical experience is haphazard and unpredictable, formalised legal education at its best must be systematic and coherent. Thus, much depends on how that legal education is designed. Unlike the learning that comes from practical experience, the learning that occurs in a well-designed curriculum is planned and pre-meditated to achieve predictable outcomes. Better design leads to better outcomes, and the best outcome is developing the transferable skills that lead to accelerated learning.

Based on the authors' experience with, and study of, other PLE programmes, we believe that certain curriculum-design features can provide the necessary conditions for both specific and transferable skills.

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[27] C. H. Judd, *Educational Psychology* (Boston: Houghton Mifflin, 1939), pp 500, 509.
[28] *See*, for example, Roper / Redmond (n 2 above), Appendix F, pp 395–405.
[29] Gary Blasi, "Teaching Lawyering as an Intellectual Project" (1996) 14 *The Journal of Professional Legal Education* 6566.

Curriculum Design Features

What then are these features? There are, of course, many. Educational programmes are complex enterprises, and intangible features such as enthusiasm or caring about students can go a long way to affecting overall quality. But there exist more tangible features that it is believed are basic to success. While each is important, however, it is the way they work in synergy that may be even more important. When certain features are carefully integrated, they can greatly enhance student motivation. The result is an educational programme with its own renewable energy source, like a perpetual-motion toy that continues to move by virtue of the way it is designed and constructed. In a world of scarce educational resources, putting together a programme so that its very design produces this natural energy is an ideal way – perhaps the only way – to compensate for these scarcities.

Set out below are nine of the most important of these features. All of them will be incorporated into the new PCLL. They are:

1 a general framework for legal practice;
2 problem-centred curriculum;
3 systematic skills teaching;
4 feedback culture;
5 professional attitude toward learning;
6 training groups;
7 guest instructors;
8 programmed instruction; and
9 end-of-semester assessment.

1 A General Framework for Legal Practice

Before students learn relevant legal skills and knowledge it is important for them to develop a broad, conceptual understanding of what lawyers do. Thus, as the Roper / Redmond report recommends, the new PCLL provides students with a general framework for legal practice.[30] This framework views the lawyer as problem solver: the lawyer's essential function is to solve clients' problems in an ethical manner within a rational legal system.

The framework divides lawyers into two categories – those who meet clients' goals by planning and carrying out a variety of transactions and those who meet clients' goals by resolving legal conflicts. While the two types sometimes overlap, the division between them provides a convenient basis for dividing the PCLL into two modules, each with its own semester. Thus, students will deal mainly with "non-contentious" problems in one semester and

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[30] Roper / Redmond (n 2 above), p 196.

with "contentious" problems in the other. This division of lawyers' work and, therefore, the timetable, is consistent with similar divisions in other PLE courses, such as the University of Queensland's PLEAT programme[31] and the division recommended by Christopher Roper in his review of British Columbia's PLTC.[32]

Non-contentious problems will consist mainly of conveyancing and other property-related matters, as well as commercial, wills and estates, and tax problems. Within these contexts, students will focus on writing, advising, document analysis, drafting and negotiation.

Contentious problems will consist of a variety of civil and criminal litigation matters each requiring a different substantive legal knowledge base. Within these contexts students will focus on opinion writing, pleadings drafting, advising, negotiation and mediation, and advocacy.

This is, of course, only a very brief summary of objectives for both modules. (A fuller summary is available in the Appendix.) Other topics will be introduced and a variety of instructional methods used. In both modules, students will be required to confront ethical issues and to use legal research methods in order to solve many of the problems. Teaching methods will be appropriate to the objectives of each learning activity. For example, activities involving knowledge transmission or learning by observing will use large group lectures and demonstrations; while for "learning by doing" training groups or sub-groups will be used. These are discussed in greater detail in section six below.

At the end of each semester, students will be assessed in the skills and knowledge they have learned.[33]

2 Problem-centred Curriculum

If the goal of the new PCLL is to teach students how to solve realistic legal problems, students need to spend a great deal of time working on such problems. While working on problems was an important part of the old PCLL, it was not as important as the legal knowledge associated with various PCLL subjects. The old PCLL was subject-based, organised around traditional legal subjects such as conveyancing, commercial law and practice, and revenue law. Being subject-based, the old PCLL did not give sufficient emphasis to the skills necessary to solve legal problems.

The new PCLL, however, is problem-centred rather than subject-based. It is organised around particular kinds of problems and the legal skills needed to solve them.[34] Although legal problem solving and legal skills are paramount

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31 At http://www.uq.edu.au/~webomc/law/html/render.html?it=110,184,7.
32 Christopher Roper, *New Directions for Practical Legal Training in British Columbia*, (Canada: Law Society of British Columbia, 1999), p vii.
33 A summary of proposed PCLL assessments can be found in the Appendix.
34 Law Society Position Paper (n 12 above), p 9.

in the curriculum, legal knowledge is still important, but it serves a much more pragmatic purpose. Instead of being taught for its own sake, the purpose of teaching legal knowledge is to equip students to solve particular kinds of problems or to perform particular skills. Researchers have demonstrated that when knowledge and skills are integrated in this way, students are better able to retain that knowledge.[35] In addition, the skills they learn are more meaningful than if they are performed in a knowledge vacuum.

Thus, in designing learning activities, the designers' aim is constantly to integrate pragmatic legal knowledge with legal skills and then to promote the transfer of skills used in solving problems.[36] At the same time, the designers need to ensure students move from simple to more complex legal skills. For example, one of the important PCLL learning objectives is for students to be able to draft pleadings. To achieve this objective, the designer's first task is to devise a realistic problem that would require students to draft a pleading in a simple case, for example a contract dispute. The drafting simulation would have to be preceded by some instruction in pleadings drafting as well as in civil procedure and possibly some additional instruction in the law of contract. The principles of civil procedure and contract need to be carefully selected so that they can be pragmatically applied to the problem.

All of these instructional elements need to be sequenced systematically so that students can make sense of them. After the students have completed them, the designer might then move them from drafting pleadings in a contract case to drafting them in a tort case or perhaps a more complex contract case. By broadening the legal context and increasing complexity, students can learn to transfer drafting skills from one context to another.

3 Systematic Skills Teaching

Much of the curriculum, particularly in the contentious semester, uses a basic skills-teaching model adapted from the Professional Legal Training Course (PLTC) in British Columbia and used by many other PLE programmes.[37] The model helps students to reflect on their performance and those of others by encouraging them to abstract their observations, in part by using the easy-to-understand vocabulary of skills guides. A skills guide, usually in one page or less, sets out criteria for the competent performance of a skill. Because students use similar guides in a variety of contexts, they are prompted to transfer skills and to learn the self-monitoring skills that are an important aspect of a

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[35] Paul Ramsden, *Learning to Teach in Higher Education* (London: Routledge, 1992), p 148.
[36] The English LPC requires 25% skills, 75% knowledge; the Hong Kong Law Society requires 80% skills, 20% knowledge (*see* Law Society Position Paper (n 12 above), p 9). Based on its assessment regime, PLTC requires 67% skills, 33% knowledge. The English BVC requires 60% skills, 40% knowledge. One of the authors was told in a seminar on the IPLS, New Zealand's professional legal training course, that it assesses 100% skills.
[37] This method is used by all institutions referred to in n 11 above.

professional attitude toward learning.[38] The method can be described as a series of five stages.

Teaching the theory of the skill

The teacher provides a coherent overview of the skill, explaining the theory, which is also summarised in a skills guide. The guide sets out the criteria for competent performance of the skill, which are the same as those used to provide feedback to students as well as in assessment at the end of the semester. Teachers thus motivate students to "transfer" learning right from the start.[39]

Demonstrating the skill

In the case of oral skills, practitioners or teachers perform the skill live or on video. PCLL has made, and is in the process of making, a number of demonstration videos specifically for this purpose. For written skills, students are provided with model documents.

Analysing the skill

The teacher, with or without student participation, analyses the performance of the demonstrated skill using the appropriate skills guide. The teacher thus helps students to develop a deeper understanding of the skill. In doing this, the teacher also models the process of analysing the skill, thus providing guidance for students when they do self-analysis or give feedback to others.[40]

Practising the skill

Students then practise each skill, based on simulated problems. In addition to scheduled practices, in the case of oral skills students also have ample opportunity to practise with video facilities. In the case of written skills, one method commonly used is focused practice. With focused practice, students are given partially completed documents that they are then required to analyse, amend and complete.

Feedback and debriefing

After, and sometimes during, practice students receive constructive criticism and analysis of their performance, usually in relation to the criteria on the skills guide. Feedback comes not only from teachers, but a variety of other

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[38] G. Brown with J. Bull and M. Pendlebury, *Assessing Student Learning in Higher Education* (London: Routledge, 1997), p 181. The "professional attitude toward learning" is described in greater detail in section 5 (p 392 of this article).

[39] Elena Marchetti, "The Influence on Assessment in a Law Program on the Adoption of a Deep Approach To Learning" (1997) 15 *The Journal of Professional Legal Education* 203, 210.

[40] Brown et al (n 38 above), p 181.

sources: other students (peer feedback); guest instructors (judges and practising solicitors and barristers); and students themselves (self-analysis, which often involves observing and reflecting on video performances). The teacher facilitates the skill practice and feedback stages by providing feedback to some students, monitoring the feedback of others, and helping students achieve insight into both their performance and their ability to analyse performance.[41] Finally, the teacher debriefs the practice session pointing out common strengths and weaknesses and lessons learned.

4 Feedback Culture

Considerable emphasis is placed on all aspects of feedback because exposure to receiving and giving feedback fosters openness to new learning and new ways of seeing things. At the beginning of the programme, all students are trained in feedback skills. Peer feedback is then built into many learning activities as described in section three above. In our experience, the habitual use of peer feedback not only seems to improve legal skills, but is also likely to produce collateral benefits such as improvement of analytical and interpersonal skills. Self-evaluation is also important not only to improve skills, but also to improve the self-evaluation skills lawyers need to monitor their own performance. Feedback from guest instructors is, of course, highly prized and exposes students to exacting standards as well as to models of professionalism.

Students understand they must take seriously the process of giving and receiving feedback for several reasons. Effective feedback used in conjunction with skills guides not only helps students to transfer skills but also to meet assessment standards. The new PCLL imposes an obligation on students to make an effort to give effective feedback and assist each other in the learning process.

5 A Professional Attitude Towards Learning

The obligation to give and receive feedback is part of a package of expectations that students will be asked to meet and that together comprise a subsidiary goal of the programme. This goal is referred to as the "professional attitude toward learning". Professional learning is a life-long endeavour; it therefore stands to reason that law students need to learn professionalism in their attitude to learning. Without effort, hard work, interpersonal skills and a critical, self-evaluative stance that helps students to improve, it can be argued that the likelihood of accelerated learning for such students is lessened. Accordingly, this goal will be measured by looking at the students' effort inside and outside class as well as their openness to new learning. This can be achieved with performance indicators such as attendance and punctuality,

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[41] Ibid.

timely submission of and effort exhibited in assignments, ability to self-evalu-
ate and ability to work with other people, which includes giving and receiving
feedback. This approach to attitudinal assessment is a critical support for
achieving the goal of "providing students with a general foundation for subse-
quent practice by equipping them with basic skills to develop new
competencies" referred to in the Law Society Position Paper.[42] It supports
this goal by helping students to learn how to learn as professionals.[43]

At the end of each module students will receive a brief narrative assess-
ment written by their teacher evaluating their attitude toward learning. In
addition to all other requirements, students should ordinarily achieve a satis-
factory "narrative" in order to pass the PCLL.[44] Teachers will be able to gather
data for the narrative with relative ease because of the organisation of the
students into training groups. These are discussed in the next section.

6 Training Groups

All students in the programme will be divided into training groups of be-
tween 16 and 20 students. These groups will remain together for the duration
of the programme. In each semester, one or two teachers will lead each train-
ing group.

The main advantage of the training group system is that it seems to facili-
tate transfer of learning. The continuity of training groups led by one or two
teachers helps students acquire a clearer understanding of course goals and
objectives. As a group, students encourage their teacher, whom they see nearly
every day, to clarify objectives as well as the methods for achieving them.
The training group format focuses the teacher on linking one day's learning
to the next in order to make connections between different types of learning
activities and different types of legal practice. This heightens the teacher's
awareness of the need to tie these activities to course goals and to help stu-
dents understand the practice of law as a whole rather than as a collection of
unrelated parts. The development of an "holistic" appreciation of legal prac-
tice is critical. Once the student moves into the law office or chambers, he or
she is better equipped to see all new legal problems as variations on a theme,
rather than impenetrable mysteries.

The fact that students remain together for the whole year has other im-
portant dimensions: students' long-term interaction with one another has
human development and efficiency spin-offs, especially if the student mix is
carefully selected in advance to ensure that each training group has students

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[42] Note 12 above, p 8.
[43] The Professional Attitude Assessment has been used in various forms in all of the Institutions re-
ferred to in n 11 above.
[44] The professional attitude assessment is explained in the PLEAT prospectus and in a summary of
proposed PCLL Assessments.

with a variety of backgrounds, skills and learning experiences. Students can learn from each other and learn to view each other as learning resources. Together, they are able to build a group identity, cement friendships and develop group-learning skills as they help one another learn. In a training group, students mobilise their resources, even allocating tasks to one another, in pursuit of course objectives. The constant use of peer feedback to help one another learn as well as to meet assessment standards reinforces this sense of common purpose. From our experience, peer feedback is a powerful influence in a training group, more so than in subject-based courses where students may only see each other once or twice a week. In a training group, people quickly learn to be comfortable with one another and to adapt their feedback to meet the particular needs of individuals they have come to know.

7 Guest Instructors

In a course that trains lawyers, instruction from practising lawyers and judges is not only desirable, it is essential. Guest instructors from the profession provide students with models of skill and conduct. Their involvement is symbolic of the healthy partnership that should exist between the programme and the legal profession. Most important, instruction from practising lawyers can reveal the variety, depth and complexity of professional practice.

Our plan for guest instructors is modelled on the system developed by the Bar Vocational Course at London's College of Law (the BVC). The BVC designers wanted to have a strong and meaningful association with practising lawyers while, at the same time, to avoid the confusion that can sometimes result when guest instructors are asked to do stand-up teaching. If brought in to do stand-up teaching, their performance can vary widely. Some are excellent. The most successful lawyers, however, are usually very busy and, if brought in to lecture, may not always have time to prepare properly. Furthermore, if teachers try to control what they say about a chosen topic in order to fit with the curriculum, they may take offence. The worst outcome is having a busy judge or practitioner telephone at the last minute to say he or she is tied up in a hearing or meeting and cannot attend a class.

To a considerable extent, the College of Law de-emphasised the guest speaker approach and adopted a "guest trainer" approach. The guests were most often asked to join skills activities and to provide feedback to students. In any given day, a dozen or more might be asked to participate. As a result, all students were able to benefit from direct practitioner feedback. Practitioners fit right in to the existing programme. No-shows did not cause a major problem. If by chance one or more was unavailable, the activity could still run smoothly (albeit with slightly higher student: instructor ratios). Guests liked the system because it involved considerably less preparation than lecturing and it engaged them actively in skills activities they themselves do every day. Observing and

analysing the performance of others gives guests priceless opportunities to re-
flect on their own practice. Since each lawyer was asked to appear only once or
twice a year, their level of enthusiasm was high.

8 Programmed Instruction

Popularised by PLTC and adapted by many professional legal training
programmes, programmed instruction is based on adult education principles.
All learning activities are described in activity plans. Each plan specifies learn-
ing objectives and step-by-step activity descriptions for each session. These
plans are made available to students and teachers at the beginning of the
year. Special editions for teachers contain comprehensive step-by-step notes
with all the subject matter the teacher needs and detailed directions for fa-
cilitating learning activities, even providing suggestions to make and questions
to ask during debriefing sessions. Although each training group engages in
the same learning activities described in these activity plans at roughly the
same time, the teachers are at liberty to modify them. Most, however, will
refrain from substantial modification, not just because the activity plans are
designed to be user-friendly, but also because the new PCLL will be explicitly
assessment-driven. Students need to understand and practise the skills in or-
der to perform them effectively at assessment time. Because most activity
plans are designed to prepare students for assessment, adhering to the plan is
an obvious way to motivate students. Unless plans contain serious flaws, teach-
ers generally use them, applying personal touches to accommodate their own
personal styles.

In the new PCLL, programmed instruction will be web-based. All activity
plans will be transferred into HTML format, linking students to a variety of
resources relevant to that activity. The PCLL has entered into an arrange-
ment with the University of Hong Kong library system to establish a segregated
electronic reserve (e-reserve) system so that most of the materials needed by
students can be quickly and efficiently accessed from activity plans by
hyperlinking directly to materials available on the e-reserve.

9. End-of-Semester Assessment

Assessment is what ties together all of the features already discussed. Assess-
ment needs to be consistent with both course objectives and the activities new
trainees or pupil-barristers need to be able to perform. The degree of consis-
tency is the ultimate test of how systematic and coherent the programme is.
Everything students do in the course up to assessment time is preparation and
practice for assessment. The idea that learning activities are to prepare students
for the assessments is reinforced by the skills guides, which use the same criteria
for both learning and assessment. Even the final skills activities conducted a
week prior to assessment are explicitly referred to as "practice assessments".

In the design of the course, setting skills assessments during semester time that count towards students' final mark was deliberately avoided. They were instead left to the end of semester. In our experience, introducing elements of final assessment during the semester is disruptive to learning. The semester is devoted to learning and transfer, a process that requires maximum freedom to make mistakes, a high level of concentration and a minimum of disruption. Students undergo continuous assessment, but it is primarily attitudinal – related less to their achievement in attaining levels of skill and more to their openness and effort in acquiring new learning.[45]

Interaction of the Design Features

The effectiveness of the nine design features described above has been demonstrated, by and large, in most of the other PLE courses to which we have referred. Because this article claims that it is the interaction of these features with each other that is particularly powerful, some of these interactions are illustrated briefly below.

For example, having *end-of-semester skills assessments* motivates designers to make the assessment problems consistent with the learning problems, if only because inconsistent assessment, as every teacher knows, can lead to student dissatisfaction.[46] By the same token, when students perceive that consistency between objectives and assessment is being achieved, they are likely to be more motivated to practise transfer of learning. If they are confident that the problems on which they practice will help prepare them for assessment, it follows that they will be motivated to work hard when practising those problems.[47] End-of-semester skills assessments drive the *systematic skills teaching* which, in turn, is supported by the skills guides whose criteria are the same for learning as they are for assessment. The *professional attitude toward learning* is an explicit goal of the programme to which the *training groups* and the *feedback culture* directly contribute. *Training groups* provide an environment in which transfer of learning can flourish because people collaborate to achieve a common purpose as they learn to understand and master the same skills. A further stimulus comes from the *feedback culture* which positively reinforces effort, evaluation, self-evaluation and openness to new learning. Students are provided with the tools and motivation to help themselves and each other

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[45] The practice of end-of-semester assessment is followed by the programmes referred to in n 11 above. *See* also section 5 above: "professional attitude toward learning".

[46] Although it must be emphasised that creating assessments that validly test higher-level skills is a difficult exercise. Ference Marton and Paul Ramsden, "What Does It Take To Improve Learning," in P. Ramsden (ed), *Improving Learning: New Perspectives* (London: Kogan Page, 1988), p 280.

[47] Although end-of-semester skills assessments probably create a degree of anxiety that can interfere with a deeper understanding of the skill; Marchetti (n 39 above), p 221.

learn as well as to improve their own learning skills. The *problem-centred curriculum* organised as *programmed instruction* provides easy-to-use formats for integrating numerous and diverse learning activities so that the programme is easy to understand.

Using a *general framework for legal practice* and such devices as skills guides will help to achieve a coherent programme that is clear and easy to follow. But this does not mean designers will fall into the trap of teaching and testing only that which is coherent and clear. Realistic problems are messy and ambiguous and so require both simple and complex problem solving skills. Each legal problem may require a different thinking strategy, but each demands a deep understanding of the lawyer's role and the complexity of what the lawyer does. This perspective on lawyers' work is implicit in the problem solving goal and explicitly encouraged in a variety of ways, including the extensive involvement of *guest instructors* from the legal profession who will provide invaluable feedback to students and help to keep the new PCLL on top of current practice methods.

Conclusion

The authors believe that with clear goals and the design features for achieving them described above, the new PCLL will address the major concerns raised in the Roper / Redmond report. Having said that, however, it should also be noted that this article has not explored all the factors that promote the kind of student motivation that will power the new PCLL forward. It is important, for example, to admit the best students and to establish an optimum student mix in each training group. Also unexplored in this article is the role that teachers will play in making the whole system work. Factors such as teacher training and career development all have an impact on teachers' skills as well as on their motivation, both of which are critical to long-term success in programme delivery. Further down the road, we shall have to devise a long-term programme for teacher development. Another factor is the extent to which the legal profession will participate both in the design and the delivery of the programme. The greater its participation, the more likely it is that the programme will be successful.

Another factor that we believe is important to success is "design conservatism". Adopted by the Nottingham Legal Practice Course, the principle of design conservatism means that materials from the old PCLL are, wherever possible, being reshaped to meet the objectives of the new PCLL.[48] There is no point throwing the baby out with the bath water.

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[48] The practice of recycling material from a previous professional programme was used with great success at the Nottingham Law School (*see*, generally, Slorach and Nathanson (n 23 above)).

All of these issues are important, but the most important by far is to build a solid foundation for accelerated learning. This can only be done through a process that integrates vital curriculum design features into a coherent whole. Formal professional education is not just a hurdle for students to jump to get where they are going. It should be the most strongly formative stage in learning how to be a good professional.

APPENDIX

Summary of Proposed Objectives and Assessment in the New PCLL

The following are the principal objectives which are assessed in the proposed new PCLL. Each of the assessments is allocated to the first or second semester (except for the professional attitude assessment) as set out below. These are described in greater detail under "PCLL Syllabus" below.

   1 Professional Attitude

First Semester (Non-contentious Module)
   2 Document Analysis
   3 Document Drafting
   4 Legal Writing and Advising I
   5 Legal Knowledge I
   6 Legal Knowledge II

Second Semester (Contentious Module)
   7 Pleadings / Affidavit Drafting
   8 Advocacy
   9 Legal Opinions / Legal Argument
  10 Legal Knowledge III
  11 Fact Investigation and Negotiation

PCLL Syllabus

PCLL 7001   **Professional Attitude**
This represents an examiner's evaluation of how a student has contributed to the learning process in PCLL having regard to such matters as punctuality, attendance, completion of activities, exercises, assignments and reports, class conduct, effort applied in learning activities, giving effective feedback and helping colleagues to complete learning activities. Of special significance will be the student's ability to evaluate his or her own performance.

PCLL 7002   **Document Analysis**
This is the skill of analysing and advising a client on the legal and / or practical implications of formal documents, including financial statements and / or transactions in practice areas such as property, conveyancing, commercial, wills or any other practice area referred to in the non-contentious module.

PCLL 7003   **Document Drafting**
             This is the skill of creating, drafting, modifying, and analysing
             formal documents and / or transactions in property,
             conveyancing, commercial, wills or any other practice area
             referred to in the non-contentious module.

PCLL 7004   **Pleadings / Affidavit Drafting**
             This is the skill of creating formal documents including, but
             not limited to, pleadings and affidavits in litigation practice.

PCLL 7005   **Advocacy**
             This is the ability to persuade in a court or other tribunal.

PCLL 7006A   **Legal Writing and Advising**
             This refers to the skill of written communication in the con-
             text of advising a client. It is the ability to communicate
             clearly, concisely and accurately to a client in a way that helps
             the client to make a decision or to solve a legal problem.

PCLL 7006B   **Legal Opinions / Argument**
             This refers to the skill of written communication, in particu-
             lar the ability to write legal opinions and / or persuasive
             arguments.

PCLL 7007   **Fact Investigation and Negotiation**
             This refers to the ability to resolve disputes effectively through
             planning, research, fact investigation (including financial
             statement analysis) and negotiation or mediation. Students
             will be required to evaluate their own dispute-resolution ef-
             fectiveness as well as their overall effectiveness as litigation
             practitioners.

PCLL 7008A   **Legal Knowledge I**
             This is knowledge of areas of legal practice taught in the first
             semester including, but not limited to, property,
             conveyancing, revenue practice, ethics, and Solicitors' Ac-
             counts Rules.

PCLL 7008B   **Legal Knowledge II**
             This is knowledge of areas of legal practice taught in the first
             semester including, but not limited to, wills and probate
             practice, landlord and tenant, commercial practice and ethics.

PCLL 7008C   **Legal Knowledge III**
             This concerns a knowledge of areas of legal practice taught
             in the second semester, including, but not limited to, crimi-
             nal and civil litigation, ethics and those substantive and
             procedural areas used as contexts for the performance of skills
             practised in the second semester.