

L Biggs & K Hurter

Rethinking legal skills education in an LLB curriculum

Abstract

Over the past decade, there have been growing complaints regarding the low levels of literacy, research and numeracy skills demonstrated by law graduates in practice, and a call for universities to more adequately address these skill gaps. The Faculty of Law at the Nelson Mandela Metropolitan University (NMMU) responded to this call by redesigning their first-year Legal Skills course using a stand-alone skills-based model and a context-based teaching approach. The redesign process is outlined and particular themes in each stage of the process are discussed. This includes identifying contextual factors, defining essential skills; course content analysis; course restructuring; teaching reformulation; adaptation of assessment and feedback; implementing a blended learning approach, and collaboration within the Faculty and across faculties and service providers. The article argues that a stand-alone skills-based model can be effective in developing a minimum level of competence, but that a sense of shared responsibility for skills development across the LLB programme is essential for a higher level of skill attainment. Lessons learned during the redesign process are highlighted, and where possible, recommendations for future considerations are explored.

Herbesinning oor die onderrig van regsvaardighede in die LLB leerplan

Gedurende die afgelope dekade was daar toenemende verontwaardiging in die regspraktik oor die gebrek aan skryf-, navorsing- en syfvaardighede onder gegradueerde regslui. Dit het gepaard gegaan met 'n beroep op universiteite om meer betrokke te raak ten einde hierdie gebrek aan te vul. In reaksie op dié beroep het die Fakulteit van Regsgeleerdheid van die Nelson Mandela Metropolitaanse Universiteit (NMMU) sy kursus in Regsvaardighede herontwerp deur gebruik te maak van 'n selfstandige vaardighedsgebaseerde model en 'n konteksgebaseerde benadering. Die herontwerpingsproses word omskryf en spesifieke temas in elke stadium van die proses word bespreek. Dit sluit in die identifisering van kontekstuele faktore; die definiëring van basiese kernvaardighede; die analisering van kursusinhoud; die herstrukturering van kursusse; die herformulering van onderrigmetodes; die aanpassing van metodes van assessering en terugvoering; die instelling van 'n gemengde leer benadering, en noue samewerking met die Fakulteit van Regsgeleerdheid, ander fakulteite en diensverskaffers. Die skrywers betoog dat 'n selfstandige vaardighedsgebaseerde model suksesvol aangewend kan word om basiese kernvaardighede aan te leer, maar dat gesamentlike aanvaarding van verantwoordelikheid deur die hele LLB program onontbeerlik is vir vaardighedsontwikkeling op 'n hoër vlak. Waardevolle ondervinding wat deur die herontwerpingsproses opgedoen is, word beklemtoon en waar moontlik word aanbevelings gemaak met die oog op toekomstige ontwikkeling.

*L Biggs, Faculty of Law, Nelson Mandela Metropolitan University.
K Hurter, Centre for Access Assessment and Research (CAAR), Nelson
Mandela Metropolitan University.*

1. Introduction

Over the past decade, the law profession has been plagued by concerns about the quality of LLB graduates entering the professional field.¹ In particular, concerns focus on the apparent number of graduates who lack basic numeracy, literacy and research skills, and who are subsequently inadequately equipped for the practice of law.² These deficits are, in part, the result of a number of compounding factors, including:

- shortcomings in the national schooling system, resulting in under-prepared students;³
- the massification of higher education, resulting in large classes, limited resources and student diversity in terms of language abilities, educational background, values, etc.;
- a fragmented view of, and approach to skills instruction for law in South Africa;⁴ and
- questionable soundness of the LLB curriculum itself.⁵

Various problems exist in legal skills instruction in South Africa.⁶ There is not always consensus on what essential skills should be included in

1 Concerns have been highlighted in various issues of *De Rebus* (see the 2007 April, June and September issues, the January/February 2011 issue, and the March 2013 issue) as well as by the national media (see Ndlovu 2010-02-22, *Times Live*. <http://www.timeslive.co.za/local/article321310.ece/Law-graduates-barely-able-to-read> (accessed on 8 August 2010); Swart 2010-12-23, *Mail & Guardian*. <http://mg.co.za/article/2010-12-23-graduate-attorney-skills-gap> (accessed on 1 July 2011)).

2 Kok & Nienaber 2005:161; Van der Merwe 2007. <http://www.derebus.org.za/nxt/gateway.dll?f=templates&fn=default.htm&vid=derebus:10.1048/enu> (accessed on 17 September 2010); Slabbert 2009:55; <http://mg.co.za/article/2010-12-23-graduate-attorney-skills-gap>.

3 Reddy, Kanjee, Diederiks & Winnaar 2006:xi. In the 2003 Grade 8 Trends in International Mathematics and Science Study (TIMSS), of the 50 participants South Africa scored the lowest in both Mathematics and Science. Mullis, Martin, Kennedy & Foy 2007:38. In the 2006 Grade 4 Progress in International Reading Literacy Study (PIRLS), of the 40 participating countries South Africa was the lowest performing country in reading achievement.

4 An article in the January/February 2011 issue of *De Rebus* Digital highlighted the disparity across law faculties in the extent and content of skills training in LLB curricula. http://www.myvirtualpaper.com/doc/derebus/de_rebus_january_2011/2011011901/#18 (accessed on 17 September 2012). For a discussion of varying perspectives on the purpose of the LLB and the acquisition of knowledge and skills, see Klaasen 2012:302-305.

5 Greenbaum 2010:13; Nair 2012-07-09 *Times Live*. <http://www.timeslive.co.za/thetimes/2012/07/09/law-graduates-heat-on-varsities> (accessed on 8 January 2013); LSSA 2013:12. http://www.myvirtualpaper.com/doc/derebus/de_rebus_march_2013/2013022001/#4 (accessed on 12 April 2013).

6 At the Attorney's Fidelity Fund (AFF) Conference held from 20 to 22 July 2008, the problems facing legal skills instruction in higher education in South Africa were readily apparent. The purpose of the Conference was to present the findings of the Attorney's Fidelity Fund (AFF) University Analysis which investigated literacy and numeracy training programmes in law faculties in South Africa. The

the core curriculum and there are no universal criteria or standards for numeracy, academic literacy⁷ and research development at universities. Thus, no national benchmarks for legal skills instruction exist. Differing views and values attached to legal skills instruction have resulted in disparities across institutions in terms of time and attention given to the development of legal skills. Finally, there is limited discourse and body of scientific knowledge on how to integrate skills and theoretical content in the LLB curriculum in the South African context.⁸

This article aims to illustrate one university's⁹ way of addressing legal skills instruction by reflecting on the process of redesigning a first-year Legal Skills course within its LLB programme. The course redesign process is outlined and key features of each stage of the process are discussed. Lessons learned during the redesign process are highlighted and, where possible, recommendations for future consideration are suggested.

2. An action research approach to course redesign

The process of course redesign for the Legal Skills course began in 2007 out of concern that students' marks for the course were not a true reflection of actual competence achieved. In other modules of the LLB programme, students still showed limited competence in the skills developed in Legal Skills, despite having passed this course. At the same time, the professional field voiced their concern regarding LLB graduates' lack of certain basic skills.¹⁰ This all led to the formulation of two questions and subsequently a process that moved through a number of stages:

- How do we design a Legal Skills course and teach it so as to effectively develop competence?
- How do we effectively assess competence in a Legal Skills course?

Stage 1 involved identifying key contextual factors and challenges that should inform the redesign of the Legal Skills course at NMMU and establishing the aim of the course. The stage was informed by feedback from stakeholders (NMMU Law Faculty, law professional bodies, employers).

conference was also intended to help identify universal criteria and standards for numeracy, literacy and research (NLR) instruction at all universities; share ideas and concerns regarding NLR, and encourage networking in order for each faculty to review its own legal skills programmes.

7 Boughey (2000:281-282) defines academic literacy as ways of reading, writing, thinking, valuing, acting and speaking in academic discourses. Jacobs (2005:485) refers to academic literacies as "the fluent control and mastery of the discipline specific norms, values and conventions for reading and writing as a means of exploring and constructing knowledge in higher education."

8 Swanepoel, Karels & Bezuidenhout 2008:102.

9 Faculty of Law at the Nelson Mandela Metropolitan University (NMMU).

10 See footnotes 1 and 2.

Stage 2 involved the identification of skills and attributes regarded as valuable for LLB students and graduates, and the determination of a list of essential skills to be included in the Legal Skills course. In practice, *Stage 2* was, in fact, part of *Stage 3*, but has been separated to highlight its importance in the redesign process.

Stage 3 involved the initial review and redesign of the Legal Skills course (based on *Stages 1* and *2*). At that time, Legal Skills was presented by way of two semester modules, each addressing a broad array of content and skills. The modules were presented as a combination of lectures and tutorials and were assessed by means of continuous evaluation. A final mark was created by a number of small assignments, each focusing on a different area (content or skill). The following were cause for concern: the course format and content did not promote deep learning; the content was broad and unfocused, with some skills addressed in greater depth than others, and assessment practices did not promote student development or measure competence effectively. Overall, the course lacked substance and was viewed by students as being of lesser importance than other law subjects. Evaluation occurred in 2007, after which the redesign process commenced.

Stage 4 involved the implementation and subsequent monitoring, annual review and refinement of the new Legal Skills course. The new course was implemented in 2009. The Legal Skills course was divided into four term modules, each focusing on a specific set of skills (e.g., numeracy proficiency, language and writing skills, research proficiency and advocacy skills). The modules were still presented by way of a combination of lectures and tutorials, but from 2010 moved towards a blended learning approach by also including a component of e-learning in addition to face-to-face contact time.

After implementation of the new course, the Faculty followed a systematic process of gathering data by evaluating module performance and feedback from students and lecturers. The data was reflected on and decisions made about changes and improvements. After implementing changes, the action was monitored by gathering new data, which was evaluated again. At each stage of reflection and evaluation, other role players were included and consulted for input. Meetings were held with the Faculty Management Committee, course lecturers and course collaborators, and students were asked to complete feedback forms at the end of each module.

Stage 5, although intended, has yet to be implemented. This stage involves the integration of these skills from the Legal Skills course into the rest of the LLB curriculum so as to provide an opportunity for students to further develop and hone their skills, and for the Faculty to assess the effectiveness of the Legal Skills course in providing a platform for developing competence.

Although set out as a series of stages, this process was not always necessarily a linear one, but one which sometimes moved back and forth between stages, as practices were evaluated and new information emerged.

The redesign process was not originally formulated as part of a formalised research project set within a specific research methodology, but was mainly intuitive, reinforced by lecturing experience, content knowledge, review of Legal Skills practices in South Africa, and review of the literature. However, at each stage of the process, practices were implemented, reviewed, evaluated and then modified in terms of the evaluation, each time leading the Faculty into a new cycle. This systematic process of ‘observe – reflect – act – evaluate – modify – move in a new direction’ is referred to as the ‘action-reflection cycle’, and is considered a valid framework for conducting action research.¹¹ A review of the literature highlighted a process with a similar set of stages followed by the Queensland University of Technology’s Law Faculty as part of a research project to integrate lawyering skills into their undergraduate law programme,¹² thus providing further support for the validity of the process followed in this instance.

3. Stage 1: Identifying contextual factors to inform course design and establishing the aim of the course

Various contextual factors guided the decisions made about what to include in the course and what to set as assessment standards. Four contextual factors stood out as being particularly important.

3.1 Contextual factors to inform course design

The redesign of the NMMU Legal Skills course occurred against the backdrop of greater emphasis on skills development. Traditionally, legal education has focused on legal doctrine and knowledge-based learning. However, over the past 30 years, there has been an international trend towards legal education curriculum renewal and a shift towards the development of curricula that include a balance between knowledge, skills and values.¹³

The development of certain generic skills seen to improve graduate employability also guided skills identification for the course. There has been increased pressure from government, employers and students alike to equip graduates with attributes that increase their employability.¹⁴

11 McNiff & Whitehead 2006:9.

12 Christensen & Kift 2000:213.

13 See the Pearce Report released in 1987 and the follow-up report by McInnis, Marginson & Morris in 1994, which examined legal education in Australia and encouraged greater focus on skills development in legal education. The 1992 MacCrate Report and the 2007 Carnegie report offered recommendations for improving the law curriculum in the United States of America, also suggesting the inclusion of skills, values and ethics training. Both are known as Educating Lawyers. The 184th Report by the Law Commission of India issued in 2002 reviews legal education and training in India and notes the inclusion of skills training in legal education.

14 Griesel & Parker 2009:1; Kift 2008:2.

These attributes are usually generic in nature and refer to those practical skills, competencies, values, knowledge and understandings developed through a university education that can be transferred from one context to another.¹⁵ Interestingly, studies in the field of law have shown that, in the world of work, greater emphasis is often placed on generic rather than specific legal skills, the latter of which are usually emphasised in legal education and training.¹⁶

The voice of the professional field was also considered during the process. Over the past decade, various South African law associations and practising firms have reported gaps in English language, numeracy, computer and research skills in some law graduates entering the profession.¹⁷ While the perspectives on legal skills instruction by academe and employers may not always align completely, it is important to be aware of the employer's voice, if universities are committed to providing an education that leads to employment.

Finally, the redesign of the LLB Legal Skills course took place against the backdrop of concerns about the lack of student preparedness for higher education, particularly in mathematics, numeracy, language proficiency and academic literacy. The Faculty of Law had become increasingly aware of gaps in the numeracy and English language proficiency skills of incoming first-year students, as identified by the Centre for Access Assessment and Research (CAAR), which is responsible for running the university's Access Assessment Programme (AAP).¹⁸ These gaps are not unique to law students, nor to the NMMU. Similar national trends were identified by the National Benchmark Tests (NBT) Project¹⁹ in 2009, in which 7 faculties (including Faculties of Law) across 7 higher education institutions in South Africa were assessed on Academic Literacy, Quantitative Literacy and Mathematics.²⁰

15 Griesel & Parker 2009:1, 4.

16 In a study of Australian law graduates in any type of law-related employment, Vignaendra (1998:38-39) found that generic skills such as communication, report and letter writing, computer skills, time management and document management were used more frequently than specific legal skills such as legal analysis, providing legal advice, advocacy and negotiation skills.

17 Van der Merwe 2010:4; Manyathi 2010:8. <http://www.myvirtualpaper.com/doc/derebus/law-society-april/2010031501/#4> (accessed on 12 April 2013).

18 CAAR has a developmentally focused testing programme that provides university access to students who show potential to succeed at higher education studies. CAAR combines the use of school results with results from the Access Assessment Battery (AAB) that measures generic competencies identified as being important for success at university. Generic competencies assessed include English language proficiency, numeracy proficiency, mathematics, academic literacy (problem-solving and reasoning) and some non-cognitive factors including career interests, goals and study habits.

19 Department of Higher Education Meeting held on 18 August 2009: Briefing on The National Benchmark Tests Project. <http://www.pmg.org.za/report/20090819-national-benchmark-tests-project-standards-national-examination-asses> (accessed on 19 September 2011).

20 The NBTs were designed to assess specific competencies related to academic success at tertiary level and to assist in the appropriate placement of students

Consideration of these key contextual factors enabled the Faculty to determine the most pressing needs of first-year LLB students, and to view these in the context of the curriculum as well as the bigger picture of the professional field and employability. This led to a process of deciding on the nature and role of the NMMU Legal Skills course.

3.2 Establishing the aim of the course

It was decided that the Legal Skills course should aim to equip law students with certain basic skills that the Faculty viewed as being essential, first to the study of law and, secondly, to the practice of law later on. The course, therefore, introduces law as a profession along with certain basic lawyering skills,²¹ so as to encourage students to connect and engage with the discipline of law in a practical way.

As a first-year Legal Skills course, emphasis is placed on foundational skills that include generic and specific lawyering skills, attitudinal skills and academic skills. As teaching occurs in the context of limited substantive knowledge, lawyering and attitudinal skills, in particular, are taught at an introductory level and are designed to provide a foundation for further skill acquisition throughout the remainder of the LLB curriculum, and particularly in the fourth year of the LLB programme through clinical legal education.²²

Legal skills instruction in this course uses a goal-directed and action-oriented method of teaching. Teaching aims to develop competence in various skills (legal and non-legal) by gradually and explicitly building, through a combination of theoretical knowledge and multiple practice opportunities, a repertoire of micro-skills that, when systematically applied, culminate in the competent performance of a particular action (or skill).²³ This is achieved through methods of teaching based upon experiential learning²⁴ methodology and small group learning experiences such as tutorials and group assignments.

within higher education programmes. The Academic Literacy test focuses on the ability to read with understanding, evaluate evidence, and draw inferences and conclusions. The Quantitative Literacy assesses the ability to analyse, interpret and apply quantitative data including graphs, tables, charts and text. Mathematics measures problem-solving and modelling, basic trigonometry, special perception, data handling, and logical reasoning. <http://nbt.uct.ac.za/> (accessed on 20 August 2012).

21 For example, lawyering acts such as drafting, interviewing, counselling, negotiation and advocacy.

22 At NMMU, clinical legal education is offered in the fourth year of the LLB programme in the form of Legal Practice modules, and incorporates street law and law clinic exposure.

23 See a list of the main features characterising skilled behaviour as determined by Karl Mackie in Wade 1994:174.

24 Experiential learning refers to a participative, learner-centered, holistic integrative approach to learning that emphasises 'learning by doing' through combining experience, perception, cognition and behavior. See definitions

However, to develop a skill, certain foundational competencies are required. In light of concerns about student preparedness in mathematics, numeracy, language proficiency and academic literacy, the redesigned course had to consider first, how to “bridge the gap” and develop a minimum level of competence in these areas. Traditionally, skills deficits were addressed through the LLB Extended programme. However, it became apparent that underpreparedness was a growing concern across all first-year LLB students and not limited to those in the Extended programme. For this reason, remedial components were incorporated into the course as a means to support underprepared students. This is done, for example, through small group tutorials, streaming according to developmental need and multiple assessment opportunities. Remediation however, is not the primary purpose of the Legal Skills course, but rather a necessary component to ensure that the learning objectives of the course are achievable for all students.

4. Stage 2: Defining essential legal skills

Although a part of Stage 3, the process of defining essential skills has been separated to highlight its importance in the redesign of the course. Skills were originally identified by feedback from stakeholders, but later, as part of the review and evaluation process, literature and research studies were also consulted.

There is some general consensus, nationally and internationally, on certain essential skills to be included in legal skills instruction, for example thinking skills; legal problem-solving; analysing and applying legal rules and principles; legal research skills; written and oral communication; counselling skills; negotiation skills; litigation skills; numeracy skills; computer skills; document management, and professionalism and ethical values.²⁵

Skills originally identified as essential for inclusion in the Legal Skills course were reading, writing, critical thinking, numeracy, communication, legal practice, as well as attitudinal and academic skills. These were organised as being core or secondary, with the former being the focus of the course. Specific modules were developed around core sets of skills, which were explicitly taught and assessed. Secondary skills were implicit

provided by various authors in Kift 1997. <http://www.austlii.edu.au/au/journals/LegEdRev/1997.html> (accessed on 5 March 2014).

25 1992 MacCrate Report; 2007 Carnegie Report; McQuoid-Mason 2003:199; Christensen & Kift 2000:215; Kift 2003:8. <http://eprints.qut.edu.au/7468/> (accessed on 7 February 2012); Peden & Riley 2005. <http://www.austlii.edu.au/au/journals/LegEdRev/2005/5.html> (accessed on 2 January 2012); Bell & Johnstone 1998. <http://www.ukcle.ac.uk/resources/learning-and-leamer-support/summary/> (accessed on 9 January 2012); Davies & Jackson 2005:151-152; Council of Australian Law Deans (CALD) 2009:3-4. <http://www.cald.asn.au/resources> (accessed on 24 February 2012); Stuckey *et al.* 2007:15-16; Polding, Catchpole & Cripps 2010:84; Greenbaum 2010:12; Galloway, Shircore, Corbett-Jarvis & Bradshaw 2012:3.

or touched on briefly and were not necessarily explicitly assessed. Core skills included reading, writing, numeracy, communication skills and legal practice skills.²⁶ There is a strong focus on developing written language and numeracy skills, as foundational knowledge and competence in these skills is seen to underpin mastery of the other essential skills. Secondary skills included critical thinking, as well as attitudinal and academic skills. Attitudinal skills include professionalism, an understanding of, and appreciation for diversity, ethics, law as a career, and plagiarism. Academic skills include study skills such as note-taking, summarizing and examination preparation as well as time-management skills and referencing.

The combination of skills finally included in the Legal Skills course is aligned with national and international trends,²⁷ addresses both the developmental needs of students and the concerns voiced by the profession itself, and speaks to issues of skills for graduate employability. At a Faculty of Law strategic planning meeting in 2011, 5 generic skills, namely reading, writing, listening, acting/speaking, and critically analysing, were highlighted as essential skills for law students.²⁸ Skills identified for inclusion in the Legal Skills course are in line with this set of generic skills identified in 2011. The course is, therefore, well positioned to lay the initial foundation for the development of these generic skills identified by the Faculty.

5. Stages 3 and 4: Course redesign, implementation and evaluation

The Legal Skills course was redesigned on a stand-alone skills-based model, using a context-based teaching approach. Although embedded (integrated) models are generally acknowledged as more effective for successful learning,²⁹ these models require redesign at a curriculum level and are, therefore, more difficult, time-consuming and resource-dependent to design, and rely on buy-in and commitment from other Faculty staff for successful implementation. Furthermore, curriculum structure dictates the kind of model employed. In this case, the structure dictated a stand-alone skills course.

However, in light of the importance of integrating skills with theoretical content for more effective learning, a context-based teaching approach was employed. Integration of skills was, therefore, addressed in the design of the course by integrating skills into suitable contexts provided by first-year substantive law modules such as Family Law, Law of Persons and

26 'Legal practice skills' is a broad term used to describe those skills specific to law as a profession and, within the Legal Skills course, includes legal research skills, advocacy skills and legal drafting. Both oral and written communication skills are viewed as a part of advocacy skills.

27 See footnote 25.

28 NMMU Faculty of Law Strategic Planning session held in September 2011 at Bushman Sands, Eastern Cape.

29 Christensen & Kift 2000:208; Bell & Pether 1998:114.

Constitutional Law. Integration was also addressed by aligning skills, as far as possible, across the Legal Skills course so that each module incorporated and built on skills learned in the previous module. Stage 5 of the redesign process also planned for the integration of skills across the LLB curriculum.

This section highlights the key design features of the Legal Skills course and discusses related lessons learned throughout the design, implementation and evaluation process. Key themes including course content, skills and literacies approaches, course structure, teaching format, assessment criteria, use of a learning management system (LMS) and course collaboration are considered.

5.1 Course content

Skills development in Legal Skills is underpinned by a specific context – developing skills essential for the study of law and law as a career. Course content was designed to encourage students to engage with the discipline of law and to lay the foundation for developing skills essential for both academic and professional success in law. An important lesson in achieving these aims has been to explicitly connect the importance of the course content to both the study and the practice of law to ensure maximum gain. Students did not necessarily make these connections on their own.

The 4 modules constituting the Legal Skills course are Research and Reading Skills; Writing Skills; Advocacy Skills, and Numeracy Skills. Each focuses on a set of core skills. Academic skills are introduced in the first 6 months of the course to aid with student transition into higher education. The majority of modules also include an attitudinal skills component as a way of introducing and encouraging the moral and value development of law students early on. Assessment tasks for each module are scaffolded to build in complexity in a module, as well as across modules as the year progresses. Figure 1 provides a visual representation of the course.

Context

Skills for the study of law and law as a career

Research & reading skills			
Term 1	Academic skills <ul style="list-style-type: none"> ▶ Note-taking ▶ Summarising ▶ Time management 	Core skills <ul style="list-style-type: none"> ▶ Foreign words ▶ Reading comprehension ▶ Sourcing information ▶ Analysing information ▶ Applying information 	Attitudinal skills <ul style="list-style-type: none"> ▶ Time management
Writing skills			
Term 2	Academic skills <ul style="list-style-type: none"> ▶ Referencing ▶ Plagiarism ▶ Exam preparation 	Core skills <ul style="list-style-type: none"> ▶ Written communication according to an audience 	Attitudinal skills <ul style="list-style-type: none"> ▶ Professionalism ▶ Etiquette ▶ Academic integrity ▶ Appreciation for role as legal advisor ▶ Ethics
Advocacy skills			
Term 3	Academic skills <ul style="list-style-type: none"> ▶ Referencing ▶ Plagiarism 	Core skills <ul style="list-style-type: none"> ▶ Oral communication ▶ Written communication ▶ Legal research ▶ Advocacy ▶ Legal drafting ▶ Interviews ▶ Critical thinking 	Attitudinal skills <ul style="list-style-type: none"> ▶ Professionalism ▶ Teamwork ▶ Appreciation for role as legal advisor ▶ Appreciation of law in practice ▶ Academic integrity ▶ Ethics
Numeracy skills			
Term 3 & 4			Core skills <ul style="list-style-type: none"> ▶ Critical thinking ▶ Problem-solving through use of logic, reasoning, numbers, formulae
			Attitudinal skills <ul style="list-style-type: none"> ▶ Professionalism ▶ Ethics (fraud, billing) ▶ Appreciation for numeracy in law
			Assessment <ul style="list-style-type: none"> ▶ Class tests ▶ 1 Semester test ▶ 1 Final examination

Underpinned by continuous-based assessment and a 75% pass mark

Figure 1: A visual representation of the Legal Skills course

5.1.2 Writing skills

The focus of the writing skills set is to develop both academic and professional writing skills in terms of technical skill, the writing process, and writing for different contexts and audiences. The Writing Skills module,

therefore, focuses on different types of written communication according to audience, and addresses academic skills such as referencing, plagiarism and examination preparation. Writing skills are developed in different legal contexts, including correspondence with clients, colleagues and other possible role players via legal letters and legal memoranda. This is important for students in developing an understanding of, and appreciation for their “role as a legal advisor and the need to be able to engage with the legal community”.³⁰

The students’ ability to criticise poorly written correspondence as well as to improve such correspondence is developed. Legal memoranda are dealt with in the context of case law and legislation. Students are taught the FIRAC (understand the facts, present the issue, explicate the rule, apply the rule to the facts and draw a conclusion) method of analysis and are expected to apply this formula when writing legal memoranda. This model helps lay the foundation for legal analysis and assists students to effectively communicate their ideas.³¹ Use of the FIRAC method is seen to contribute towards developing critical thinking skills. Written research findings must also be provided according to prescribed stylistic guidelines and generally accepted referencing methods. Issues related to ethics, professionalism and written etiquette within the various legal contexts are also addressed. Written communication skills are, therefore, an explicit part of this set of skills, while critical thinking is implicit.

5.1.3 Advocacy skills

The Advocacy Skills module focuses on developing both written and verbal advocacy skills. In terms of writing skills, students are taught the art of persuasive writing by drafting a legal opinion in small groups. Literature suggests that small groups, which simulate the collaborative and social nature of writing in practice, is an effective way of developing legal writing skills³² as well as other skills such as critical thinking and ethical value systems.³³ The FIRAC method of analysis is used again as a basis for developing a legal opinion, thus further cementing the model and developing legal analysis and critical thinking skills.

Oral advocacy skills are assessed in a mini moot-court environment where students are required to present a legal argument based on the factual scenario of the legal opinion they have drafted. Issues of professionalism such as appropriate dress code and non-verbal communication are also addressed. This approach exposes, to some extent, students to a courtroom environment.

30 Galloway *et al.* 2012:19.

31 Swanepoel & Snyman-Van Deventer 2012:128; Motala 1996:699.

32 Motala 1996:697; Rideout & Ramsfield 1994; Braveman 1989; Wade 1994; Burke 1991 in Bell & Pether 1998:132-133.

33 McQuoid-Mason 2003:199.

Advocacy Skills lectures and tutorials deal with drafting a legal opinion, trial advocacy and advocating in the court room, developing critical thinking skills as well as interviewing skills, and drafting an affidavit. Besides the legal and generic skills that are developed, this module makes allowance for the development of attitudinal skills by using mini moot courts and the group assessment to develop an appreciation for the nature of law as it is practised, and to provide opportunities to discuss social elements of law, teamwork and ethical issues that may arise.

5.1.4 Numeracy skills

Numeracy skills are that set of skills required to analyse and solve problems using numerical and graphical data and formulae in the context of legal matters. The Numeracy Skills module aims to develop basic numerical and data-handling skills as well as to develop problem-solving skills through the use of logic, reasoning, numbers and formulae. Numerical proficiency has been identified as an important skill in legal practice³⁴ and can also indirectly develop problem-solving skills. The content of the Numeracy Skills module includes calculations (such as addition, subtraction, multiplication, division, rounding off, and estimations), fractions (such as common fractions, decimal fractions, ratios, proportions, and foreign currency), and percentages (such as conversions of fractions to percentages, value-added tax, discount, profit and loss, simple interest, compound interest, and depreciation) and is taught in the context of legal scenarios. Although not explicitly highlighted, the module includes attitudinal skills relating to professionalism and ethics, particularly in terms of billing and fraud.

5.1.5 Reflecting on course content

Students have generally indicated a positive response to the content of the 4 modules, with the following feedback received about course content:

The content is very helpful especially the module which taught us how to find legislation and other sources of law.

The content of legal skills will help us greatly with other modules too as well as in the future.

Good and educational and gave us an opportunity to try the practical side of the law.

This a great way of introducing the law and the LLB programme to students fresh out of high school.

I find this module more useful than some of the other modules which are held in higher regard as it provides us with the essential skills to practice law.

34 Slabbert 2009:48; Polding *et al.* 2010:84.

These modules train us how to practise law and prepares us for the real world.

JJS is definitely one of the more enjoyable subjects.

The strength of the Legal Skills course lies in the holistic development and focused, scaffolded approach to legal skills instruction. Grouping skills according to sets of skills allows for focused instruction in one skill set at a time. In this way, students are only required to assimilate information and master skills that are mostly related. Carefully scaffolded course content and multiple assessment opportunities allow time for students to assimilate new skills and then build and develop on what they have learnt, thus hopefully creating better opportunities for deep learning.

This structure has also made it possible to accurately assess competence in specific sets of skills and has improved efforts to monitor student progress, because it is easier to identify developmental gaps in specific skills for each student. The Faculty is, therefore, in a better position to offer corrective feedback and focused interventions for specific skills to students who are struggling.

Finally, this type of grouping and scaffolding of skills has resulted in a more explicit and coherent Legal Skills course. An Australian study has found that a similar practice of grouping skills (in their case according to threshold learning outcomes) also enhanced the coherence and explicitness of their first-year curriculum design.³⁵ That being said, however, the explicitness of a course should never be assumed. In theory, the course was conceptualised around sets of skills that were designed to build on each other, but, in practice, modules were still each viewed and presented as separate and distinct. This exacerbated students' tendencies to view their curriculum and approach their modules in a compartmentalised manner.³⁶ It was, therefore, still necessary to make explicit the links between each module as well as the links between the modules, the study and the practice of law, through teaching and assessment. Students made the connections between the importance of research, reading, analysing, legal writing and advocacy skills and the study and practice of law more easily than for numeracy skills. Despite numeracy being taught in the context of legal content, many students were still unable to appreciate the value of numeracy skills in a legal curriculum or later in the profession.

More can still be done to enhance the coherence and explicitness of the course. In particular, two matters stand out as possibilities to be incorporated in the future. The first is the use of a visual 'curriculum map' that charts the accommodation of the skills in each of the modules as well as in the remainder of the LLB programme, and that shows how these skills relate to practice in the professional world. This could be introduced at the beginning of the course and used not only to enhance course coherence

35 Galloway *et al.* 2012:14.

36 Swanepoel, Karels & Bezuidenhout 2008:100; Swanepoel & Snyman-Van Dementer 2012:125.

upfront, but also as a way to engage students in the planning and charting of their own skills development throughout the year, thus encouraging the development of independent learners. Secondly, the platform provided by the blended learning approach could be used at the end of a module, to share an online summary or review of the skills developed and how these would relate to the next module.

Although educationalists may not always support stand-alone skills-based courses, there is some evidence to confirm that a well thought out course can overcome some of the limitations of this model. Context-based teaching, holistic, focused and scaffolded skills instruction and an integrated, explicit and coherent approach are all key features to improving the success of a stand-alone skills-based course.

5.2 A skills approach vs a literacies approach

Although the stand-alone skills-based approach worked well in most modules of the course, it was less successful in the Writing Skills module. This led to a review of the skills model and consequently an investigation into the benefits of the literacies model.³⁷

Despite a strong focus on legal writing conventions and referencing techniques, students still encountered difficulties in these areas. The types of errors noted suggested that students did not recognise the importance attached to following these conventions, something which an academic literacies approach would address. Boughey notes that

teaching students the conventions of introducing a reference (for example, 'according to') or the correct way to note that reference either in the body of the text or in a bibliography does not teach the significance of those references in the academic eisteddfod.³⁸

Furthermore, although students were adept at identifying factors contributing to badly written pieces of writing, they were less skilful in transferring this knowledge to the writing process and producing a well-written piece of writing themselves. Notably, students appeared to not

37 Lea & Street (2006:368-369) situate skills and literacies on a continuum, proposing 3 overlapping models. The study skills model views writing and literacy as an individual and cognitive skill. This approach focuses on surface features of skills (for example, grammar and spelling in language) and assumes transferability of skills regardless of context. The academic socialization model takes into account context, but assumes stability in contexts so that, once students have mastered the rules of a disciplinary discourse, they are able to reproduce it without any problems. The academic literacies model is similar to the academic socialization model, but views literacy development as more complex, dynamic, nuanced, situated and including epistemological issues and social processes that focus on meaning-making, identity, power and authority. The NMMU Legal Skills course is currently best positioned within the academic socialization model.

38 Boughey 2000:285.

understand the importance of writing in an academic manner, struggled to organise their thoughts and the various 'voices' in their writing, and found it difficult to distinguish between their own ideas and those of others. These challenges go beyond vocabulary and the correct use of grammar, and point towards the 'deeper' social and ideological issues addressed by the academic literacies model. The challenges experienced in developing writing skills confirmed, at least to some extent, the notion that a stand-alone skills-based model may not be the best approach to developing writing skills.

There is strong support in literature for developing thinking, reading, writing and numeracy skills using a literacies rather than a skills-based approach.³⁹ In the context of the Legal Skills course presented in this instance and the types of skills and competencies it aims to develop, three core literacies stand out, namely information,⁴⁰ academic,⁴¹ and numerical⁴² literacy. Evaluation of the Legal Skills course suggests that moving to a literacy-based pedagogy would not necessarily require a complete change in the content of the course, but rather a change in the structure of the course, and in the current teaching philosophy and methodology. The course content may, therefore, be useful even to those wishing to teach legal skills from a literacy-based perspective. Although for now the Legal Skills course at NMMU is likely to remain situated in the skills-based pedagogy, more effective ways of developing writing skills in the future will need to be investigated.

5.3 Course structure: Semester vs term modules

Legal Skills was restructured from semester modules to term modules, in order to teach and assess specific sets of skills. An essential part of the design for the Legal Skills course was the sequencing of modules. Modules and their related assessments were designed to scaffold the learning experience in two ways. First, learning was scaffolded by introducing skills that underpinned the development of further skills later in the year. Secondly, assessments were scaffolded in terms of their structure, detail, length and cognitive demand

It was only in the case of numeracy skills that the term approach was not as successful. The fourth term was not an ideal time to present this

39 Bell & Pether 1998:113; Lea & Street 1998:157-158; Jacobs 2005:475; Boughey 2000:289; Lea & Street 2006:159; Frith 2012:42.

40 See footnote 30.

41 See footnote 7.

42 Frith & Prince 2006:30 and Gal 2000 in United Nations Educational, Scientific and Cultural Organization (ENESCO) (2006:150) understand numerical literacy as referring to the ability to use quantitative (mathematical and statistical) information to achieve a specific purpose (for example, to count, quantify, compute or manipulate numbers, quantities and items; to solve problems; to interpret situations, and to make decisions or determine course of action) within multiple contexts.

module. It is generally a relatively short term to cover all study material. With the majority of students having only basic or minimal arithmetical skills, the gap was a large one in moving them to a place of competence (75 percent) in a short space of time. This module was changed to a semester module in 2012 in an effort to devote more time to developing competence in this area.

5.4 The teaching format

Legal Skills was presented by way of face-to-face lectures and tutorials and, since 2010, by the inclusion of an e-learning component. Lectures provide the context and theoretical framework for the skills taught, while tutorials provide small-group learning experiences where practical experiential learning activities can be more effectively implemented. Kift reflects on various ideas that support a teaching format which combines experiential learning with a theoretical framework, namely that effective skills instruction lies in the creation of links between doing (practical aspect) and thinking (theoretical aspect); the inclusion of a theoretical framework promotes transferability of skills developed, to other contexts, and a theoretical framework is critical to the efficacy of assessment and evaluation by providing criteria against which to assess skill acquisition.⁴³ Wade also alludes to the important interplay between a combination of theory and experiential learning activities for legal skills instruction: “Without theory, skills are shallow and ephemeral. (Without reflection on skills, [a skill in itself], theory is marginalised.”⁴⁴

Experiential learning is implemented in different ways in the tutorials, including, for example, the use of role plays, legal simulations, legal scenarios and practical exercises. Where possible, activities are designed to mimic work-like contexts, and to provide the opportunity to practise skills as they would be used in practice. These activities provide the concrete experience, which is then reflected on individually, in small groups or as a larger group. Through guided discussion facilitated by the tutorial leader, theoretical content is linked to the concrete experience and observations thereof, to encourage construct formation and the development of personal meaning. Context is generalised by creating links between the particular skill, substantive law modules and practice, in an effort to promote the transfer of the skills from the course to the broader curriculum.

Students generally respond positively to tutorial groups, with the majority of comments focusing on the personal interaction and practical experience these groups provide:

Tutorials have an orderly structure and are practical.

Tutorials are helpful and relevant.

43 Kift 1997.

44 Wade 1994:191.

Tutorials are more one-on-one with personal interaction and more practical.

Smaller tutorials sessions are enjoyable.

5.5 Assessment and feedback

Changes to assessment in Legal Skills were guided by the two research questions about teaching to develop competence and effectively assessing competence. To promote competence, a shift in the philosophy of assessment and student performance was required. Assessment for Legal Skills was guided by two critical principles, namely assessment to promote learning and assessment to measure learning. Previously, assessment had been driven mostly by the latter.

To effectively assess competence, the pass mark requirement was moved from 50 to 75 percent. In light of the importance of essential skills in professional practice and the current gap in skills experienced in the professional field, there was strong consensus that 50 percent was not an adequate reflection of competence achieved. Students who obtained 75 percent were immediately awarded a pass. Students obtaining 70-74 percent, who had completed all assessments and obtained 70 percent for at least one or more significant assessments, were also awarded a pass. Students had to pass each module separately and, in the event of failing a module (after all assessment opportunities had been used), were required to repeat the module the following year.

The move to 75 percent as a pass mark was initially met with much resistance by students, but has been beneficial. First, it conveys a sense of high expectations, something which Tinto emphasises as being an important condition for student success.⁴⁵ Secondly, it changes perceptions regarding the importance of the Legal Skills course. Previous feedback from students suggested that the course was not considered to be important and was often not taken seriously. This had negative implications for attendance, course participation and submission of assignments. Since the increase in the pass mark, observation and student feedback suggest a positive change in attitude towards the course:

The 75% pass mark helps us strive to do our best at all times.

Legal skills is one of the most fundamental basic modules that all law students must take.

The modules provide us with the essential tools we need as law students.

I think these modules are vitally important to have in the curriculum. It is an important foundation.

45 Tinto 2012:4.

Although 75 percent may appear high, the experience has been that it is manageable in an environment that offers multiple opportunities for learning and development and effective feedback mechanisms. Maintaining commitment to the 75 percent pass requirement is difficult in a system driven by pass rates and performance. Providing adequate opportunity for all stakeholders to adjust to the concept was important, as there was the temptation of returning to the norm at the first sign of low pass rates. In addition to the increased pass mark, continuous evaluation and multiple assessment opportunities were also employed as means to effectively measure competence.

To make better use of assessment opportunities to promote learning, continuous evaluation, strategic scaffolds for learning and multiple assessment opportunities were employed. Both formative and summative assessments were used and a variety of assessment tasks such as quizzes, case studies, written assignments, practical activities and applications, and oral presentations were included. This variety was used to encourage student engagement, to allow opportunities for students to apply skills in different contexts and formats, to accommodate different learning styles, and to focus on the specific sets of skills of each module.

Furthermore, multiple assessment opportunities were strategically scaffolded to promote learning. Assessments for Reading and Research Skills, Writing Skills and Advocacy Skills were developed to link and build on each other and increase in level of complexity within each module as well as across the three modules. The first term module employed smaller quizzes that included multiple choice, true/false questions, and short-answer questions. The Writing Skills module built on this by also including smaller quizzes and short written assignments as well as one longer written assignment. The number of assignments in this term was less than in the first term module, but assignments were more focused and detailed in nature. The Advocacy Skills module built on this further by using a long written group assignment which was then presented orally.

The Numeracy Skills module was the only module to include summative assessment. The module used a combination of small class tests, semester tests and an examination. Initially, the class mark requirement to write the final examination was 50 percent, but this was too low, and meant that students needed to do exceedingly well in the final examination to obtain the final required 75 percent. The class mark requirement was, therefore, increased in 2011 to 65 percent. The class requirement was lowered from 65 percent to 60 percent in 2012. To further promote competence, Summer School was introduced for the Numeracy Skills module. Uptake in the first year of offering was poor, but improved in subsequent years after a change in marketing. Summer School proved highly successful in this instance; this was likely attributed to smaller classes and motivated, committed students. There has been a slow but steady increase of the pass rate in this module since its inception in 2009, suggesting that new strategies implemented each year are having a positive effect.

Effective feedback is an essential element to promote learning through assessment.⁴⁶ A great deal has been written on the principles underlying effective feedback and the link between feedback and learning. For feedback to be effective, it is suggested that it should be provided often and in sufficient detail; it should focus on performance, learning and factors under a student's control; it should be appropriate to the original purpose of the assessment, and it should be timely.⁴⁷ However, in large classes, feedback of this kind places increased demand on teaching staff. This was the initial experience in 2009. Blended learning and online assessments were introduced in 2010 as a way to improve assessment and feedback opportunities.

5.6 Implementing a learning management system (blended learning approach)

Large numbers of students, the lecture-tutorial format and numerous assignments because of continuous-based evaluation all created high administrative demands and logistical challenges for each module. The system in place for the submission and marking of assignments and for providing timely feedback did not promote efficiency. The Faculty, therefore, investigated various ways to make it easier for students to submit assignments, and for staff to mark assignments and provide timely feedback. The use of an internet-based platform and a blended-learning approach was suggested as possibilities.

Blended learning is an international trend that has recently gained momentum and growing support. The NMMU has embraced this approach to teaching and learning; promoting technology-assisted learning to actively engage students in learning has been highlighted as a key strategic priority of the University.⁴⁸ Moodle has been adopted as the institutional learning management system (LMS). Alignment with the strategic priorities of the University and a commitment to exploring new and innovative teaching and learning practices to the benefit of the students provided impetus for the introduction of the blended-learning approach in the Legal Skills course in 2010. Introducing blended learning was not intended to reduce face-to-face contact, but rather as an online management system for lecturing staff to better track the progress of students, to offer more assessment opportunities and to improve the administrative efficiency of the course.

Moodle impacted positively on assessment practices. Online multiple choice, true/false and short-answer assessment formats were generally used in cases where recognition, comprehension and coverage were important. As soon as submission dates closed, online memoranda were

46 Gibbs & Simpson 2004-2005:3; Motala 1996:699.

47 Gibbs & Simpson 2004-2005:17-20.

48 NMMU Vision 2020 Strategic Plan 2010:32. <http://vision2020.nmmu.ac.za/Home> (accessed on 12 September 2012).

made available as additional feedback to identify errors. This approach provided immediate feedback and additional formative assessment opportunities for students. Developing writing skills requires practice and detailed feedback. Students were, therefore, required to submit a number of small writing tasks. Written assignments uploaded to a central module site were marked, using the track changes tool to provide detailed feedback that focused on information that would be helpful in future assessment opportunities. Being able to track students as they worked on online assignments also made it easier to identify and offer corrective feedback to students who consistently evidenced poor time-management skills.

Students also benefited in other ways. The availability of learning resources improved, as resources originally available only at the library and in limited number became available online. Students had greater flexibility in choosing their learning environment and many students chose to work at home or in residence rather than on campus at the library. Student interaction with lecturers was enhanced, as students were able to 'consult' with lecturers via e-mail or Moodle messaging as needs arose, rather than being bound to time and place through specific hours and office consultations. An unintentional benefit was the further development of computer literacy skills, particularly for those who had had limited exposure to computers in the past. The LSSA emphasised the lack of computer literacy as an area of concern in law graduates.⁴⁹ On the whole, students responded positively to the use of a blended-learning approach with the benefit of this approach highlighted in the following feedback:

The online assessments increase our ability to use technology and adapt to any changes.

The online quizzes are difficult and demanding.

The assessments were challenging at first as I was not acquainted with this kind of research. However, the learn site explanation and the library tour assisted in the successful completion of the assignments.

Online quizzes and submission of assignments are convenient for students.

Learn site is much more fun and quite a revelation!

Although limited, there was some feedback indicating challenges faced by students particularly concerning access to the internet and computer labs, a lack of computer literacy and a general dislike of the use of technology as a teaching and learning tool. In 2012, the University made significant headway in increasing internet access through the roll-out of campus-wide wireless internet. Further investigation into the validity of this feedback is necessary to ensure that the use of technology does not disadvantage particular groups of students by limiting access to learning opportunities.

49 <http://mg.co.za/article/2010-12-23-graduate-attorney-skills-gap>.

The use of an LMS also provided an improved administrative system for large classes. In terms of administrative efficiency, Moodle reduced the number of paper assignment submissions and limited confusion about late submissions and lost papers. Automated marking of quizzes provided students with immediate feedback, thus reducing marking time for lecturers and enhancing student feedback. Results exported directly from the Moodle grade book into Excel, and then captured on the University system also reduced result capture time and capturing errors.

Some valuable lessons were learned in the process of implementing a blended-learning approach. The implementation of such an approach requires a dedicated staff member to drive the process. The process of moving part of a course online is time consuming, and careful thought needs to be given to course design to ensure an integrated course where face-to-face and e-learning components work together in a complementary way. Otherwise, the course can appear fragmented and confusing to students, ultimately reducing the benefit of such an approach. Furthermore, although not essential, a solid technological base certainly assists the design process and limits unnecessary frustrations.

In the South African context, this approach is still relatively new to teaching and learning, with new research into its effectiveness emerging all the time. It is important to be clear on the purpose of implementing the approach and to understand the benefits and limitations of its use in the specific context.

Making use of a blended-learning approach in a Legal Skills course is recommended. However, setting up the e-learning component of the course is time consuming and administratively demanding. Ideally, there should be adequate Faculty support for the incorporation of a blended-learning approach.

5.7 Collaboration

As part of the redesign and presentation of the Legal Skills course, the Faculty entered into various collaborative relationships across disciplines, including relationships with the Library and Information Services (LIS), the Mathematics and Applied Mathematics Department (MAMD) and CAAR. Collaboration with the LIS and MAMD ensured that experts in the relevant fields taught specific content. Collaboration with CAAR focused on student support and development and the use of research to inform practice.

The Faculty collaborated with the LIS in the presentation of the Reading and Research Skills module. The librarian and Legal Skills lecturer worked closely together to ensure that skills such as identifying, locating, retrieving and evaluating information taught in the module were integrated into the Legal Skills syllabus, and that the theoretical and practical aspects of the course as well as the assessments were well integrated and aligned. The lecturer established the context in which learning in respect of these skills should take place, as well as the expectations of the students, by presenting lectures on the databases available on the

university network, and explaining various search techniques to find the information required. The librarian presented lectures on the databases and the search techniques, and provided practical training to students in the library during tutorial sessions. Skills learnt in the library training were used by the students in the completion of the assessments of all Legal Skills modules except Numeracy Skills. The benefits of this collaborative partnership were clear from the feedback received from students:

Library lectures are most definitely the biggest help so far!

Library lecture appreciated.

These modules helped me to learn how to work with databases and how to look up cases which will help me in the future when I am in practice.

Collaboration with MAMD worked slightly differently. Lecturers in Law and MAMD worked hand-in-hand to develop the module content, materials and assessment tasks, but the Numeracy Skills module was presented by the MAMD.⁵⁰ This collaboration ensured that experts in the respective fields dealt with mathematical and numerical principles and law content, resulting in a module well grounded in relevant content and sound numeracy principles. While the fundamental mathematical principles formed the foundation of the module, these were presented in the context of a legal environment.⁵¹ This approach was in line with research suggesting that law students tend to learn more effectively when skills are integrated in the theory and doctrine of law.⁵²

As levels of development in terms of numeracy skills varied widely among students, baseline information regarding their numeracy skills was required to ensure that the Numeracy Skills module successfully met the needs of all students, regardless of their level of numerical competence. CAAR assessed all first-year law students on the NMMU's AAB and provided baseline information on numeracy competence.⁵³ The information was used to stream students into groups according to numerical competence. Support and interventions were tailored according to level of numerical competence. CAAR also tracked the performance of students over each intake and provided longitudinal research to inform future practice.

Collaborating with other stakeholders can be valuable for both the Faculty and the students. The law lecturer is relieved of the pressure of having to teach the fundamentals of subject material outside his/her discipline, and students benefit from expert knowledge. While there

50 This being in terms of the NMMU policy stating that, where module content falls within the functionality of another faculty, the other faculty is required to present the module.

51 Guidance and direction were obtained from A Kleynhans and C Grobbelaar, 'numeracy skills for the Law', Bloemfontein, University of the Free State.

52 Christensen 2009:796; Frith 2012:43.

53 See footnote 15. The AAB for law students includes an English Reading Comprehension test and an Arithmetics test.

are those who argue that discipline-specific literacies are best taught by academic staff from within the discipline,⁵⁴ for this to be successful it requires academic staff to have mastered both discourses and feel comfortable teaching and assessing in both discourses. This is often not the case for law lecturers and was not the case in the instance of this Legal Skills course. Pooling the expertise of all collaborators and working together at every stage of the course, from planning to delivery, student assessment and course evaluation was effective, provided that there was active collaboration, open communication and effective integration of the skills into the legal context. The Cardiff Law School reported similar findings where collaboration was used to integrate information literacy skills into the law curriculum.⁵⁵

The collaboration process highlighted important considerations. A dedicated staff member from all parties concerned and staff continuity year-on-year are important elements to consider. Staff continuity was very valuable in the process of reflecting on and improving the Legal Skills course each year, as well as in ensuring consistent standards year-on-year. Close collaboration was also essential to ensure that skills developed by service providers were carefully integrated into the Legal Skills modules.

6. Stage 5: Integration of skills across the course and curriculum

As Legal Skills was originally designed as a stand-alone skills-based course with focused sets of skills, integration of skills had to be carefully thought out. It was thought that integration of skills should occur at two levels – integration across the Legal Skills course and then across the curriculum. Carefully aligning skills horizontally across the Legal Skills course resulted in a mostly integrated package at a course level, with the exception of numeracy skills. However, integration at a curriculum level proved more difficult.

The intention was to develop skills through Legal Skills and then introduce a skills component to assessment in each of the modules in the curriculum. A proposal was made to dedicate a small percentage (5 percent) of overall assessment marks in substantive law modules to numeracy, language, research and reading skills. However, it was difficult to implement this, with challenges encountered mostly regarding buy-in by academic staff. These challenges were mainly rooted in teaching philosophies, curriculum structure, staff development and workload. Kift and Christensen mentioned similar challenges in their efforts to integrate skills across a first-year law curriculum at an Australian university.⁵⁶

54 Jacobs 2007:872.

55 Davies & Jackson 2005:153.

56 Kift & Christensen 2000:232-233.

For the majority of academic staff, teaching law still remains content-driven to a large extent. Although in the South African context there has been greater focus on skills development in law in the past decade, this has tended to occur at a discussion level or on the perimeter of the curriculum, rather than as a core element of the curriculum. Current curriculum structure also tends to support a silo approach to teaching rather than a whole-curriculum approach. This can make it more difficult for academic staff to break out of the bounds of their particular module content and incorporate something new. Some academic staff do not feel competent to teach and assess particular skills without specialist knowledge. Workload adds another challenge to buy-in, as any shift in a teaching paradigm requires effort to reconceptualise and redesign content, presentation, assessment and marking. With demands on teaching staff greater than ever before, commitment to integrating skills into the curriculum as a whole is simply not yet viewed as a priority.

Although large classes, underprepared students, demanding workloads and limited resources all present real challenges to integrating skills into a law curriculum, external pressure from various stakeholders and recent research are making it increasingly difficult to ignore the challenge. According to Christensen and Kift, skills development and, more specifically, an advanced level of skills attainment, requires a systematic, explicit approach that allows for incremental development across the entire programme.⁵⁷ However, what has become apparent is that skills integration is no small undertaking. To have a chance of success, there needs to be a shift in the teaching paradigm and commitment at Faculty level. Considerable support and resources are required in terms of staff training, time and workloads. Taking on the challenge of truly integrating skills into the curriculum will require a creative approach to skills development and to working around the constraints.

While the stand-alone skills-based module has been useful for developing a diverse group of students to a minimum level of competence, it does not sufficiently allow for the incremental development necessary for a higher level of skills attainment. Furthermore, it is unreasonable to expect the development of skills to be the primary responsibility of the Legal Skills lecturer alone. Effective skills development will require shared responsibility across the LLB programme. Collaborative efforts across faculties have already proved to be possible and successful, and could be modelled within the Faculty. It follows that this final stage of the redesign process, integration of skills, is essential to ensure the soundness of the redesigned Legal Skills course. Without this stage, the course is in jeopardy of becoming simply another 'bolt-on' skills course with limited impact.

57 Christensen & Kift 2000:219.

7. Conclusion

The gap in literacy and legal skills in LLB graduates is a national concern. Furthermore, the lack of a clear and unified vision, purpose and commitment to skills instruction in legal education in South African LLB curricula is problematic. This article sought to demonstrate how a stand-alone skills-based Legal Skills course could address some of the literacy and legal skills deficits identified and develop a foundation for skills essential to the study and practice of law.

The article adds to the debate on essential skills to be included in a first-year Legal Skills course. It demonstrates that consideration of contextual factors and carefully thought-out combinations of skills can simultaneously address multiple issues, including student developmental needs, skills deficits within the legal profession, and the development of generic and law-specific graduate attributes.

A sound logical approach for course redesign is offered. Evidence in support of a stand-alone skills-based course for developing students to a minimum level of competence (as defined by a 75 percent pass mark for each module) is provided. Key features to overcome the limitations of the stand-alone skills-based model are suggested; they are a holistic, focused, scaffolded, explicit and coherent approach to skills instruction; context-based teaching; co-ordinated and aligned tutorials and an e-learning component; an assessment methodology that conveys a sense of high expectations and promotes competence and effective measurement thereof, and, finally, the integration of skills across the Legal Skills course and the LLB curriculum. This last feature is essential to the long-term effect of this skills-based model, because a major limitation of the course without integration at this level is that it does not allow for the incremental development of skills necessary for advanced skills attainment.

The Faculty acknowledges that skills and literacies cannot be developed completely in only one year and by only one course, but holds that a good foundation in first year is an important step in promoting further development and competence throughout a student's university and professional career. The challenge now lies in purposefully and meaningfully integrating what is learned in Legal Skills into the first and subsequent years of the LLB, so as to scaffold a learning experience that develops literate, competent graduates who are effective in their professional roles in the legal field and society at large.

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